



**International Convention  
on the Protection of the  
Rights of All Migrant  
Workers and Members  
of Their Families**

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COMMITTEE ON THE PROTECTION OF THE  
RIGHTS OF ALL MIGRANT WORKERS AND  
MEMBERS OF THEIR FAMILIES

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 73 OF THE CONVENTION**

**Initial report of States parties due in 2004**

**EGYPT\* \*\***

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[3 April 2006]

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## CONTENTS

**INITIAL REPORT OF EGYPT ON THE INTERNATIONAL CONVENTION  
ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS  
AND MEMBERS OF THEIR FAMILIES, SIGNED ON 18 DECEMBER 1990**

	<i>Paragraphs</i>	<i>Page</i>
Initial report of Egypt on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families .....	1	6
Introduction .....	2	6
<b>PART I: GENERAL BASES UNDERPINNING THE PROTECTION OF AND RESPECT FOR HUMAN RIGHTS IN EGYPT ...</b>	<b>3 - 61</b>	<b>7</b>
<b>I. FUNDAMENTAL STRUCTURE OF THE STATE AND STATISTICAL AND ECONOMIC INDICATORS FOR THE ARAB REPUBLIC OF EGYPT .....</b>	<b>3 - 9</b>	<b>8</b>
Fundamental structure of the State .....	3	8
Statistical and economic indicators for Egypt .....	4	8
Decline in the maternal death rate over time .....	5	9
Estimated population distribution by age group .....	6	9
Life expectancy at birth .....	7	9
Characteristics of the population .....	8	9
Economic indicators .....	9	10
<b>II. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS PRINCIPLES ARE PROTECTED IN EGYPT .....</b>	<b>10 - 24</b>	<b>12</b>
1. The Egyptian Constitution and human rights principles .....	10 - 11	12
2. The legal status of international human rights instruments in the legal system in Egypt .....	12 - 24	13
Egypt's participation in international and regional human rights instruments .....	18 - 20	14

**CONTENTS (*continued*)**

	<i>Paragraphs</i>	<i>Page</i>
International human rights instruments to which Egypt is a party .....	21	15
Regional human rights instruments to which Egypt is a party .....	22 - 24	16
III. NATIONAL WORKING MECHANISMS CONCERNED WITH THE EFFECTIVE IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS .....	25 - 40	17
National Council for Human Rights .....	25 - 27	17
National Council for Women .....	28 - 29	17
National Council for Maternal and Child Welfare .....	30	18
Directorate for Human Rights Affairs and International Social and Humanitarian Issues (Ministry of Foreign Affairs) .....	31 - 32	20
Human Rights Affairs Department (Ministry of Justice) .....	33	21
Supreme Committee on Human Rights (Ministry of the Interior) .....	34	23
Human Rights Committee (Ministry of Social Affairs) .....	35	24
Human Rights Committee of the People's Assembly .....	36	24
Civil society organizations .....	37	24
The Press Authority .....	38	24
IV. NATIONAL MEANS OF ENFORCEMENT OF HUMAN RIGHTS PRINCIPLES IN EGYPT .....	41 - 61	25
The Supreme Constitutional Court .....	42 - 44	25
The judicial authority .....	45 - 47	26
The civil and criminal courts .....	48 - 51	26
Office of the Public Prosecutor .....	52 - 55	27
The administrative courts and the Council of State .....	56 - 61	28

**CONTENTS (continued)**

	<i>Paragraphs</i>	<i>Page</i>
PART II: SPECIFIC DISCUSSION OF HUMAN RIGHTS AND FREEDOMS IN THE ORDER OF THE SEVERAL ARTICLES OF THE CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES .....	62 - 211	30
Article 7 of the Convention (non-discrimination with respect to rights) .....	62 - 65	30
Article 8 of the Convention (human rights of all migrant workers and members of their families) .....	66 - 70	31
Article 9 of the Convention .....	71 - 74	33
Article 10 of the Convention .....	75 - 84	34
Article 11 of the Convention .....	85 - 89	35
Article 12 of the Convention .....	90 - 95	38
Article 13 of the Convention .....	96 - 100	39
Article 14 of the Convention .....	101 - 110	40
Article 15 of the Convention .....	111 - 118	41
Article 16 of the Convention .....	119 - 124	42
Article 17 of the Convention .....	125 - 127	45
Article 18 of the Convention .....	128 - 136	46
Article 19 of the Convention .....	137 - 138	51
Articles 20, 21 and 22 of the Convention .....	139 - 140	51
Article 23 of the Convention .....	141 - 142	53
Article 24 of the Convention .....	143	53
Article 25 of the Convention .....	144 - 150	53
Article 26 of the Convention .....	151 - 155	55
Article 27 of the Convention .....	156 - 158	57

**CONTENTS (*continued*)**

	<i>Paragraphs</i>	<i>Page</i>
Article 28 of the Convention .....	159	57
Article 29 of the Convention .....	160 - 161	58
Article 30 of the Convention .....	162 - 164	58
Article 31 of the Convention .....	165 - 166	59
Article 32 of the Convention .....	167	59
Articles 33, 34, 35, 36, 37, 38 and 39 of the Convention .....	168 - 170	59
Articles 40 and 41 of the Convention .....	171 - 175	61
Article 42 of the Convention .....	176 - 177	62
Article 43 of the Convention .....	178	63
Article 44 of the Convention .....	179	64
Article 45 of the Convention .....	180 - 181	64
Article 46 of the Convention .....	182 - 183	65
Article 47 of the Convention .....	184	66
Article 48 of the Convention .....	185 - 188	66
Article 49 of the Convention .....	189	67
Article 50 of the Convention .....	190	68
Articles 51, 52, 53, 54, 55, 56 and 57 of the Convention (provisions applicable to particular categories of migrant workers) .....	191 - 192	68
Articles 58, 59, 60, 61, 62 and 63 of the Convention .....	193 - 194	71
Article 64 (promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers) and articles 65, 66, 67, 68 and 69 of the Convention .....	195 - 209	73
Article 70 of the Convention .....	210	79
Article 71 of the Convention .....	211	79

**ARAB REPUBLIC OF EGYPT**

**MINISTRY OF JUSTICE**

**HUMAN RIGHTS AFFAIRS DEPARTMENT**

**Initial report of Egypt on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)**

This report was adopted by the main committee established within the Human Rights Affairs Department of the Ministry of Justice pursuant to an ordinance issued by the Minister of Justice (No. 6445 of 2003). The Committee adopted the report at its meeting of 29 January 2006.

The report was prepared in its final form by the Human Rights Affairs Department of the Ministry of Justice, which established a Drafting Committee expressly for that purpose.

**Initial report of Egypt on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

1. Egypt has the honour to submit this initial report to the Committee under article 73 of the Convention in accordance with the Committee's guidelines. The report is divided into two parts, as follows:

Part I: General bases underpinning the protection of and respect for human rights in Egypt

Part II: Specific discussion of human rights and freedoms in the order of the several articles of the Convention

Concerned as it is to meet its international commitments, Egypt hereby submits this report to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and assures the Committee that it is prepared for continuing constructive dialogue and will be happy to respond to any questions the Committee may have concerning Egypt's implementation of the provisions of the Convention.

**Introduction**

2. Egypt acceded to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families by Republican Decree No. 446 of 1991 after the People's Assembly had given its consent to the accession effective 26 December 1992. The Decree was published in the Arabic language in No. 31 of the Official Gazette on 5 August 1993, in accordance with the prescribed constitutional procedure. Egypt entered reservations to article 4 and article 18, paragraph 6, of the Convention.

## **PART I**

### **General bases underpinning the protection of and respect for human rights in Egypt**

#### **Contents**

- I. Fundamental structure of the State and statistical and economic indicators for the Arab Republic of Egypt
- II. General legal framework within which human rights principles are protected in Egypt
- III. National working mechanisms concerned with the effective implementation of human rights instruments
- IV. National means of enforcement of human rights principles in Egypt

## **I. FUNDAMENTAL STRUCTURE OF THE STATE AND STATISTICAL AND ECONOMIC INDICATORS FOR THE ARAB REPUBLIC OF EGYPT**

### **3. Fundamental structure of the State:**

- The State is a democratic republic based on a system of political pluralism;
- The head of the executive power is the President of the Republic, who is chosen by means of free, direct elections. His term of office is for six years and is renewable;
- The legislative power comprises the Advisory Council and the People's Assembly. The members of both bodies are chosen by means of free, direct elections every five years. Ten of the members of the People's Assembly and one third of the members of the Advisory Council are appointed;
- Under the Constitution, the press is a free, independent power;
- The judicial power comprises the ordinary courts, administrative tribunals and the Supreme Constitutional Court.

### **4. Statistical and economic indicators for Egypt:**

- Land area: 997,700 square kilometres;
- Population: 68.6 million people, comprising 51.14 per cent males and 48.86 per cent females, according to statistical indicators from 1 January 2004, compared to 61.4 million people according to the 1996 census;
- The rate of natural increase declined from 2.04 per cent in 2001 to 19.6 per thousand as of the end of 2003;
- The birth rate declined from 26.69 per thousand in 2001 to 26.12 per thousand in 2003;
- The death rate for 2003 was 6.48 per thousand;
- The maternal death rate declined from 174 per 100,000 live births in 1993 to 68 per 100,000 live births in 2003 (Ministry of Health and Population).



5. **Decline in the maternal death rate over time:**

Year	Maternal deaths per 100,000 live births	% change
2000	84	
2001	75	10
2002	70	16
2003	68	19

(Mean decline approximately 15 per cent per annum.)

6. **Estimated population distribution by age group:**

Age group	Males	Females	Total	%
Under 5	4 023 344	3 854 436	7 877 780	11.47
5-under 25	16 511 834	15 268 258	31 780 092	46.20
25-under 60	12 531 819	12 509 790	25 041 609	36.50
60-64	811 043	804 448	1 615 491	2.40
65-69	586 161	491 996	1 078 157	1.60
70-75	362 210	345 241	707 451	1.03
75 and over	279 165	268 744	547 909	0.80
Total, ARE, as of 1 January 2004	35 105 576	33 542 913	68 648 489	

7. **Life expectancy at birth:**

67.5 years for males and 71.9 years for females as of 1 January 2003, compared to 65.1 years for males and 69 years for females in 1996.

Residents of urban areas accounted for 42.4 per cent of the population in 2002, compared to 44 per cent in 1986, while residents of rural areas accounted for 56.6 per cent of the total in 2002, compared to 56 per cent in 1986.

8. **Characteristics of the population:**

(a) Educational status:

- (i) Illiteracy among persons 10 years of age and over declined from 38.6 per cent in 1996 to 29.88 per cent at the end of 2002;
- (ii) The numbers of students enrolled at the various levels of pre-university education (both public schools and private schools) increased from 11,436,870 in 2000-2001 to 15,438,790 in 2003-2004;
- (iii) The numbers of university students increased from 1,351,173 in 1998-1999 to 1,489,415 in 2001-2002 (801,714 males and 687,701 females).

## (b) The workforce:

The number of employed persons stood at 18.2 million in 2002-2003, compared to 16,955,000 in 1997-1998.

9. **Economic indicators:**

## (a) Gross domestic product and mean real growth:

	2001-2002	2002-2003	2003-2004
GDP by cost of production factors (billions of Egyptian pounds)	354.5	365.8	380.8
Mean growth rate (%)	3.2	3.0	4.3
GDP by market prices (billions of Egyptian pounds)	381.7	390.7	406.8
Mean growth rate (%)	3.2	3.1	4.1

Source: Central Bank of Egypt, 2003-2004 annual report, p. 59.

## (b) Change over time in social service sector investment:

**Investment categories under the five-year plan for 2002/2003-2006/2007, pursuant to law No. 87 of 2002 (millions of Egyptian pounds)**

Social service sector	Total	%
Housing	36 288.6	8.1
Facilities	38 624.5	8.6
Human and social development	-	-
Education	32 351.8	7.2
Health	17 331.4	3.9
Other services	15 596.9	3.4
Total, social service sectors	140 192.8	31.2

**Investment categories for Year I of the five-year plan (2002/2003), pursuant to law No. 86 of 2002 (millions of Egyptian pounds)**

Social service sector	Total	%
Housing	8 623.5	11.6
Facilities	6 347.0	8.4
Human and social development	-	-
Education	4 358.2	5.9
Health	2 849.1	3.8
Other services	3 041.7	4.1
Total, social service sectors	25 219.5	34.0

**Total actual investment**

	2001/2002	2002/2003	2001/2002	2002/2003	2002/2003
	Value (billions of Egyptian pounds)		%		Mean growth in investment (%)
Total investment	67.5	68.1	100.0	100.0	0.9
Public	35.7	32.3	52.8	47.5	9.4
Private	31.8	35.8	47.2	52.5	12.4

Source: Central Bank of Egypt, 2002-2003 annual report.

**Investment categories for Year II of the five-year plan (2003/2004), pursuant to law No. 97 of 2003**

Social service sector	Total	%
Housing	7 448.0	10.6
Facilities	5 931.5	8.5
Human and social development	-	-
Education	3 373.6	4.8
Health	2 498.4	3.6
Other services	3 057.0	4.4
Total, social service sectors	22 308.5	31.9

**Total actual investment**

	2002/2003	2002/2003	2003/2004	2003/2004	2003/2004
	Value (billions of Egyptian pounds)		%		Mean growth in investment (%)
Total investment	68.1	78.1	100.0	100.0	100.0
Public	35.3	40.3	51.8	51.8	14.2
Private	32.8	37.8	48.2	48.2	15.2

Source: Central Bank of Egypt, 2003-2004 annual report.

**Investment categories for Year III of the five-year plan (2004/2005), pursuant to law No. 91 of 2004 (millions of Egyptian pounds)**

Social service sector	Total	%
Housing	1 305.3	1.5
Facilities	15 816.0	18.6
Human and social development	-	-
Education	3 580.1	4.2
Health	2 746.5	3.2
Other services	7 103.5	8.4
Total, social service sectors	30 551.4	35.9

**Investment categories for Year IV of the five-year plan (2005-2006),  
pursuant to law No. 96 of 2005**

Social service sector	Total	%
Housing	28 192.3	2.0
Facilities	2 457.8	22.3
Human and social development	-	-
Education	4 014.3	3.6
Health	2 718.2	2.5
Other services	6 463.0	5.9
Total, social service sectors	17 845.6	36.3

**II. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN  
RIGHTS PRINCIPLES ARE PROTECTED IN EGYPT**

**1. The Egyptian Constitution and human rights principles**

10. The Egyptian legal system is based on the Constitution, which is the basic law that defines the structure of the State, its system of government, the public authorities and their several areas of competence, the rights and freedoms of individuals, the fundamental guarantees of those rights and means of protecting them, and the independent judicial institutions that enforce them. The Constitution occupies a special place in the hearts of Egyptians, since it was a historic national demand that formed the focal point of the patriotic struggle. The country's first constitution was promulgated in 1882. It was followed by a series of others, reflecting the political circumstances that the country experienced as a result of its resistance to occupation, until finally in 1971 the Permanent Constitution was proclaimed and has remained in force ever since. All the principles of human rights and fundamental freedoms set forth in international human rights instruments are enshrined in the Constitution. In response to political, economic and social change, and in order to keep pace with the evolving international situation in the area of human rights and freedoms, a referendum to amend the Constitution was held on 22 May 1980, with the result that the country was endowed with a second parliamentary body, the Advisory Council, a multiparty political system, and a Press Authority. In May 2005 a second referendum was held to approve a constitutional amendment requiring the President of the Republic to be elected by direct ballot from a list of more than one candidate. This change has strengthened democracy in Egypt and helped it become more firmly rooted.

11. The fact that the principles of human rights and fundamental freedoms are embodied in the Egyptian Constitution affords a number of important advantages:

(a) They enjoy immutability, stability and inviolability unless the necessary steps are taken to amend the Constitution, a course of action that necessarily entails a popular referendum (article 189 of the Constitution);

(b) Being constitutional rules, they rank higher than other legal rules established by the legislative or any other authority, which is obliged to act in conformity therewith and to refrain from any violation thereof;

(c) They are accorded legal protection by the Supreme Constitutional Court, which was established under the terms of the Constitution to rule on the constitutionality of legislation and the decisions of which are binding on all State authorities. This means that the legislative power cannot enact laws that are incompatible with these principles;

(d) They enjoy the special protection accorded to all human rights and freedoms recognized in the Egyptian Constitution. According to article 57 of the Constitution, any violation of any of the constitutionally guaranteed rights and freedoms of individuals constitutes an offence in respect of which civil or criminal proceedings are not statute-barred and the State guarantees compensation.

## **2. The legal status of international human rights instruments in the legal system in Egypt**

12. With regard to the legal status of international human rights instruments in Egypt, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families which is the subject of this report, international treaties in general are governed by the provisions of article 151 of the Permanent Constitution of 1971, which provides that following completion of the requisite constitutional procedures, treaties are deemed to constitute part of Egyptian law.

13. Accordingly, following their ratification and publication, international instruments concerned with human rights and freedoms, including the International Convention on the Rights of All Migrant Workers and Members of Their Families, are regarded as being equivalent to laws enacted by the legislative authority. Their provisions are equivalent to those of applicable Egyptian law and may be invoked before all legislative, executive and judicial authorities of the State. By virtue of the legal status accorded to international human rights instruments in Egypt, then, the principles of human rights and freedoms embodied in international instruments, including the Convention that is the subject of this report, enjoy three important advantages, as reviewed below.

### *The protection prescribed by the constitutional rule*

14. As we have seen, the principles of human rights and fundamental freedoms, having been incorporated into the provisions of the Constitution, enjoy the protection prescribed by the constitutional rule that any legal provision in force at the time of the proclamation of the Constitution which violates or contravenes those principles is deemed unconstitutional. This applies equally to any law that may be promulgated by the legislative authority after the entry into force of the Constitution. Accordingly, any interested party may apply to the Supreme Constitutional Court at any time, in accordance with the prescribed procedure, for a ruling declaring such provisions or laws to be unconstitutional. The rulings of the Supreme Constitutional Court are final and binding upon all authorities of the State, and are published in the country's Official Gazette.

*The protection accorded to legal rules*

15. Since international instruments, including the Convention that is the subject of this report, are regarded as forming part of the country's legislation, all their provisions are directly and immediately applicable and enforceable before all State authorities, which are bound to comply with their provisions and the rules laid down therein. This means that any person who is injured by their non-application has the right to seek redress directly from the competent court, depending on the nature of the contravention and the procedure prescribed for the enforcement of his rights.

*Criminal protection*

16. All the rights and freedoms set forth in the Constitution enjoy the protection granted by article 57, under which any violation of those rights and freedoms shall be deemed to be a criminal offence in respect of which criminal or civil proceedings are not statute-barred and the State guarantees compensation.

17. It is clear from the provisions outlined above that the International Convention on the Rights of All Migrant Workers and Members of Their Families, which is the subject of this report, and all the rights and freedoms enshrined therein are, having regard to the reservations entered by Egypt, protected under the Constitution. Any violation of those rights and freedoms is a criminal offence, and the perpetrator is liable to the penalties prescribed by law, while the State will compensate the victim for any loss or damage arising from such violation. Furthermore, the provisions of the Convention are part of Egyptian law, and any person may ask the Egyptian courts to enforce those rights and put a stop to any infringements or violations of them.

**Egypt's participation in international and regional human rights instruments**

18. Egypt's immensely rich cultural heritage and millennia of historical experience have combined to produce a people characterized by a strong instinctive regard for the human values of tolerance and peace, and that in turn goes far to explain Egypt's activist stance in the area of human rights. Inevitably, Egypt has been in the forefront of States that have joined with the international community as a whole in its continuing effort to establish the principles of human rights and fundamental freedoms and guarantee the enjoyment of those principles and rights for all peoples. Egypt was one of the 50 States that drafted and signed the Universal Declaration of Human Rights in 1948, and it has become a party to all subsequent international and regional human rights instruments.

19. Egypt has joined in the consensus of the international community as regards the universality, indivisibility and inalienability of human rights. Under article 53 of the Permanent Constitution of 1971, Egypt is obliged to grant the right of political asylum to any foreign national who has been persecuted for defending the peoples' interests, human rights, peace or justice.

20. The Constitution also enshrines the principle that criminal and civil proceedings in respect of violations of human rights are not statute-barred, reflecting the community's insistence that any person who presumes to violate the rights or fundamental freedoms of others must be liable to punishment, regardless of the length of time that has elapsed since the commission of the offence, for such offences cannot be forgotten. Committed as it is to that view of the matter, Egypt has joined with the family of the international community in becoming a party to the international instruments listed below.

21. **International human rights instruments to which Egypt is a party:**

- Slavery Convention of 1926 and the Protocol amending the Convention of 1953 and 1956;
- Convention on the Prevention and Punishment of the Crime of Genocide of 1948;
- International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour of 1930;
- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956;
- ILO Convention No. 105 concerning the Abolition of Forced Labour of 1957;
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949;
- International Convention on the Elimination of All Forms of Racial Discrimination of 1966;
- International Convention on the Suppression and Punishment of the Crime of Apartheid of 1973;
- Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees of 1967;
- Convention on the Political Rights of Women of 1952;
- Convention on the Elimination of All Forms of Discrimination against Women of 1979;
- International Covenant on Civil and Political Rights of 1966;
- International Covenant on Economic, Social and Cultural Rights of 1966;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984;
- Convention on the Rights of the Child of 1989;

- International Convention against Apartheid in Sports of 1985;
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990;
- ILO Convention No. 182 of 1999 on the Prohibition of the Worst Forms of Child Labour, to which Egypt acceded by Republican Decree No. 69 of 2002;
- First Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, to which Egypt acceded by Republican Decree No. 104 of 2002;
- ILO Convention No. 138 concerning Minimum Age for Admission to Employment, to which Egypt acceded by Republican Decree No. 67 of 1999;
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, to which Egypt acceded by Republican Decree No. 295 of 2002.

**22. Regional human rights instruments to which Egypt is a party:**

- Convention Governing the Specific Aspects of Refugee Problems in Africa, to which Egypt acceded by Republican Decree No. 332 of 1980;
- African Charter on Human and Peoples' Rights of 1980, to which Egypt acceded by Republican Decree No. 77 of 1984;
- Arab Charter on the Rights of the Child of 1983, to which Egypt acceded by Republican Decree No. 356 of 1993;
- African Charter on the Rights and Welfare of the Child of 1990, to which Egypt acceded by Republican Decree No. 33 of 2001;
- Convention on the Arab Women's Association of 2002, to which Egypt acceded by Republican Decree No. 133 of 2002.

23. As the above discussion shows, Egypt is a party to all international and regional human rights instruments. This evinces its deep concern with the embodiment of human rights in international law and its consistent action to incorporate human rights principles into its own law and ensure that they are included clearly and unequivocally in international instruments through which States can commit to the respect, protection and promotion of those rights. Egypt has striven to establish appropriate mechanisms for the protection, observance and implementation of these instruments at the international level while simultaneously giving effect to them at the national level by publishing them in the Official Gazette and thereby making them part of its own domestic law.



24. We may note at this point that Egypt is also a party to many ILO conventions regulating labour relations, as well as numerous Arab conventions adopted under the auspices of the League of Arab States.

### **III. NATIONAL WORKING MECHANISMS CONCERNED WITH THE EFFECTIVE IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS**

#### **National Council for Human Rights**

25. The National Council for Human Rights was established under law No. 94 of 2003 as an independent national mechanism. The establishing legislation provides that the Council shall possess the powers that are internationally exercised by bodies of that kind, in accordance with the Paris Principles of 1990. The legislation also specifies the Council's role with respect to complaints submitted to it, and provides that all governmental bodies are answerable to the Council and must provide it with such information and data as it may request. The Council is required to produce an annual report on the human rights situation in Egypt and submit it to the President of the Republic, the People's Assembly and the Advisory Council. (A copy of the law is appended to this report.)

26. The National Council for Human Rights is headed by Dr. Boutros Boutros-Ghali, a prominent international figure and a former Secretary-General of the United Nations. The Council issued its first report on the human rights situation in Egypt in March 2005. The Government published a reply to the report in which it undertook to consider all the recommendations for legislative measures formulated by the Council.

27. The Council is currently performing the functions assigned to it under its founding legislation by establishing committees charged with the task of conducting activities and preparing future plans designed to ensure that the Council will be able to play an effective role at the domestic, regional and international levels.

#### **National Council for Women**

28. The National Council for Women was established under Republican Decree No. 90 of 2000 for the purpose of supporting Egypt's efforts on behalf of the advancement of women and helping it confront the obstacles preventing women from playing their appropriate role in society. The Council's functions are as follows:

- To formulate proposals on public policy for society and its democratic institutions in the area of the promotion of women's issues with a view to enabling women to play an appropriate socio-economic role and integrate their efforts into comprehensive development plans;
- To prepare a draft national plan for the advancement of women, offering solutions to the problems confronting them;

- To track and assess the implementation of public policy in the area of the advancement of women, and to formulate proposals and remarks in that connection to the competent bodies;
- To comment on draft legislation and other statutory instruments with a bearing on women's issues before they are submitted to the competent authority, and to make such recommendations for draft legislation and other statutory instruments as it may deem necessary for the advancement of women;
- To comment on all agreements relating to women;
- To represent women in international forums and organizations of relevance for women's issues;
- To establish a documentation centre for the purpose of gathering information, data, studies and research relating to women, and to conduct research and studies in that area;
- To hold conferences, workshops and seminars to discuss and explore subjects of concern to women;
- To organize training courses for the purpose of heightening awareness of women's role in society and their rights and duties;
- To publish newsletters, journals and other items relating to the Council's objectives and fields of competence;
- To deal with such other matters as may be referred to the Council by the President of the Republic.

29. The Council's research and other efforts have borne fruit in programmes that are currently being executed. Furthermore, legislators have responded to many of the Council's initiatives by repealing legislative provisions that were incompatible with the principle of equality or by enacting new legislation designed to make it easier for women to bring actions at law. Some noteworthy innovations in this connection have been the repeal of the men-only clause in the Chambers of Commerce Act, the Mayors and Sheikhs Act, the report on the right to Egyptian nationality for children born to an Egyptian mother married to a foreign national, the establishment of family courts to facilitate litigation procedures in matters of personal status, and the establishment of the Family Insurance Fund.

#### **National Council for Maternal and Child Welfare**

30. The National Council for Maternal and Child Welfare was established pursuant to Republican Decree No. 54 of 1988. Under the provisions of the Decree, the Council is the

supreme authority responsible for formulating proposals on public policy, and it has the power to make such decisions as it may deem necessary to attain the goal for which it was established.

More particularly, its functions are:

- To formulate proposals on public policy in the area of maternal and child welfare;
  - To prepare a comprehensive draft national plan for the advancement of maternal and child welfare in the framework of the general State plan aimed at the protection of women and children in various areas, including in particular social and family welfare, health, education, culture, the media, and social protection;
  - To track and assess the implementation of the national plan on maternal and child welfare in the light of reports submitted by ministries, agencies and other bodies, and to issue directives for the elimination of obstacles;
  - To gather data, statistics and studies in areas relating to maternal and child welfare, to assess the indicators and findings emerging therefrom, and to identify areas in which the information in question may be usefully applied;
  - To make proposals for training programmes as a means of upgrading performance levels in the implementation of activities with a bearing on maternal and child welfare;
  - To make proposals for appropriate cultural, educational and media programmes that will serve to heighten awareness, enlist the support of public opinion in matters relating to the needs and problems of mothers and children, and afford methods of addressing them on sound scientific bases;
  - To encourage voluntary action in the area of maternal and child welfare, and to expand the scope and broaden the base of such action;
  - To cooperate with governmental and non-governmental organizations working in the area of maternal and child welfare at the regional and international levels;
  - To comment on agreements relating to maternal and child welfare, and to participate in the implementation of agreements on aid and assistance in that area between Egypt and other States and foreign organizations;
  - To issue decisions and adopt regulations relating to financial, administrative and technical matters without being required to conform to governmental rules, and to issue regulations relating to employees after consultation with the Central Organization and Administration Board.
- The establishing Decree requires ministries, public bodies, local government units and the public sector generally to provide it and supporting organizations with data, reports and research findings with a bearing on its work upon request, and also to provide the

Council and supporting organizations with periodic reports on measures they have taken to implement the Council's policy, plans and programmes relating to maternal and child welfare.

- In addition, the Decree provides that the Council's decisions shall be final and binding, and that all ministries, public bodies, local government units and the public sector generally shall be required to implement the plans, projects and programmes developed by the Council in the area of maternal and child welfare, in cooperation with the Council itself and organizations supporting it in its work.

### **Directorate for Human Rights Affairs and International Social and Humanitarian Issues (Ministry of Foreign Affairs)**

31. This Directorate is an arm of the Ministry of Foreign Affairs. That Ministry serves as an official channel of communication mandated to keep various regional and international bodies informed of Egypt's national achievements; furthermore, it is well aware of the importance of human rights issues in their various interrelated and interconnected aspects, which, among other things, directly impact Egypt's image abroad. Accordingly, early in the 1990s the Ministry decided to establish a specialized Directorate expressly tasked with responsibility for following up human rights issues. The Directorate's terms of reference cover international social and humanitarian issues, over and above its basic function of following up all matters with a bearing on human rights that arise in various regional and international forums and are given explicit expression in the form of declarations, resolutions, conventions, protocols and the like. The most important activities, programmes and projects implemented by the Ministry with a view to supporting and strengthening human rights are outlined in the paragraphs below.

32. Activities undertaken by the Ministry's Directorate for Human Rights Affairs with a view to supporting and strengthening human rights:

- The Ministry, in cooperation with the United Nations Development Programme (UNDP), provides training programmes for police officers, Government prosecutors, judiciary officials, media personnel and journalists with a view to strengthening Egypt's national capacities and fostering the propagation of a human rights culture in Egypt.
- Pursuant to Egypt's treaty obligations in the field of human rights, it participates in meetings of the Ministry of Justice committee responsible for preparing Egypt's periodic reports to United Nations treaty bodies, working to that end in coordination with the various ministries concerned and specialized national councils.
- The Directorate has established a mechanism known as the Advisory Committee on Human Rights made up of members from the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of the Interior and the Office of the Public Prosecutor. The Committee hold periodic meetings to examine replies to human rights complaints and responses to questionnaires from international human rights bodies (United Nations treaty bodies and various human rights mechanisms). The Directorate has also established a standing committee to provide coordination with the National Council for Human Rights.

- The Directorate submits to the political leadership specific recommendations aimed at protecting and strengthening human rights in Egypt, and also proposals for dealing with other States in the area of human rights.
- The communication network of the Ministry of Foreign Affairs is used to convey an image of Egypt's accomplishments to the international community with a view to strengthening the State's programmes and affording opportunities for cooperation with donor agencies, while also making essential information available to governmental agencies and embassies and keeping them up to date on the most recent discussions on the international scene in the area of human rights.
- The Directorate presents Egyptian initiatives at international human rights forums in an effort to enlist international support for Egypt's view of human rights issues, which is based on the defence of humanitarian principles, avoidance of provisional solutions and politicization, and protection of the rights of peoples. At its last meeting in Geneva, in April 2005, the Commission on Human Rights adopted by an overwhelming majority an Egyptian resolution for the protection of civilians during armed conflicts. The resolution gave expression to the international community's support for the binding nature of obligations under international humanitarian law and human rights law, and the protection of civilians during armed conflicts and those subject to foreign occupation.
- The Directorate prepares Egypt's position in various international and regional forums on human rights.
- It maintains the Ministry's continuing function as a fundamental communication link between Egypt and the outside world in the field of human rights.
- The Directorate responds to outside complaints alleging human rights violations.
- The Directorate contributes to the preparation of Egypt's periodic reports on human rights.

### **Human Rights Affairs Department (Ministry of Justice)**

33. The Human Rights Affairs Department is a division of the Ministry of Justice. It was established pursuant to a decree issued by the Minister of Justice (No. 3081 of 2002), and its terms of reference are summarized below:

- Preparation of a database incorporating all international and regional documents, resolutions, recommendations and the like in the area of human rights, in addition to Egyptian laws, decrees and court decisions with a bearing on human rights;
- Representation of the Ministry on committees concerned with human rights within governmental agencies and scientific and academic bodies;

- Contribution to the preparation of legal aspects of periodic reports submitted by Egypt to United Nations treaty bodies and regional committees concerned with human rights;
  - Legal research and studies on the conformity of national legislation to international instruments and resolutions relating to human rights;
  - Commenting upon request on legislation with a bearing on human rights;
  - Action to follow up legislation, decrees and court decisions with a bearing on human rights;
  - Preparation of legal reports and replies to questions asked by relevant United Nations bodies, the African Commission on Human Rights or the Arab Commission for Human Rights;
  - Representation of the Ministry within United Nations treaty bodies, at international conferences and seminars, and on international, regional or national committees dealing with human rights; preparation of studies as required for purposes of implementing recommendations adopted by the above-mentioned bodies;
  - Organization of conferences and scientific and specialized seminars on human rights issues;
  - Organization of training courses for judiciary officials and administrators, in coordination with relevant international, regional or national bodies;
  - Gathering of statistical data on areas of relevance for human rights as issued by specialized governmental agencies;
  - Such other duties as may be assigned to it.
- 
- The post of Assistant Minister of Justice for Human Rights Affairs was created pursuant to Republican Decree No. 233 of 2003.
  - A Main Committee headed by the Assistant Minister of Justice for Human Rights has been established for the purpose of joining forces with the relevant governmental agencies to prepare Egypt's reports to international and regional human rights mechanisms. The present report to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families is the first outcome of the Main Committee's work.
  - The Department, in cooperation with UNDP, organizes training courses for judiciary officials and Government prosecutors with a view to disseminating and heightening awareness of international and regional human rights instruments. In addition, it has prepared an Egyptian encyclopaedia of all international and regional instruments to

which Egypt is a party and all laws and decrees relating to national mechanisms. The purpose of this initiative was to facilitate the work of judges, inasmuch as under Egypt's Constitution, these instruments are deemed to have the force of Egyptian law.

### **Supreme Committee on Human Rights (Ministry of the Interior)**

34. This Committee was established pursuant to Ministerial Decree No. 22562 of 2001, and its membership includes representatives from the leadership structures of all police and security-related components in the Ministry. Its terms of reference are summarized below:

- Identification of adequate means of safeguarding human rights in interactions and communication between the various components of the Ministry and members of the public;
  - Observation of methods used by personnel of the various components of the Ministry in performing their duty of preserving human rights and fundamental freedoms;
  - Investigation of all obstacles that may impede individuals' enjoyment of their rights and fundamental freedoms, and action to devise optimally appropriate solutions for eliminating those obstacles;
  - Investigation of any human rights issues that may arise in Egypt and action as necessary to deal with them; submission of suggestions relating to support for the Ministry's plan in the area of human rights protection;
  - Recommendations for the organization of symposia, conferences and training courses for the purpose of giving officers and other members of the Ministry a firmer grasp of the concept of human rights;
  - Study of methods of developing various procedures aimed at enhancing the importance of human rights protection as enshrined in the law.
- The Committee has developed a mechanism for ensuring that human rights are respected and fundamental freedoms safeguarded, and for disseminating a culture of human rights among the various sectors of the Ministry and all its employees, whether officers, other individuals or civilians, with a view to giving them a firmer grasp of human rights concepts. It is currently considering what measures should be taken to facilitate citizens' dealings with the Ministry and how best to expedite the delivery of services in a contemporary, state-of-the-art manner. In addition, the Committee investigates allegations that might have an adverse impact on the reputation of the Egyptian security service, makes sure that security, police and legal procedures are proper and lawful, and publicizes the fact, thereby backstopping the service's efforts in carrying out its mission of protecting human rights and preserving fundamental freedoms.

The Committee has achieved quite remarkable results in its work with the various components of the Ministry.

35. **Human Rights Committee (Ministry of Social Affairs)**

- Pursuant to Ministerial Decree No. 41 of 1 March 2004, a Human Rights Committee was established within the Ministry of Social Affairs. The Committee consists of senior Ministry officials, and it is mandated to prepare periodic reports on the Ministry's efforts in the field of human rights, to look into complaints that are received by the Ministry from members of the public on matters relating to the human rights of specific groups such as children, women, disabled persons and the elderly.

36. **Human Rights Committee of the People's Assembly**

- In the light of the continuing development and consolidation of national human rights mechanisms, which are becoming progressively more deeply rooted in Egypt, the People's Assembly has decided to establish a Human Rights Committee to work in parallel with those mechanisms in the framework of the powers wielded by the People's Assembly. More particularly, the Committee is a new mechanism for monitoring the Government's performance in the field of human rights.

37. **Civil society organizations**

- Civil society organizations are an important mainstay of the system of human rights in Egypt. Under law No. 84 of 2002, the Community Associations Act, it is now lawful to found civil society organizations that operate in the area of human rights, while international organizations may now open branch offices in Egypt. A total of 81 associations working in the field of human rights are currently registered under the Act.
- These organizations play an important role in propagating a culture of human rights and enhancing awareness of international human rights instruments through their various activities, such as seminars and conferences, and through the material on the subject that they publish. A number of leaders of civil society organizations participated in the establishment of the National Council for Human Rights.

38. **The Press Authority**

- The press is regarded as an important mechanism in the field of human rights. Under article 207 of the Constitution, the press is a free authority that exercises its vocation independently in the service of society through all the means of expression, contributing to and expressing public opinion within the framework of the basic components of society in order to safeguard liberties, rights and public duties and respect for the sanctity of citizens' private lives, as stipulated in the Constitution and the law.
- Egypt boasts a host of newspapers, including national, party and other newspapers, published by public and private corporations.



- The press, by virtue of its wide circulation, is regarded as an important mechanism for propagating a culture of human rights, enhancing awareness of international human rights instruments, and tracking and monitoring human rights violations and other important events occurring within the country or on the regional or international scene.

39. The steady growth in national and governmental mechanisms specializing in various fields with a bearing on human rights and fundamental freedoms reflect the State's determination to fulfil its international obligations arising from international instruments to which Egypt is a party, and to consolidate its areas of action by establishing further mechanisms aimed at monitoring and strengthening its efforts in those areas. The State is also preparing ambitious plans to propagate a culture of human rights and to integrate the contents of those plans into people's daily lives as an approach to action, a lifestyle, and a future-oriented outlook for the benefit of all humanity.

40. This integrated approach also represents a national observation network that tracks and monitors the action of the Government, the community, Parliament, the courts and the press, enabling these various mechanisms, each in its own area of competence, to review the human rights situation independently. It also reflects the State's commitment to take advantage of their input and recommendations by applying its political will to the task of strengthening and developing all national efforts aimed at disseminating respect for human rights more widely, and thereby helping to attain those lofty goals to which the human community aspires.

#### **IV. NATIONAL MEANS OF ENFORCEMENT OF HUMAN RIGHTS PRINCIPLES IN EGYPT**

41. The legal system in Egypt is based on the sovereignty of the law and the independence of the judiciary. The Constitution provides for a judiciary authority comprising various types of courts, and it also provides for the establishment of a Supreme Constitutional Court to determine the constitutionality of laws. Egypt's judicial system as regulated by the Constitution is described in some detail in the paragraphs below.

##### **The Supreme Constitutional Court**

42. Articles 174-178 of the Constitution provide for the establishment of the Supreme Constitutional Court as an independent judiciary body having sole jurisdiction in the matter of the constitutionality of laws and regulations and the interpretation of legislation. The members of the Supreme Constitutional Court enjoy judicial immunity and cannot be dismissed; they are answerable only to the Court itself. Its rulings on constitutional matters and interpretive decisions are published in the Official Gazette, and are final and binding on all State authorities.

43. In the exercise of its function of reviewing the constitutionality of legislation, the Supreme Constitutional Court has ruled on various occasions that particular points of the law were unconstitutional on the grounds that they contravened provisions of the Constitution. Rulings of this kind that have been relevant from the standpoint of rights and freedoms will be discussed in part II of this report.

44. These constitutional rulings, which, as we have seen, are binding on all State authorities under the terms of the Constitution, indicate that the Supreme Constitutional Court, as part of Egypt's system of legal enforcement, is effectively performing its function of deciding constitutional disputes that are referred to it by individuals or other judicial bodies. This reflects the State's continuing commitment to the principle of the sovereignty of the law and the independence of the judiciary, combined with the assurance that court rulings will be uniform from a constitutional standpoint. It also reflects Egyptian legislators' commitment to the decisions of the Supreme Constitutional Court in matters relating to the provisions of legislation which have been found to be constitutionally flawed: the amendments required to bring the legislation in question into line with the Constitution have always been duly enacted.

### **The judicial authority**

45. Reference is made to the judicial authority in chapter V, section 4 of the Constitution, articles 165-173 of which provide that the judiciary shall be independent, that judges shall be independent and subject to no authority other than the law, that no interference in their work shall be permitted, and that they shall not be liable to dismissal. All matters relating to the appointment of judges and the governance of their professional affairs are regulated by the Judicial Authority Act (law No. 46 of 1972).

46. Article 172 of the Constitution provides that the Council of State shall be an independent judicial body competent to adjudicate in administrative disputes and disciplinary actions.

47. From the above, it can be seen that the judicial authority in Egypt is divided into the various levels of civil and criminal courts, administrative courts and the Council of State, each of which will be considered separately.

### **The civil and criminal courts**

48. The civil divisions of the courts try civil disputes of all kinds, while the criminal divisions try cases involving what are termed criminal offences under the law. They adjudicate therein in accordance with the law, within the framework of the disputes brought before them, in the light of the applicable constitutional principles and in a manner consistent with the rules and their judgements, means of judicial remedy, the procedures for the hearing of proceedings and the safeguards that must be provided for plaintiffs and defendants. By law, any person who has suffered detriment as a result of a criminal offence has the right to bring a civil action for damages before the court that is trying the criminal case. These criminal offences, needless to say, include violations of the public rights and freedoms of individuals. The structure of Egypt's legal system is based on two orders of courts, namely the courts of first instance, or trial courts, and the courts of appeal and the Court of Cassation.

49. The jurisdictions of the various types and levels of courts are defined by the law in accordance with two fundamental criteria: the value of the action, and the nature of the action. Courthouses are found throughout Egypt, so that people can go to court without having to travel far from their homes. Both civil and criminal cases are heard. Trial courts are located in the capital cities of governorates, and in the more densely populated governorates there may be a number of them. Cases are heard by a panel of three magistrates.

50. There are eight courts of appeal for the entire country. Cases are heard by a panel of three, magistrates, selected from among presidents of tribunals, professors of law and barristers qualified to plead before courts of appeal. Both civil and criminal cases are heard.

51. The Court of Cassation is a single court located at Cairo. Cases are heard by a panel of five magistrates, selected from among senior judges, professors of law and barristers qualified to plead before the Court of Cassation. The Court of Cassation hears appeals from the judgements of Courts of Appeal and courts of first instance sitting as courts of appeal in cases in which they are competent to hear appeals. Grounds for appeal to the Court of Cassation are set forth in the law.

### **Office of the Public Prosecutor**

52. The Office of the Public Prosecutor is a fundamental component of the Egyptian judiciary. It is headed by the Public Prosecutor, who is assisted by assistant prosecutors, senior attorneys, attorneys, chief prosecutors, barristers, deputies and assistants. The members of the OPP are appointed through a process of exchange with members of the judiciary: individuals are appointed at ranks corresponding to their original ranks, beginning with the post of Deputy Prosecutor from the “senior” group, which corresponds to the rank of judge. The OPP comprises specialized prosecution offices and other prosecution offices corresponding to courts of appeal, courts of first instance and summary tribunals. Members of the OPP of the rank of Assistant and above are not liable to dismissal and enjoy judicial immunity. The OPP exercises the twin functions of investigation and prosecution. It conducts the initial investigation procedures in criminal cases, and it may retain some cases on grounds set forth in the law, but it also has the right to refer such cases as it sees fit to the criminal courts. We may note here that the members of the OPP were granted judicial immunity under an amendment to the Judicial Authority Act in 1984, following the adoption of United Nations resolutions relating to the separation of the functions of investigation and prosecution and the independence of members of the OPP.

53. The OPP has investigative authority in cases involving complaints referred to it by the police or made to it directly. It may issue orders for arrest, detention, inspection, and imprisonment for up to four days, a period that may be extended under an order from the magistrate of the competent summary tribunal.

54. The OPP appears in some civil cases, such as personal status cases and bankruptcy cases. It also conducts periodic and unscheduled inspections of prisons and other places of detention as prescribed by law.

55. We may note at this point that on 27 July 2005, the Public Prosecutor issued a decree (No. 1221 of 2005) establishing a special Human Rights Protection Division with a mandate to investigate, follow up and identify any violations or reports with a bearing on human rights.

## **The administrative courts and the Council of State**

56. In the exercise of its powers and functions and the consequent issue of decrees or ordinances affecting the interests of individuals or groups, regardless of whether they relate to measures that it is obliged to take or services that it provides for citizens, the executive authority is necessarily bound by all the constitutional principles and legal rules in force in the country and, within the limits of its jurisdiction, must act in the public interest and endeavour to take administrative decisions that promote the welfare of citizens on the basis of purely objective criteria, free from any form of discrimination, and in accordance with the legal principles in force.

57. The Council of State and the administrative courts are a means of judicial remedy to which anyone may resort in order to contest decisions taken by the executive authority, regardless of whether such decisions are positive or negative (in the sense of a failure to take a decision or the requisite decision). The administrative courts can be petitioned to annul decisions which infringe legal or jurisdictional limits, which are defective in form or which are vitiated by faulty application or interpretation or by an abuse of authority. Compensation can also be claimed in this respect.

58. The Council of State is an independent judicial body (article 172 of the Constitution). The Council of State Act (law No. 47 of 1972) defines the competence of the Council's courts to adjudicate in appeals from final decisions and applications for the annulment of administrative decisions and for payment of compensation in respect thereof for the above-mentioned reasons. A refusal to take a decision is, in itself, regarded as an administrative decision. These courts are also competent to hear appeals from disciplinary decisions. In addition, the Act regulates the channels, procedures and stages of appeal from judgements. The Act regards abrogating judgements as binding upon all, and a refusal to implement them is deemed to constitute an offence punishable under the Egyptian Penal Code (art. 123).

59. Under the Council of State Act, the Council comprises three divisions: judicial, legal opinions, and legislative. The Judicial Division is made up of the Supreme Administrative Court, the Administrative Judicial Court, the administrative and disciplinary courts, and the Board of State Commissioners.

### **(a) Judicial Division**

- Cases brought before the administrative and disciplinary courts are heard by a panel of three magistrates. The president of the court is an assistant counsellor, while the other two are deputy counsellors. These courts are found in the various governorates of the country. They are courts of first instance, and their rulings may be appealed to the Administrative Judicial Court either by one of the parties to the case or by the Board of State Commissioners.

- Cases brought before the Administrative Judicial Court are heard by a panel of three magistrates, who are counsellors. It is competent to rule on administrative disputes, appeals from administrative decisions and claims for compensation. It is also competent to hear appeals from rulings of the administrative and disciplinary courts (art. 10).
- Cases brought before the Supreme Administrative Court are heard by a panel of five magistrates. This court is competent to hear appeals from rulings of the Administrative Judicial Court or administrative and disciplinary courts under the conditions laid down in the Act.
- The Board of State Commissioners supervises all levels of litigation conducted in the courts of the Council of State. It is competent to prepare opinions and investigate administrative cases.

(b) Legal Opinions Division

- This Division is competent to give opinions on questions on which it is consulted by the relevant directorates in the various ministries. It also investigates complaints (art. 58).

(c) Legislative Division

- The Legislative Division is competent to review laws and Republican Decrees that are legislative in nature. It meets as a committee of the whole to consider State issues and disputes between governmental agencies (art. 66).

60. This organizational structure of the judiciary, with its constitutional, civil, criminal and administrative courts, represents Egypt's means of dispensing justice. Among other things, it serves to protect people's rights and freedoms, punish violations of those rights where such violations are defined as criminal offences, and ensure the payment of compensation for any injury sustained by victims. The administrative judicial apparatus also monitors the Government's performance in the area of rights and freedoms. In that connection, it has the power to abrogate administrative decisions that are not in conformity with the Constitution or the law or are arbitrary in nature and to order the payment of compensation to persons who have sustained injury as a result.

61. Matters relating to judicial bodies in Egypt are governed by three main legislative instruments:

- The Constitutional Court Act (law No. 48 of 1979);
- The Judicial Authority Act (law No. 46 of 1972);
- The Council of State Act (law No. 47 of 1972).

These Acts provide for all international safeguards and criteria that ensure the independence and immunity of judiciary officials, as well as international criteria aimed at ensuring that justice is dispensed impartially and fairly.

## **PART II**

### **Specific discussion of human rights and freedoms in the order of the several articles of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

#### **Article 7 of the Convention**

##### **Non-discrimination with respect to rights**

**States Parties undertake, in accordance with the international instruments concerning human rights, to respect and to ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind such as to sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.**

62. The right to equality before the law is enshrined in article 40 of the Egyptian Constitution. Under that article, “All citizens are equal before the law. They have equal public rights and duties without discrimination due to sex, ethnic origin, language, religion or creed.” Equality is thus an obligation under the Constitution as well as under international human rights instruments.

63. This right is one that is enjoyed by all persons subject to Egyptian law, the provisions of which contain no discrimination or distinction of any kind. We may note here that Egypt is a party to a number of international treaties and agreements, including the following:

- International Covenant on Civil and Political Rights;
- International Convention on the Elimination of All Forms of Racial Discrimination;
- International Convention on the Suppression and Punishment of the Crime of Apartheid;
- Convention against Discrimination in Education;
- ILO Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value;
- ILO Convention No. 111 concerning Discrimination in Respect of Employment and Occupation;
- African Charter on Human and Peoples’ Rights;
- African Charter on the Rights and Welfare of the Child.

Discrimination is prohibited under all these instruments, and following Egypt's accession to them, they are deemed to constitute part of Egyptian law. Their provisions are enforceable before all authorities in the State, as indicated earlier in this report (see part I, paragraph 2 above).

64. In its constitutional case No. 8 of judicial year 8, dealing with the right of all to litigate, the Constitutional Court issued the following ruling: "It is an obligation upon the State, in accordance with article 68 of the Constitution, to ensure that every individual, whether citizen or alien, has ready access to its courts of law and enjoys protection of the rights laid down in its legislation and respect for the fundamental safeguards necessary for the effective administration of justice in accordance with the standards applied in civilized countries. Rights that are based on legislation must, if they are to be meaningful, necessarily be accompanied by the protection available under the Constitution or legislative measures, inasmuch as access to the system of justice is not adequate in and of itself. Rather, such access must always be accompanied by an absence of any obstacles to the resolution of situations arising from violations of those rights, including in particular obstacles in the form of complex procedural requirements. This is essential in order for the State ultimately to apply a just solution based on the impartiality and independence of the courts and to guarantee that the judicial system is not used as an instrument of discrimination or intolerance against some specific group. In the present case, this is the outcome that the petitioner was seeking, namely judicial satisfaction for the violation of his rights that he alleged. That satisfaction, having been found lawful and in conformity with the provisions of the Constitution, is henceforth an integral aspect of the right to litigate, supplementing that right, inasmuch as it is closely bound up with the ultimate end that that right is intended to serve. The indication of this is that litigation is not based on the defence of some theoretical interest from which no practical benefit may be expected to eventuate; rather, its purpose is to realize some benefit that is laid down in the law and in the light of which the issue disputed between the parties and the provision of the law relating thereto are defined. In the case that is the subject of the present ruling, this court has affirmed that the Constitution clearly states in article 68 that the right to litigate is guaranteed as a fundamental constitutional principle, thereby reiterating a feature of previous Constitutions, all of which have provided that every individual, whether citizen or alien, enjoys that right, inasmuch as it is a means of guaranteeing the protection of rights available at law and providing a remedy for violations thereof."

65. As will be seen from this judgement, the law affords protection of the rights of citizens and aliens under the law on a footing of equality. As a result, an alien, regardless of the legal basis of his presence in the country, enjoys all aspects of the protection available under the law, whether he is the victim of a denial of rights or, conversely, is the object of criminal proceedings for an offence he is charged with having committed in violation of Egyptian law.

## **Article 8 of the Convention**

### **Human rights of all migrant workers and members of their families**

- 1. Migrant workers and members of their families shall be free to leave any State, including their State of origin. This right shall not be subject to any restrictions except those that are provided by law, are necessary to protect**

**national security, public order, public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present part of the Convention.**

**2. Migrant workers and members of their families shall have the right at any time to enter and remain in their State of origin.**

66. These freedoms are dealt with in articles 50-53 of the Egyptian Constitution, which read as follows:

Art. 50: No citizen shall be prohibited from residing in any place or be forced to reside in a particular place except in cases defined by law.

Art. 51: No citizen may be deported from the country or prevented from returning to it.

Art. 52: Citizens shall have the right to permanent or temporary emigration. The law shall regulate this right and the measures and conditions of emigration.

Art. 53: The right to political asylum shall be granted by the State to every foreigner persecuted for defending the people's interests, human rights, peace or justice. The extradition of political refugees shall be prohibited.

67. Under Egyptian law, these freedoms are regulated by a number of statutory instruments, including:

68. The Passports Act (law No. 97 of 1959), which gives every Egyptian the right to obtain a passport to travel from and return to the country. Only the judicial and public security authorities are entitled to prevent a person from travelling. The Act enshrines the right to appear from decisions taken in this regard.

69. The Act concerning the Entry and Residence of Foreign Nationals (law No. 89 of 1960), which lays down the procedures for granting a residence permit and the circumstances and procedures under which it may be renewed. It also stipulates that it is not permissible to deport a foreign national who is legally residing in the country in a private capacity except under the terms of a decree of the Minister of the Interior and where the foreign national's presence poses a threat to the country's internal security or to public health, morals or peace. The foreign national may be deported after the matter has been submitted to the committee competent to examine deportation orders.

70. The Emigration Act (law No. 111 of 1983), which lays down the procedures for permanent or temporary emigration by individuals or groups. The Government devotes constant efforts to the task of regulating emigration processes and devising solutions to the various procedures relating to them. It also endeavours to develop policies in the area of the affairs of Egyptians living abroad with a view to creating an informed public opinion that will support national issues while also attempting to take advantage of the expertise and skills of the persons concerned in various fields to promote production and development and to strengthen the national political, social and economic bonds linking them to their homeland, and also to strengthen the bonds linking them to each other.



## Article 9 of the Convention

### **The right to life of migrant workers and their families shall be protected by law.**

71. The right to life is the most precious of all human rights, and consequently a violation of that right is the worst of crimes in the eyes of the law. Offenders are liable to the death penalty, regardless of the nationality of the accused person or the victim, and even regardless of their legal status in the country.

72. Under the Constitution and Egyptian law, no one may be deprived of the right to life except pursuant to a final court judgement in a case involving an offence for which the penalty was death at the time the offence was committed.

73. The death penalty is prescribed by Egyptian law for the gravest and most heinous crimes. However, it is never obligatory; courts always have discretion to apply a different penalty. Moreover, it is not applied where the convicted person is under 18 years of age.

74. The Egyptian Code of Criminal Procedure contains safeguards relating to the application of the death penalty. These are outlined in the paragraphs below:

1. Cases involving felonies, including felonies for which the prescribed penalty is death, are considered by the criminal divisions of the high courts of appeal. Cases brought before these courts are heard by a panel of three magistrates, all of Counsellor rank, while the presiding magistrate is a senior official in the judiciary with extensive experience in the courts of appeal (art. 366 (i) (h)).
2. A sentence of death may be pronounced only by a consensus of the panel of magistrates and after seeking the opinion of the Mufti of the Republic. Even then, an application for a review of the ruling or an application to have it set aside is always possible (art. 381 (i) (h)).
3. The Office of the Public Prosecutor is required to refer a sentence of death pronounced in the presence of the person convicted of the offence to the Court of Cassation for an investigation to make sure that the ruling was correct in legal terms, even where the convicted person himself does not appeal (art. 46, Law No. 57 of 1959 concerning circumstances and procedures relating to appeals to the Court of Cassation).
4. The court records containing the final sentence of death must be submitted by the Minister of Justice to the President of the Republic, who may exercise his right to pardon the offender or to commute the sentence (art. 470 (i) (h)).
5. A sentence of death is not carried out upon a pregnant woman until she has given birth (art. 476 (i) (h)).
6. A person under 18 years of age may not be sentenced to death (art. 112 of the Childhood Act (law No. 12 of 1996)).

7. A sentence of death may not be carried out on a religious holiday of the convicted person, and must be carried out in the presence of clergy of the convicted person's religion.

It is noteworthy that Egypt is a party to international and regional human rights instruments that deal with protection of this right (see part I, section II of this report).

### **Article 10 of the Convention**

**No migrant worker or member of his or her family shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.**

75. Torture is a criminal offence under Egyptian law. Anyone who engages in torture is liable to the penalties prescribed by the Penal Code, regardless of the nationality of either the victim of the torture or the perpetrator. In addition, Egypt is a party to the 1984 Convention against Torture and the International Covenant on Civil and Political Rights, and the terms of these two international instruments are regarded as forming part of Egyptian domestic law, as noted earlier in this report.

Articles 42 and 57 of the Egyptian Constitution are relevant in this connection.

76. Under article 42, "Any citizen who is arrested or detained or whose freedom is restricted in any way shall be treated in a manner consistent with his dignity as a human being. No physical or moral harm shall be inflicted upon him. He may be detained or imprisoned only in a place subject to the laws regulating places of detention. The term of preventive detention shall be defined by law. If a confession is proved to have been made by a person under any of the aforementioned forms of duress or coercion, it shall be deemed invalid and of no effect."

77. Under article 57, "Any assault on individual freedoms or on the inviolability of the private life of citizens and any other public rights and liberties guaranteed by the Constitution and the law shall be considered a crime for which criminal and civil liability shall not be subject to any statute of limitation. The State shall grant fair compensation to every victim of such assault."

78. Under the Penal Code (arts. 126, 129 and 280-282), every act involving the use of force or torture in any form or the threat thereof is a criminal offence, regardless of the extent of the injury or damage thereby caused and regardless of whether the application of force or torture is physical or moral. Every State official who gives an order for the use of torture is also deemed to have committed a criminal offence. A conviction for applying or ordering the use of torture is not subject to executive clemency, and criminal and civil liability arising therefrom are not subject to any statute of limitation. In addition, the State is required to compensate the victim.

79. Under article 126 of the Code, "It is a punishable offence for a public official to commit or order an act of torture with a view to extorting a confession from an accused person. The penalty is a term of imprisonment with or without hard labour and, if the victim dies, the offender is liable to the penalty prescribed for murder."

80. Under article 129, “Any public official who, acting in his capacity as such, uses violence incompatible with human dignity or likely to cause physical harm is liable to a penalty of imprisonment.”

81. Under articles 280-282, “It is a punishable offence to detain or imprison any person without authorization from the competent authorities or to provide premises for such detention. The penalty is increased if such detention is accompanied by threats of death or torture.”

82. Under the Constitution, moreover, a confession proved to have been extorted under duress or torture or the threat thereof is not admissible as evidence.

83. Under article 40.2 of the Code of Criminal Procedure, “Every person who is arrested or detained shall be treated in a manner consistent with his dignity as a human being and shall not be harmed physically or morally.” The Prisons Act (law No. 396 of 1956) contains a similar provision.

It is noteworthy that all provisions of the Penal Code prescribing sentences of hard labour were repealed by law No. 95 of 2003.

84. In addition, all provisions of the Prisons Act (law No. 396 of 1956) prescribing flogging were repealed by law No. 152 of 2002.

#### **Article 11 of the Convention**

- 1. No migrant worker or members of his or her family shall be held in slavery or servitude.**
- 2. No migrant worker or member of his or her family shall be required to perform forced or compulsory labour.**
- 3. Paragraph 2 of the present article shall not be held to preclude, in States where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court.**
- 4. For the purpose of the present article the term “forced or compulsory labour” shall not include:**
  - (a) Any work or service not referred to in paragraph 3 of the present article normally required of a person who is under detention in consequence of a lawful order of a court or of a person during conditional release from such detention;**
  - (b) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;**
  - (c) Any work or service that forms part of normal civil obligations so far as it is imposed also on citizens of the State concerned.**

85. Slavery is deemed to be incompatible with the order of society existing in Egypt. Under Egyptian law, no person, regardless of nationality, may be held in slavery. To compel a person to perform forced labour is a criminal offence under article 117 of the Penal Code, which reads as follows: “Every public official who uses forced labour to perform work for any body or institution that is public or considered to be such, or who without justification withholds the wages of such workers, in whole or in part, shall be liable to life imprisonment or a term of imprisonment at hard labour and dismissal from office. Where the offender is not a public official, he shall be liable to a term of imprisonment.” Under article 13 of the Constitution, “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.”

86. These constitutional provisions have been translated into legislation in the form of the Civil Code, the Penal Code and the Code of Criminal Procedure. The relevant features of these statutory instruments are summarized in the paragraphs below:

(a) Civil Code (law No. 131 of 1948)

- Under article 29 of the Civil Code, “Human personality begins at the moment of birth and ends at death. The rights of the unborn child shall be determined in accordance with the law.”
- Under article 38, “Every person shall have a given name and surname.”
- Under article 48, “No person may renounce his legal capacity, nor is it permissible to derogate from any of the principles pertaining thereto.”
- Under article 51, “The law affords protection against the use of another person’s name without justification or the unlawful misappropriation of such name. Any person who suffers injury as a result thereof has the right to seek recourse and to claim compensation.”

(b) Penal Code (law No. 58 of 1937)

- Many acts that adversely affect human dignity, legal personality, forced labour, exploitation, torture or inhuman treatment are criminal offences under the Egyptian Penal Code. The relevant provisions are given below.
- Under article 117, “Every public official who uses forced labour to perform work for any body or institution that is public or considered to be such, or who without justification withholds the wages of such workers, in whole or in part, shall be liable to life imprisonment or a term of imprisonment at hard labour and dismissal from office. Where the offender is not a public official, he shall be liable to a term of imprisonment.”

- Under article 131, “It is a criminal offence to force persons to perform work in circumstances other than those in which such forced work is permitted by law, or to use such persons for work other than that for which they have been mobilized by law. Every public official found guilty of such an offence shall be liable to a term of imprisonment, dismissal from office and the restitution of wages owed.”
- Under article 375, “It is a criminal offence to use force, violence, threats, intimidation or unlawful means to obstruct or attempt to obstruct any of the following rights:
  - (a) The right of others to work;
  - (b) The right of others to employ or refrain from employing any person;
  - (c) The right of others to participate or refrain from participating in an association or associations. The provisions of this article shall apply even where such methods are directed at the wife or children of the person concerned.”

87. The purpose of this paragraph is to protect freedom to work and freedom to participate in associations.

- Under article 375 bis of the Code, “Every person who directly or indirectly uses force, the threat of violence or the threat of the use of force against another person or his wife or children for the purpose of intimidation in a manner that jeopardizes his security, peace and serenity, puts his life or safety at risk, causes damage to any of his property or assets or detracts from his personal freedom, dignity, good name or free will commits a criminal offence.”
- The same article provides that in the assessment of the penalty the following circumstances are considered to be aggravating factors: the involvement of more than one offender, the use of weapons or instruments, the commission of the offence against a woman or a minor under 18 years of age, the use of ambush, or the concomitant offence of homicide.

88. Circumstances under which it is lawful to mobilize labour and the terms and conditions governing the compensation paid to persons so mobilized are regulated by the Public Service Act (law No. 76 of 1973).

89. These legal provisions are of universal validity. Aliens enjoy the same legal protection as citizens under the above-mentioned statutory instruments and other legislation, regardless of the nationality of offenders and victims.

## Article 12 of the Convention

1. **Migrant workers and members of their families shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of their choice and freedom either individually or in community with others and in public or private to manifest their religion in worship, observance practice and teaching.**
2. **Migrant workers and members of their families shall not be subject to coercion that would impair their freedom to have or adopt a religion of their choice.**
3. **Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.**
4. **States Parties to the present Convention undertake to have respect for the liberty of parents, at least one of whom is a migrant worker, and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.**

90. Under article 46 of Egypt's Constitution, "The State shall guarantee freedom of belief and the freedom to practise religious rites."

91. Under the Egyptian Penal Code, every act that constitutes a violation of these rights is a criminal offence. The relevant provisions are as follows:

Article 160 designates the following acts criminal offences:

- The use of violence or threats to disrupt or interrupt the religious observances or celebrations of any community;
- The destruction, damage or desecration of premises intended for the celebration of religious rites, or of emblems or other articles venerated by the members of a religious community or group of people;
- The violation or desecration of graves or cemeteries.

Under article 161, the following acts are also designated criminal offences:

- The printing or publication of a text that is revered by members of a religious community, whose rites are performed in public, in such a way as deliberately to distort and alter the meaning of the text of those scriptures;
- Mimicry of a religious celebration in a public place with the aim of ridiculing it or bringing it into public disrepute.

92. The penalties prescribed by law for these offences are imprisonment, fines or both. Longer prison sentences are prescribed where the offence is committed for purposes of terrorism.

93. Under Egyptian law, all parents enjoy freedom to choose religious and moral education for their children in conformity with the religion they profess.

94. Egypt is committed to the freedom of the three monotheistic religions and respect for the legal effects of the family relationships of their adherents, and accordingly personal status issues in Egypt are governed by the provisions of the respective laws of those religions.

95. That freedom is subject only to restrictions prescribed by law, as stated in paragraph 3 of the article in question, and the provisions of relevant international instruments.

### **Article 13 of the Convention**

- 1. Migrant workers and members of their families shall have the right to hold opinions without interference.**
- 2. Migrant workers and members of their families shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of their choice.**
- 3. The exercise of the right provided for in paragraph 2 of the present article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:**
  - (a) For respect of the rights or reputation of others;**
  - (b) For the protection of the national security of the States concerned or of public order or of public health or morals;**
  - (c) For the purpose of preventing any propaganda for war;**
  - (d) For the purpose of preventing any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.**

96. Under article 47 of the Constitution, “Freedom of opinion shall be guaranteed. Every individual shall have the right to express his opinion and to publicize it verbally, in writing, by photography or by other means of expression within the limits of the law. Self-criticism and constructive criticism are the guarantee of the safety of the national structure.”

97. Under article 48, “Liberty of the press, printing, publication and mass media shall be guaranteed.”

98. Article 49 states, “The State shall guarantee the freedom of scientific research and literary, artistic and cultural creativity and provide the necessary means for encouraging their realization.”

99. Article 210, for its part, provides that “Journalists have the right to obtain news and information according to the regulations set by law. Their activities are not subject to any authority other than the law.

These freedoms are regulated by a number of Egyptian statutory instruments, including:

- Publications Act (law No. 20 of 1936);
- Protection of Copyright Act (law No. 354 of 1945);
- Censorship of Artistic Works Act (law No. 430 of 1955);
- Press Authority Act (law No. 96 of 1996);
- Intellectual Property Act (law No. 82 of 2002);
- Regulation of Communications Act (law No. 10 of 2003).

100. The above-mentioned Acts regulate the exercise of these freedoms in the framework of paragraph 3 of the article of the Convention here under discussion. They provide the necessary guarantees for protection of literary and artistic works and the freedoms of others. They also stipulate penalties for the infringement of the authorial rights of others. Under these Acts, moreover, the use of publication to intrude on the private lives of others or to advocate racial discrimination, violence or hatred is a criminal offence. These laws apply equally to Egyptian citizens and to aliens in Egypt.

#### **Article 14 of the Convention**

**No migrant worker or member of his or her family shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home, correspondence or other communications, or to unlawful attacks on his or her honour and reputation. Each migrant worker and member of his or her family shall have the right to the protection of the law against such interference or attacks.**

101. The issue of individuals’ right to personal freedom and security, the inviolability of their privacy, and the protection of these rights under the law are addressed in articles 44 and 45 of the Constitution.

102. Under article 44, “Homes shall be inviolable. They may be entered and searched only pursuant to a warrant duly issued for cause by a court in accordance with the law.”



103. Article 45 provides that “The law shall protect the inviolability of the private lives of citizens. All means of communication shall be inviolable, and their confidentiality shall be guaranteed. They may be confiscated, listened to or monitored only pursuant to a warrant duly issued for cause by a court and for a limited period of time in accordance with the law.”

104. The Egyptian Penal Code reflects these constitutional provisions by making every violation of private life a criminal offence. The following provisions are relevant in this connection.

105. Article 302 states that “It is a criminal offence to defame another person by using any of the means listed in article 171 of this Code to present allegations as though they were facts with a view to causing the person concerned to suffer a penalty at law or bringing his name into disrepute among the people of his country.”

106. Under article 303, “Every person who commits such an offence shall be liable to imprisonment for a term of not more than one year, a fine of not less than 2000 Egyptian pounds and not more than 7,500 Egyptian pounds, or both.”

107. Under article 309 bis, “Every person who violates the privacy of a citizen by means of eavesdropping, recordings or photographs shall be liable to a term of imprisonment. Where the offender is a public official, a heavier penalty shall apply.”

108. Under article 154, “Every governmental or postal official who conceals or opens mail or facilitates such an act by another person shall be liable to a term of imprisonment and a fine.”

### **Judicial applications**

109. The Supreme Constitutional Court ruled that article 47 of the Code of Criminal Procedure was unconstitutional. That article of the Code allowed officials of the Criminal Investigation Division to search the home of a suspect of whom they were in hot pursuit, but the Court held that it contravened article 44 of the Constitution, under which a home may be searched only pursuant to an order duly issued for cause by a court. (Constitutional case No. 5, judicial year 4, hearing of 6 June 1997, published in the Official Gazette, No. 24 of 1984, 14 June 1984).

110. All aliens in Egypt enjoy the same legal protection as Egyptian citizens, as stated earlier in this report (see part I).

### **Article 15 of the Convention**

111. No migrant worker or member of his or her family shall be arbitrarily deprived of property, whether owned individually or in association with others. Where, under the legislation in force in the State of employment, the assets of a migrant worker or a member of his or her family are expropriated in whole or in part, the person concerned shall have the right to fair and adequate compensation.

112. Under Egypt’s Constitution, private property may be confiscated only for purposes of the public interest and in exchange for compensation in accordance with the law.

113. Article 34 of the Constitution reads as follows: “Private ownership shall be safeguarded and may not be placed under sequestration except in the cases defined by law and in accordance with a judicial decision. It may not be expropriated except for the general good and against a fair compensation as defined by law. The right of inheritance of private property shall be guaranteed.”

114. Under article 36 of the Constitution, “Public confiscation of funds shall be prohibited. Private confiscation shall be allowed only pursuant to a court ruling.”

115. The ownership and disposal of buildings and unbuilt land in Egypt by non-Egyptians are regulated by law No. 230 of 1996. Under the Constitution, private confiscation is lawful only pursuant to a court ruling, and, in general, all aliens are subject to this provision.

### **Judicial applications**

116. The Supreme Constitutional Court interpreted the Constitution’s provisions relating to private property (protection for which is guaranteed under article 34) as applying equally to personal rights and material rights and extending to property in general, without any distinction as to whether the property in question is literary, artistic or industrial. It follows that personal rights enjoy the above-mentioned constitutional protection. (Case No. 34, judicial year 13, hearing of 4 June 1994).

117. The Supreme Constitutional Court ruled that article 2 of law No. 134 of 1964 and article 5 of law No. 49 of 1971, were unconstitutional. Those articles set an upper limit to the amount of compensation that could lawfully be paid to persons for the confiscation of their property, but the Court held that they failed to respect the inviolability of private property and consequently contravened articles 34 and 36 of the Constitution. (Constitutional case No. 1, judicial year 1, hearing of 2 March 1985, and case No. 8, judicial year 8, hearing of 7 March 1992).

118. These legal safeguards, which are enshrined in Egypt’s legal system, apply to property of all kinds. Property is protected under Egyptian law, regardless of the nationality of the owner.

### **Article 16 of the Convention**

- 1. Migrant workers and members of their families shall have the right to liberty and security of person.**
- 2. Migrant workers and members of their families shall be entitled to effective protection by the State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions.**
- 3. Any verification by law enforcement officials of the identity of migrant workers and their families shall be carried out in accordance with procedure established by law.**

4. **Migrant workers and members of their families shall not be subjected individually or collectively to arbitrary arrest or detention; they shall not be deprived of their liberty except on such grounds and in accordance with such procedures as are established by law.**
5. **Migrant workers and members of their families who are arrested shall be informed at the time of arrest as far as possible in a language they understand of the reasons for their arrest and they shall be promptly informed in a language they understand of any charges against them.**
6. **Migrant workers and members of their families who are arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that while awaiting trial they shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings and, should the occasion arise, for the execution of the judgement.**
7. **When a migrant worker or member of his or her family is arrested or committed to prison or custody pending trial or is detained in any other manner:**
  - (a) **The consular or diplomatic authorities of his or her State of origin or of a State representing the interests of that State shall, if he or she so requests, be informed without delay of his or her arrest or detention and of the reasons therefor;**
  - (b) **The person concerned shall have the right to communicate with the said authorities. Any communication by the person concerned to the said authorities shall be forwarded without delay, and he or she shall also have the right to receive communications sent by the said authorities without delay;**
  - (c) **The person concerned shall be informed without delay of this right and of rights deriving from relevant treaties, if any, applicable between the States concerned, to correspond and to meet with representatives of the said authorities and to make arrangements with them for his or her legal representation.**
8. **Migrant workers and members of their families who are deprived of their liberty by arrest or detention shall be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of their detention and order their release if the detention is not lawful. When**

**they attend such proceedings, they shall have the assistance, if necessary without cost to them, of an interpreter, if they cannot understand or speak the language used.**

**9. Migrant workers and members of their families who have been victims of unlawful arrest or detention shall have an enforceable right to compensation.**

119. Article 41 of Egypt's Constitution states that "Individual freedom is a natural right not subject to violation except in cases of *flagrante delicto*. No person may be arrested, searched or detained or have his freedom restricted in any way or be prevented from free movement except by an order necessitated by investigations and the preservation of public security. This order shall be given by the competent judge or the Office of the Public Prosecutor in accordance with the provisions of the law.

120. Article 42, for its part, provides that "Any citizen who is arrested or detained or whose freedom is restricted in any way shall be treated in a manner consistent with his dignity as a human being. No physical or moral harm shall be inflicted upon him. He may be detained or imprisoned only in a place subject to the laws regulating places of detention. The term of preventive detention shall be defined by law. If a confession is proved to have been made by a person under any of the aforementioned forms of duress or coercion, it shall be deemed invalid and of no effect."

121. Under article 68, "The right to litigate is guaranteed for all. Every citizen has the right to resort to the courts. The State guarantees that the judiciary shall be accessible to litigants, and that cases shall be decided without delay. Any provision of the law stating that any act or administrative decision is immune from judicial review shall be null and void."

122. Under article 69, "The right of defence, in person or by counsel, shall be guaranteed. The law shall provide indigent citizens with the means of resorting to the courts to defend their rights."

123. Under the Penal Code, unlawful imprisonment and imprisonment in a place other than a place of detention designated by law are criminal offences; the mistreatment of a person while in detention is also a criminal offence.

124. The Code of Criminal Procedure contains safeguards relating to persons who are being detained on criminal charges. These safeguards are outlined below:

- Every person who is arrested or held in precautionary detention must be informed immediately of the reasons for his arrest or detention in a language that he understands. He has the right to communicate with any person whom he wishes to inform of what has happened, and he is entitled to avail himself of the services of a lawyer (Code of Criminal Procedure, art. 139);
- The suspect must be brought before the Office of the Public Prosecutor and his statement heard within 24 hours. If necessary for the purpose of investigating the matter, the Office of the Public Prosecutor may hold him in precautionary detention

for up to four days. If the OPP deems it necessary to hold the suspect for a longer period, it may ask the court for authorization to do so without consulting the suspect. Further extensions of the term of detention may be granted only after a court hearing;

- The suspect may be questioned only in the presence of his lawyer. The suspect's lawyer may not be denied access to him;
- In all cases, a suspect being held in precautionary detention may be released subject to such guarantees and safeguards as the OPP or the examining magistrate may deem appropriate;
- Where the suspect is an alien, the consular authorities of his State must be notified immediately;
- In general, a distinction is made between persons being held in precautionary detention and persons who are serving a sentence imposed as a court judgement. The former enjoy some privileges as regards the treatment they receive;
- All persons held in detention, regardless of whether they are Egyptian citizens or aliens, enjoy the same safeguards available under the law, without distinction or discrimination, as noted earlier in this report.

#### **Article 17 of the Convention**

- 1. Migrant workers and members of their families who are deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person and for their cultural identity.**
- 2. Accused migrant workers and members of their families shall, save in exceptional circumstances, be separated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons. Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.**
- 3. Any migrant worker or member of his or her family who is detained in a State of transit or in a State of employment for violation of provisions relating to migration shall be held, insofar as practicable, separately from convicted persons or persons detained pending trial.**
- 4. During any period of imprisonment in pursuance of a sentence imposed by a court of law, the essential aim of the treatment of a migrant worker or a member of his or her family shall be his or her reformation and social rehabilitation. Juvenile offenders shall be separated from adults and be accorded treatment appropriate to their age and legal status.**
- 5. During detention or imprisonment, migrant workers and members of their families shall enjoy the same rights as nationals to visits by members of their families.**

6. **Whenever a migrant worker is deprived of his or her liberty, the competent authorities of the State concerned shall pay attention to the problems that may be posed for members of his or her family, in particular for spouses and minor children.**
7. **Migrant workers and members of their families who are subjected to any form of detention or imprisonment in accordance with the law in force in the State of employment or in the State of transit shall enjoy the same rights as nationals of those States who are in the same situation.**
8. **If a migrant worker or a member of his or her family is detained for the purpose of verifying any infraction of provisions related to migration, he or she shall not bear any costs arising therefrom.**

125. Under article 42 of the Constitution, “Any citizen who is arrested or detained or whose freedom is restricted in any way shall be treated in a manner consistent with his dignity as a human being. No physical or moral harm shall be inflicted upon him. He may be detained or imprisoned only in a place subject to the laws regulating places of detention ... If a confession is proved to have been made by a person under any of the aforementioned forms of duress or coercion, it shall be deemed invalid and of no effect.”

126. Under the Penal Code, moreover, mistreatment of persons in detention by public officials is a criminal offence, as we have seen earlier in this report.

127. The relevant provisions of the Prisons Act (law No. 396 of 1956) may be summarized as follows:

- Prison sentences may be served only in institutions that have been legally designated prisons and are subject to judicial supervision;
- Suspects must be treated humanely, not subjected to physical or moral harm, and provided with health and cultural services;
- Minors under 18 years of age are covered by the Childhood Act (law No. 12 of 1996). That Act regulates the punishment of young offenders in accordance with the Convention on the Rights of the Child with respect to such matters as juvenile courts to try cases involving minors, the sentences to which they are liable, and their separation from adult inmates in penal institutions or special reform centres.

These conditions are applicable to all, citizens and non-citizens alike.

### **Article 18 of the Convention**

1. **Migrant workers and members of their families shall have the right to equality with nationals of the State concerned before the courts and tribunals. In the determination of any criminal charge against them or of**

**their rights and obligations in a suit of law, they shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.**

- 2. Migrant workers and members of their families who are charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to law.**
- 3. In the determination of any criminal charge against them, migrant workers and members of their families shall be entitled to the following minimum guarantees:**
  - (a) To be informed promptly and in detail in a language they understand of the nature and cause of the charge against them;**
  - (b) To have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing;**
  - (c) To be tried without undue delay;**
  - (d) To be tried in their presence and to defend themselves in person or through legal assistance of their own choosing; to be informed, if they do not have legal assistance, of this right; and to have legal assistance assigned to them, in any case where the interests of justice so require and without payment by them in any such case if they do not have sufficient means to pay;**
  - (e) To examine or have examined the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;**
  - (f) To have the free assistance of an interpreter if they cannot understand or speak the language used in court;**
  - (g) Not to be compelled to testify against themselves or to confess guilt.**
- 4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.**
- 5. Migrant workers and members of their families convicted of a crime shall have the right to their conviction and sentence being reviewed by a higher tribunal according to law.**
- 6. When a migrant worker or a member of his or her family has, by a final decision, 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.**

- 7. No migrant worker or member of his or her family shall be liable to be tried or punished again for an offence for which he or she has already been finally convicted or acquitted in accordance with the law and penal procedure of the State concerned.**

128. The rights of individuals in dealing with the court system are covered in articles 64-69 of Egypt's Constitution. Specifically,

Article 64 states that "The sovereignty of the law is the basis of State rule."

Article 56 provides that "The State is subject to the law. The independence and immunity of the judiciary are basic safeguards of the protection of rights and freedoms."

Under article 66, "Every penalty is personal. There can be neither offence nor penalty except as specified by the law. No penalty can be inflicted except by a judicial sentence. Penalties may be inflicted only for acts committed subsequent to the enactment of the law prescribing them."

Under article 67, "Every defendant shall be deemed innocent until he is proved guilty by means of a trial before a court of law in which he is guaranteed the right to defend himself. Every person charged with a criminal offence must be provided with counsel for his defence."

Article 68 provides that "The right to litigate is guaranteed for all. Every citizen has the right to resort to the courts. The State guarantees that the judiciary shall be accessible to litigants, and that cases shall be decided without delay. Any provision of the law stating that any act or administrative decision is immune from judicial review shall be null and void."

Under article 69, "The right of defence, in person or by counsel, shall be guaranteed. The law shall provide indigent citizens with the means of resorting to the courts to defend their rights."

129. Articles 165, 166, 168 and 169 of the Constitution contain provisions relating to the judiciary: "They provide that the judicial authority shall be independent, and that it shall be exercised by courts of justice of different sorts and areas of competence, which shall issue their judgements in accordance with the law. Judges shall be independent, subject to no authority other than the law, and no authority may intervene in court cases or the affairs of justice. Judges shall not be subject to dismissal; their accountability and disciplinary measures relating to them shall be regulated by the law. The sessions of courts shall be public, unless a court decides to hold them in camera for considerations of public order or morality. In all cases, judgements shall be pronounced in public sessions."



130. The statutory instruments listed below have been enacted on the basis of these constitutional provisions and the commitments enshrined therein. They constitute the corpus of legislation that regulates judicial bodies in Egypt.

1. The Supreme Constitutional Court Act (law No. 48 of 1979).
2. The Judicial Authority Act (law No. 46 of 1972).
3. The Council of State Act (law No. 47 of 1972).

These Acts ensure that every person is entitled to have recourse to the courts without incurring financial burdens that would impede his or her access thereto. They also specify that assistance is to be made available to persons who could otherwise not afford to go to court, and thus guarantee that every person charged with a serious criminal offence will be able to defend himself.

### **Judicial applications**

131. The Supreme Constitutional Court has addressed the constitutionally guaranteed right of litigation (Constitution, arts. 67 and 68) in a number of rulings that have firmly established several important constitutional principles:

- The right to a trial before a court of law, which is recognized in article 67 of the Constitution, includes the right to a fair trial. This is clear from rulings of the Court holding that the right to a fair trial is guaranteed under article 67 of the Constitution and that it is rooted in the Universal Declaration of Human Rights, which has constantly been accepted as a basis of law in democratic States, with ongoing action to give effect to its provisions. The framework of the Declaration encompasses all the principal safeguards which together guarantee the concept of justice in accordance with contemporary standards as applied in civilized nations, such as those relating to the composition of the Court, how it is organized, and the procedural rules used in its hearings (ruling handed down in case No. 5, judicial year 15, session of 20 May 1995);
- The right of litigation conferred by article 68 of the Constitution means that a fair solution will ultimately be reached in every case. This constitutional provision is in effect a limitation on the discretionary power of the legislature in the area of the regulation of rights. Consequently, statutory instruments that restrict the right of litigation are to be deemed null and void (ruling handed down in case No. 123, judicial year 19, session of 3 April 1999);
- The Supreme Constitutional Court has ruled that the right to litigate is guaranteed in Egypt to citizens and aliens alike by the same effective safeguards, in accordance with the standards applied in developed States (ruling handed down in case No. 8, judicial year 8, session of 7 March 1992).

132. The Code of Criminal Procedure (law No. 150 of 1950) makes provision for a number of safeguards relating to criminal trials. These are summarized in the paragraphs below:

- The accused must be required to appear at specific times before the date of the session, and he must appear in person, to ensure that the proceedings take place in his presence. Sessions must be public, except where the court decided to hold them in camera because of considerations of public order or public morality;
- The defence must be allowed adequate time to prepare its case, and counsel shall be appointed at the expense of the State if the accused person has no counsel to represent him;
- An interpreter must be provided if necessary, at the expense of the State;
- A defendant may always enter an objection to a ruling made in his absence;
- A defendant may appeal a ruling to a court of appeal or the Court of Cassation or petition for a review of the ruling, and such an appeal may not be held against him;
- A defendant must be allowed the benefit of the best available law before a final ruling is given;
- A defendant may not be compelled to confess. To compel a defendant to confess is deemed to constitute an act of torture. The perpetrator is liable to prosecution, and statements extorted from the defendant under torture are deemed to be null and void.
  - The Childhood Act (law No. 12 of 1996) regulates the treatment of children under 18 years of age who are charged with a criminal offence. The Act makes provision for a special system of juvenile courts containing psychologists and sociologists, and it sets the age of criminal liability at seven years. In addition, it prescribes corrective and preventive measures for various offences committed by minors under 15 years of age, depending on the circumstances of the child concerned; those measures are subject to modification in response to the evolving situation of the young offender;
  - An offender in the 15-18 age group is given a more lenient sentence than an adult who is found guilty of the same offence. Under no circumstances may a minor be sentenced to death, and sentences of imprisonment are served in special institutions designed to bring about the reform and rehabilitation of their inmates.

133. The principle that no one may be tried twice for the same offence is enshrined in Egyptian law.

134. Under article 3 of the Penal Code, “Every Egyptian citizen who commits, while out of the country, an offence designated a felony or a misdemeanour under this Code shall be liable to prosecution for that offence upon his return to Egypt, unless he was prosecuted therefor under the law of the country in which the offence was committed.”

135. Under article 4 of the Code, “A person who commits an offence while out of the country may be prosecuted only by the Office of the Public Prosecutor. No person who has been prosecuted for an offence by a foreign court and found not guilty shall be prosecuted for that offence, and no person who has been found guilty of an offence by a foreign court and has served the sentence imposed in consequence shall be prosecuted for that offence.”

136. We may note here that Egypt has entered a reservation to paragraph 6 of this article, inasmuch as one defining characteristic of the Egyptian legal system is that judgements may be challenged and reversed in specific cases.

#### **Article 19 of the Convention**

- 1. No migrant worker or member of his or her family shall be held guilty of any criminal offence on account of any act or omission that did not constitute a criminal offence under national or international law at the time when the criminal offence was committed, nor shall a heavier penalty be imposed than the one that was applicable at the time when it was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, he or she shall benefit thereby.**
- 2. Humanitarian considerations related to the status of a migrant worker, in particular with respect to his or her right of residence or work, should be taken into account in imposing a sentence for a criminal offence committed by a migrant worker or a member of his or her family.**

137. Under article 66 of Egypt’s Constitution, “Every penalty is personal. There can be neither offence nor penalty except as specified by the law. No penalty can be inflicted except by a judicial sentence. Penalties may be inflicted only for acts committed subsequent to the enactment of the law prescribing them.”

138. Article 5 of the Penal Code, for its part, provides that “Every person convicted of a criminal offence shall be liable to punishment under the law in force at the time the offence was committed. Where a law more favourable to the offender is enacted, it shall apply to the exclusion of any other, and where a law is enacted making the act for which the person was convicted lawful, the execution of the penalty shall be suspended.”

#### **Article 20 of the Convention**

- 1. No migrant worker or member of his or her family shall be imprisoned merely on the ground of failure to fulfil a contractual obligation.**
- 2. No migrant worker or member of his or her family shall be deprived of his or her authorization of residence or work permit or expelled merely on the ground of failure to fulfil an obligation arising out of a work contract unless fulfilment of that obligation constitutes a condition for such authorization or permit.**

139. Under Egyptian law, failure to fulfil a contractual obligation is not a criminal offence. However, the conditions stipulated in the contract are enforceable.

### **Article 21 of the Convention**

**It shall be unlawful for anyone, other than a public official duly authorized by law, to confiscate, destroy or attempt to destroy identity documents, documents authorizing entry to or stay, residence or establishment in the national territory or work permits. No authorized confiscation of such documents shall take place without delivery of a detailed receipt. In no case shall it be permitted to destroy the passport or equivalent document of a migrant worker or a member of his or her family.**

140. To destroy identity documents is a criminal offence under Egyptian law. Nor may they be withdrawn or confiscated, except in certain circumstances permitted by law, where there is doubt about their validity. In such cases identity papers may be confiscated by the competent authorities for purposes of investigation, in accordance with the procedures prescribed by law and having regard to the rights of the possessors of the papers in question.

### **Article 22 of the Convention**

- 1. Migrant workers and members of their families shall not be subject to measures of collective expulsion. Each case of expulsion shall be examined and decided individually.**
- 2. Migrant workers and members of their families may be expelled from the territory of a State Party only in pursuance of a decision taken by the competent authority in accordance with law.**
- 3. The decision shall be communicated to them in a language they understand. Upon their request where not otherwise mandatory, the decision shall be communicated to them in writing and, save in exceptional circumstances on account of national security, the reasons for the decision likewise stated. The persons concerned shall be informed of these rights before or at the latest at the time the decision is rendered.**
- 4. Except where a final decision is pronounced by a judicial authority, the person concerned shall have the right to submit the reason he or she should not be expelled and to have his or her case reviewed by the competent authority, unless compelling reasons of national security require otherwise. Pending such review, the person concerned shall have the right to seek a stay of the decision of expulsion.**
- 5. If a decision of expulsion that has already been executed is subsequently annulled, the person concerned shall have the right to seek compensation according to law and the earlier decision shall not be used to prevent him or her from re-entering the State concerned.**
- 6. In case of expulsion, the person concerned shall have a reasonable opportunity before or after departure to settle any claims for wages and other entitlements due to him or her and any pending liabilities.**

7. **Without prejudice to the execution of a decision of expulsion, a migrant worker or a member of his or her family who is subject to such a decision may seek entry into a State other than his or her State of origin.**
8. **In case of expulsion of a migrant worker or a member of his or her family the costs of expulsion shall not be borne by him or her. The person concerned may be required to pay his or her own travel costs.**
9. **Expulsion from the State of employment shall not in itself prejudice any rights of a migrant worker or a member of his or her family acquired in accordance with the law of that State, including the right to receive wages and other entitlements due to him or her.**

#### **Article 23 of the Convention**

**Migrant workers and members of their families shall have the right to have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin or of a State representing the interests of that State whenever the rights recognized in the present Convention are impaired. In particular, in case of expulsion, the person concerned shall be informed of this right without delay and the authorities of the expelling State shall facilitate the exercise of such right.**

141. These articles possess the force of law in accordance with the provisions of the Egyptian legal system. This is the case because by virtue of their publication they are deemed to be part of Egyptian domestic law.

142. Furthermore, as we have seen earlier in this report, the Egyptian legal system affords a national means of judicial remedy in the form of the Council of State, which is the body with competence in the matter of reviewing and overturning administrative decisions that do not conform to the law and awarding compensation (see part I, paragraph 6, above).

#### **Article 24 of the Convention**

**Every migrant worker and every member of his or her family shall have the right to recognition everywhere as a person before the law.**

143. Recognition as a person before the law is guaranteed under Egypt's Constitution and Egyptian law, as previously noted (see the comments to article 11 of the Convention, which will not be repeated here to avoid redundancy).

#### **Article 25 of the Convention**

1. **Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and:**

**(a) Other conditions of work, that is to say, overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship and any other conditions of work which, according to national law and practice, are covered by these terms;**

**(b) Other terms of employment, that is to say, minimum age of employment restriction on home work and any other matters which, according to national law and practice, are considered a term of employment.**

- 2. It shall not be lawful to derogate in private contracts of employment from the principle of equality of treatment referred to in paragraph 1 of the present article.**
- 3. States Parties shall take all appropriate measures to ensure that migrant workers are not deprived of any rights derived from this principle by reason of any irregularity in their stay or employment. In particular, employers shall not be relieved of any legal or contractual obligations, nor shall their obligations be limited in any manner by reason of such irregularity.**

144. Under the Labour Code (law No. 12 of 2003), all terms, benefits, safeguards and rights laid down in the Code, together with such matters as the minimum age of employment, wages, permits and occupational safety, are applicable to non-Egyptians employed in all private or governmental establishments, subject to the condition of reciprocity. Article 28 of the Code provides that every such person is required to obtain a permit from the Ministry of Labour. Under the Code, these persons have the right to enter the country for the purpose of gainful employment, including employment in domestic service.

145. The Code gives the competent Minister the power to define cases in which foreign workers are not required to obtain permits. In 2003 the Minister of Labour issued a decree (No. 136) identifying categories of foreign workers who were not required to obtain permits. Those categories are outlined below:

- Persons who are explicitly exempted under international agreements to which the Arab Republic of Egypt is a party, within the limits of those agreements;
- Administrative personnel working in the embassies and consulates of Arab and other States and offices and agencies of regional and international organizations operating in the Arab Republic of Egypt;
- Foreign correspondents working in the Arab Republic of Egypt;
- Foreign clergy conducting their activities without remuneration;
- Foreign workers employed on Egyptian vessels operating on the high seas outside territorial waters under a seaman's licence of employment;

- Persons who are sent for training for a period of not more than one year, provided the Foreign Nationals Employment Licensing Directorate is informed of the training programme, its length, and the names of the participants;
- Persons employed by private associations and institutions that are international in scope.

146. Every employer of an alien national who is exempt from the requirement to obtain a work permit is required to inform the competent authority that he has hired the person in question within seven days following the date on which the latter's contract begins, and also to inform that authority when the employee's contract comes to an end.

147. Under article 3 of the Labour Code, "The number of aliens employed by any establishment, including one with a number of subsidiary operations, may not exceed 10 per cent of the total number of persons employed by the establishment in question."

148. However, the Minister may issue a decree granting an exception to this rule in cases where the competent committee within the Ministry has reviewed the situation and decided that an exception is warranted.

149. The conditions and situations governing the granting of work permits are covered in article 4 of the Code, while the conditions under which an alien's work permit may be cancelled are covered in article 12.

150. It is noteworthy that the Code includes no provisions exempting employers from their legal obligations vis-à-vis alien workers, who enjoy all the rights to which they are entitled under the law.

#### **Article 26 of the Convention**

- 1. States Parties recognize the right of migrant workers and members of their families:**
  - (a) To take part in meetings and activities of trade unions and of any other associations established in accordance with law, with a view to protecting their economic, social, cultural and other interests, subject only to the rules of the organization concerned;**
  - (b) To join freely any trade union and any such association as aforesaid, subject only to the rules of the organization concerned;**
  - (c) To seek the aid and assistance of any trade union and of any such association as aforesaid.**
- 2. No restrictions may be placed on the exercise of these rights other than those that are prescribed by law and which are necessary in a democratic society in the interests of national security, public order or the protection of the rights and freedoms of others.**

151. The provisions of the Trade Unions Act (law No. 35 of 1976) apply to all workers. Under article 3 of the Act, “Every worker shall be free to join or withdraw from a workers’ organization. The statutes of the organization shall specify the terms and conditions for joining or refusing to join, and the terms and conditions for withdrawal, provisionally and definitively.”

152. Under article 7, “The structure of every trade union organization shall be pyramidal, based on the unity of the trade union movement. Its several levels shall comprise the following workers’ organizations:

- Shop union committee or craft union committee;
- Union as a whole;
- General Federation of Trade Unions.

153. The General Federation of Trade Unions shall determine the terms and conditions for the formation of the workers’ organizations and branches thereof referred to in the preceding paragraph.”

154. Article 19 contains the conditions that must be met for membership of a trade union organization:

- (a) The applicant must be not less than 15 years of age at the date of submission of his application for membership;
- (b) He must not be under the tutelage of a guardian;
- (c) He must not himself be an owner or operator of any form of commercial, industrial, agricultural or service activity;

In the case of an agricultural workers’ craft association, the term “owner or operator” includes every person who owns or holds more than three *feddans* of land:

- (d) He must never have been convicted of a criminal offence or sentenced to prison for an offence against honour or security, unless officially rehabilitated in either case;
- (e) He must be employed in a craft or type of work included in the group of occupational categories represented by the union;
- (f) He must not be a member of any other union, even if he practises more than one trade.

155. Under the Community Associations Act (law No. 84 of 2002), the Consumers’ Associations Act (law No. 109 of 1975) and the Cooperative Associations Act (law No. 110 of 1975), persons who are not Egyptian nationals are free to join these associations, participate in their administration, and promote the interests of the groups they represent.



## Article 27 of the Convention

1. **With respect to social security, migrant workers and members of their families shall enjoy in the State of employment the same treatment granted to nationals insofar as they fulfil the requirements provided for by the applicable legislation of that State and the applicable bilateral and multilateral treaties. The competent authorities of the State of origin and the State of employment can at any time establish the necessary arrangements to determine the modalities of application of this norm.**
2. **Where the applicable legislation does not allow migrant workers and members of their families a benefit, the States concerned shall examine the possibility of reimbursing interested persons the amount of contributions made by them with respect to that benefit on the basis of the treatment granted to nationals who are in similar circumstances.**

156. The provisions of both Social Security Acts (laws Nos. 79 of 1975 and 108 of 1976) apply to migrant workers and members of their families. Under article 2 of the first-named of these Acts, “Without prejudice to the provisions of international instruments ratified by the Arab Republic of Egypt, the applicability of the provisions of this Act to foreign nationals pursuant to the Labour Code shall be subject to the condition that the term of the contract shall be not more than one year and that a reciprocity agreement is in effect.”

157. Law No. 108 of 1976, for its part, is the Act concerning Insurance for Employers and their Servants. Its provisions are applicable to foreign businessmen licensed to operate in Egypt.

158. Egypt is endeavouring to conclude bilateral agreements on this matter having regard to the circumstances resulting from job market conditions.

## Article 28 of the Convention

**Migrant workers and members of their families shall have the right to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with nationals of the State concerned. Such emergency medical care shall not be refused by them by reason of any irregularity with regard to stay or employment.**

159. Migrant workers in need of emergency medical care are treated in public hospitals on an equal footing with Egyptian nationals. Their status as legal or illegal migrant workers is not regarded as grounds for denying them the treatment they require. Migrant workers enjoy all the health benefits available to workers under the Labour Code.

All individuals in Egypt, regardless of nationality, enjoy basic health care, consisting of:

- Basic immunization for children;
- Monitoring of children’s growth and development;

- Early detection of disabilities in children (thyroid-stimulating hormone screening);
- Monitoring of nutrition and administration of nutritional supplements (iron and vitamin A);
- Monitoring and immunization of pregnant women;
- Obstetrical care and monitoring of women during the post-natal period;
- Treatment of endemic diseases (such as schistosomiasis).

### **Article 29 of the Convention**

**Each child of a migrant worker shall have the right to a name, to registration of birth and to a nationality.**

160. Such matters as a child's right to a name and the registration of birth with the competent authority, with the child's name and the parents' names and nationality being put on file, are regulated by the Civil Code and the Childhood Act. The provisions of these statutory instruments are applicable to all children born in Egypt, regardless of the parents' nationality or their status as migrants or otherwise. Delay in registering a birth is an offence under the Civil Code, and is punishable by a fine.

161. These requirements apply to all births, regardless of whether the parents are Egyptian nationals or aliens. In the latter case, the birth registration documents are authenticated by the consulate of their State of nationality where so required under the laws of that State.

### **Article 30 of the Convention**

**Each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned. Access to public preschool educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State of employment.**

162. All matters relating to the various levels of education, conditions of admission, rules governing attendance, examinations, assessment of ability, promotion, school years and the like are regulated by the Education Act (law No. 139 of 1981).

163. In 1992 the Minister of Education issued a decree (decree No. 24 of 1992) formulating the principle that children who are not Egyptian nationals may attend public and private schools under the same conditions as Egyptian nationals in terms of age and group.

164. Under the same decree, tuition fees and supplementary charges that Egyptian students are required to pay are also applicable to non-Egyptian students. However, those fees are waived in the case of pupils with study grants and certain other cases where the committee established for that purpose considers, after consideration of each case, that the student's social circumstances warrant such a waiver.

### **Article 31 of the Convention**

- 1. States Parties shall ensure respect for the cultural identity of migrant workers and members of their families and shall not prevent them from maintaining their cultural links with their State of origin.**
- 2. States Parties may take appropriate measures to assist and encourage efforts in this respect.**

165. In the framework of its concern to support cultural activities and cultural cooperation and exchange between different States, Egypt has concluded many cultural cooperation agreements with various States and has acceded to the Arab Cultural Convention, which was adopted under the auspices of the League of Arab States. Under these agreements, cultural offices and centres have been established in the various States concerned, and these afford a channel for ongoing communication on cultural activities for the benefit of their respective expatriate communities, including, of course, foreign workers in Egypt, as well as Egyptian workers in other countries. At present, there are a total of 30 Egyptian cultural centres and offices abroad, distributed over a variety of States, providing cultural links for their resident Egyptian communities.

166. Similarly, Egypt harbours many cultural centres and offices belonging to other States, and these organize cultural activities for their several expatriate communities with a view to enabling them to maintain their ties to their States of origin.

### **Article 32 of the Convention**

**Upon the termination of their stay in the State of employment, migrant workers and members of their families shall have the right to transfer their earnings and savings and, in accordance with the applicable legislation of the States concerned, their personal effects and belongings.**

167. Egyptian law contains no provisions preventing foreign workers from enjoying the above-mentioned rights after the termination of their employment, subject to the relevant legislation.

### **Article 33 of the Convention**

- 1. Migrant workers and members of their families shall have the right to be informed by the State of origin, the State of employment or the State of transit, as the case may be concerning:**
  - (a) Their rights arising out of the present Convention;**
  - (b) The conditions of their admission, their rights and obligations under the law and practice of the State concerned and such other matters as will enable them to comply with administrative or other formalities in that State.**

- 2. States Parties shall take all measures they deem appropriate to disseminate the said information or to ensure that it is provided by employers, trade unions or other appropriate bodies or institutions. As appropriate, they shall cooperate with other States concerned.**
- 3. Such adequate information shall be provided upon request to migrant workers and members of their families free of charge, and, as far as possible, in a language they are able to understand.**

#### **Article 34 of the Convention**

**Nothing in the present part of the Convention shall have the effect of relieving migrant workers and the members of their families from either the obligation to comply with the laws and regulations of any State of transit and the State of employment or the obligation to respect the cultural identity of the inhabitants of such States.**

#### **Article 35 of the Convention**

**Nothing in the present part of the Convention shall be interpreted as implying the regularization of the situation of migrant workers or members of their families who are non-documented or in an irregular situation or any right to such regularization of their situation, nor shall it prejudice the measures intended to ensure sound and equitable conditions for international migration as provided in part VI of the present Convention.**

#### **Article 36 of the Convention**

##### **Rights of migrant workers who are documented**

**Migrant workers and members of their families who are documented or in a regular situation in the State of employment shall enjoy the rights set forth in the present part of the Convention in addition to those set forth in part III.**

#### **Article 37 of the Convention**

**Before their departure, or at the latest at the time of their admission to the State of employment, migrant workers and members of their families shall have the right to be fully informed by the State of origin or the State of employment, as appropriate, of all conditions applicable to their admission and particularly those concerning their stay and the remunerated activities in which they may engage as well as of the requirements they must satisfy in the State of employment and the authority to which they must address themselves for any modification of those conditions.**

### **Article 38 of the Convention**

- 1. States of employment shall make every effort to authorize migrant workers and members of their families to be temporarily absent without effect upon their authorization to stay or to work, as the case may be. In doing so, States of employment shall take into account the special needs and obligations of migrant workers and members of their families, in particular in their States of origin.**
- 2. Migrant workers and members of their families shall have the right to be fully informed of the terms on which such temporary absences are authorized.**

168. Under these articles, the competent administrative authorities are required, in dealing with migrant workers, to explain their rights and obligations to them clearly. The provisions of these articles are binding on the relevant Egyptian authorities because they are deemed to be part of Egyptian domestic law and are enforceable as such.

169. Pursuant to the above-mentioned provisions, the State endeavours, through a variety of administrative authorities and trade unions, to publicize the terms of the Convention and promote awareness of the rights and obligations arising therefrom.

### **Article 39 of the Convention**

- 1. Migrant workers and members of their families shall have the right to liberty of movement in the territory of the State of employment and freedom to choose their residence there.**
- 2. The rights mentioned in paragraph 1 of the present article shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order, public health or morals, or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.**

170. Migrant workers and their families do enjoy freedom of movement and freedom to choose their place of residence, with no restrictions apart from those specified in paragraph 2 of this article. Some employers provide accommodation for their workers, depending on the terms of the contract, the nature of the work and the place where the work is performed.

### **Article 40 of the Convention**

- 1. Migrant workers and members of their families shall have the right to form associations and trade unions in the State of employment for the promotion and protection of their economic, social, cultural and other interests.**
- 2. No restrictions may be placed on the exercise of this right other than those that are prescribed by law and are necessary in a democratic society in the interests of national security, public order or the protection of the rights and freedoms of others.**

171. The terms and conditions that apply to the organizing of popular associations, their various fields of activity and the privileges they enjoy under the law are regulated by the Associations Act (law No. 84 of 2002). That Act sets forth various restrictions on the exercise of those rights: the organization of military formations is prohibited, as are engaging in political activities, discriminatory activities, activities likely to disturb public order and morality, and activities aimed at generating profits. None of these exceeds the scope of paragraph 2 of this article of the Convention. Foreign nationals are free to join associations and work on behalf of expatriate communities in Egypt.

172. In Egypt there are many associations that have been established for the purpose of promoting friendship between peoples, as well as charitable associations and associations for the welfare of foreign students and their various groups. The activities of these associations include family services, childcare services, senior care services, educational and cultural services, health care, sports, religious instruction, social assistance services, and the organization of festivals, seminars and cultural exhibitions.

A total of 35 such associations are registered in Egypt.

173. Under the Trades Unions Act (law No. 35 of 1976) and the two Cooperative Associations Acts (laws Nos. 109 and 110 of 1975), workers who are not Egyptian nationals are free to be members of these organizations.

#### **Article 41 of the Convention**

- 1. Migrant workers and members of their families shall have the right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State, in accordance with its legislation.**
- 2. The States concerned shall, as appropriate and in accordance with their legislation, facilitate the exercise of these rights.**

174. Egyptian law does not prevent migrant workers from participating in the public affairs of their States of origin in accordance with the legislation in force in those States.

175. A study is currently under way in Egypt on ways and means of facilitating political participation by Egyptians working outside the country in the framework of the applicable rules and regulations.

#### **Article 42 of the Convention**

- 1. States Parties shall consider the establishment of procedures or institutions through which account may be taken, both in States of origin and in States of employment, of special needs, aspirations and obligations of migrant workers and members of their families and shall envisage, as appropriate, the possibility for migrant workers and members of their families to have their freely chosen representatives in those institutions.**

2. **States of employment shall facilitate, in accordance with their national legislation, the consultation or participation of migrant workers and members of their families in decisions concerning the life and administration of local communities.**
3. **Migrant workers may enjoy political rights in the State of employment if that State, in the exercise of its sovereignty, grants them such rights.**

176. Migrant workers are free to join and participate in community associations, cooperative associations and trade unions, as stated earlier in this report (in the comments on article 40 above).

177. We may note at this point that foreign members of such associations and community institutions may or may not have the right to participate in their administration or to stand for elective office in them, depending on the by-laws of the institution concerned.

#### **Article 43 of the Convention**

1. **Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to:**
  - (a) **Access to educational institutions and services subject to the admission requirements and other regulations of the institutions and services concerned;**
  - (b) **Access to vocational guidance and placement services;**
  - (c) **Access to vocational training and retraining facilities and institutions;**
  - (d) **Access to housing, including social housing schemes, and protection against exploitation in respect of rents;**
  - (e) **Access to social and health services, provided that the requirements for participation in the respective schemes are met;**
  - (f) **Access to cooperatives and self-managed enterprises, which shall not imply a change of their migration status and shall be subject to the rules and regulations of the bodies concerned;**
  - (g) **Access to and participation in cultural life.**
2. **States Parties shall promote conditions to ensure effective equality of treatment to enable migrant workers to enjoy the rights mentioned in paragraph 1 of the present article whenever the terms of their stay, as authorized by the State of employment, meet the appropriate requirements.**

- 3. States of employment shall not prevent an employer of migrant workers from establishing housing or social or cultural facilities for them. Subject to article 70 of the present Convention, a State of employment may make the establishment of such facilities subject to the requirements generally applied in that State concerning their installation.**

178. As we have seen, Egyptian law guarantees complete equality in the enjoyment of the rights referred to in paragraph 1 of this article. Participation by persons who are not Egyptian nationals in these services is regulated by the statutory instruments concerned with those rights, including the Education Act (law No. 139 of 1981), the Labour Code (law No. 12 of 2003), the Community Associations Act (law No. 84 of 2002), the Consumers' Associations Act (law No. 109 of 1975) and the Cooperative Associations Act (law No. 110 of 1975). Egyptian domestic law does not prevent employers from instituting private services in any area for their employees in accordance with the applicable conditions.

#### **Article 44 of the Convention**

- 1. States Parties, recognizing that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, shall take appropriate measures to ensure the protection of the unity of the families of migrant workers.**
- 2. States Parties shall take measures that they deem appropriate and that fall within their competence to facilitate the reunification of migrant workers with their spouses or persons who have with the migrant worker a relationship that, according to applicable law, produces effects equivalent to marriage, as well as with their minor dependent unmarried children.**
- 3. States of employment, on humanitarian grounds, shall favourably consider granting equal treatment, as set forth in paragraph 2 of the present article, to other family members of migrant workers.**

179. A migrant worker's wife or husband and children are authorized to reside in Egypt for the same length of time as the worker himself, in accordance with the principle of family reunification. A woman migrant worker enjoys all the benefits available to women workers under Egyptian domestic law, including all basic maternal health-care benefits, such as immunizations and follow-up health monitoring. Migrant workers' children, for their part, are entitled to the same care as Egyptian children, including social services and health care.

#### **Article 45 of the Convention**

- 1. Members of the families of migrant workers shall, in the State of employment, enjoy equality of treatment with nationals of that State in relation to:**
  - (a) Access to educational institutions and services, subject to the admission requirements and other regulations of the institutions and services concerned;**



- (b) **Access to vocational guidance and training institutions and services, provided that requirements for participation are met;**
  - (c) **Access to social and health services, provided that requirements for participation in the respective schemes are met;**
  - (d) **Access to and participation in cultural life.**
2. **States of employment shall pursue a policy, where appropriate in collaboration with the States of origin, aimed at facilitating the integration of children of migrant workers in the local school system, particularly in respect of teaching them the local language.**
  3. **States of employment shall endeavour to facilitate for the children of migrant workers the teaching of their mother tongue and culture and, in this regard, States of origin shall collaborate whenever appropriate.**
  4. **States of employment may provide special schemes of education in the mother tongue of children of migrant workers, if necessary in collaboration with the States of origin.**

180. The State endeavours to provide the necessary facilities in this area in cooperation with the States of origin. Through diplomatic relations, many educational and cultural services are made available to the children of expatriate communities in Egypt; a network of cultural bureaux and centres has been established pursuant to bilateral agreements. These centres propagate and teach national languages and maintain the links binding expatriate communities with their countries of origin through cultural activity programmes.

181. As regards the matter of health services, migrant workers and members of their families in Egypt enjoy all the benefits available to Egyptian nationals, including health-care benefits, at the same rates as set by the appropriate agency, i.e. the health insurance system for government workers and the health-care institution system for employees of corporations and other organizations, as well as the health care services organized by some employers who provide hospitals for the use of their workers. Primary health care, including basic immunization and growth and nutrition monitoring for children, monitoring and immunization for pregnant women, treatment for endemic diseases and early detection of disabilities, is available from these various service providers free of charge for every individual in Egypt, regardless of his or her legal status in the country.

#### **Article 46 of the Convention**

**Migrant workers and members of their families shall, subject to the applicable legislation of the States concerned, as well as relevant international agreements and the obligations of the States concerned arising out of their participation in customs unions,**

**enjoy exemption from import and export duties and taxes in respect of their personal and household effects as well as the equipment necessary to engage in the remunerated activity for which they were admitted to the State of employment:**

- (a) Upon departure from the State of origin or State of habitual residence;**
- (b) Upon initial admission to the State of employment;**
- (c) Upon final departure from the State of employment;**
- (d) Upon final return to the State of origin or State of habitual residence.**

182. Egypt is interested in concluding customs agreements with many States with a view to simplifying customs formalities for Egyptian workers entering other countries or foreign workers entering Egypt. Granting them appropriate exemptions will facilitate their departure and return and strengthen their ties to their States of origin and communication with their families.

183. There have been three international agreements in this area so far, with the European, Arab and African economic communities, covering a total of 66 States.

#### **Article 47 of the Convention**

- 1. Migrant workers shall have the right to transfer their earnings and savings, in particular those funds necessary for the support of their families, from the State of employment to their State of origin or any other State. Such transfers shall be made in conformity with the procedures established by applicable legislation of the State concerned and in conformity with applicable international agreements.**
- 2. States concerned shall take appropriate measures to facilitate such transfers.**

184. Under Egyptian law, any individual with a bank account is free to make any money transfers he wishes. The currency market determines the rates of exchange between the national currency and foreign currencies. Under the law, individuals may hold foreign currencies and transfer them freely to any foreign agency through banks or accredited currency exchange agencies. Migrant workers in Egypt may open bank accounts and undertake currency exchange operations of all kinds.

#### **Article 48 of the Convention**

- 1. Without prejudice to applicable double taxation agreements, migrant workers and members of their families shall, in the matter of earnings in the State of employment:**
  - (a) Not be liable to taxes, duties or charges of any description higher or more onerous than those imposed on nationals in similar circumstances;**

**(b) Be entitled to deductions or exemptions from taxes of any description and to any tax allowances applicable to nationals in similar circumstances, including tax allowances for dependent members of their families.**

- 2. States Parties shall endeavour to adopt appropriate measures to avoid double taxation of the earnings and savings of migrant workers and members of their families.**

185. Under the Income Tax Act (law No. 91 of 2005), Egyptian nationals and foreign nationals enjoy full equality in the matter of the taxation of income earned from lawful work or professional activity. The Investment Act (law No. 230 of 1989), for its part, grants some tax exemptions relating to investment projects.

186. The State endeavours, through double taxation avoidance agreements with various other States, to eliminate double taxation, which would constitute a heavy burden upon migrant workers.

187. As of 2005, Egypt had concluded three international agreements for the purpose of avoiding double taxation.

188. The Government of Egypt is pursuing its efforts to conclude more agreements of the same kind in accordance with labour market indicators in that area.

#### **Article 49 of the Convention**

- 1. Where separate authorizations to reside and to engage in employment are required by national legislation, the States of employment shall issue to migrant workers authorization of residence for at least the same period of time as their authorization to engage in remunerated activity.**
- 2. Migrant workers who in the State of employment are allowed freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere fact of the termination of their remunerated activity prior to the expiration of their work permits or similar authorizations.**
- 3. In order to allow migrant workers referred to in paragraph 2 of the present article sufficient time to find alternative remunerated activities, the authorization of residence shall not be withdrawn at least for a period corresponding to that during which they may be entitled to unemployment benefits.**

189. In Egypt, authorization to work and authorization to reside are linked together, as explained in detail in the comments on article 25 of the Convention.

### **Article 50 of the Convention**

- 1. In the case of death of a migrant worker or dissolution of marriage, the State of employment shall favourably consider granting family members of that migrant worker residing in that State on the basis of family reunion an authorization to stay; the State of employment shall take into account the length of time they have already resided in that State.**
- 2. Members of the family to whom such authorization is not granted shall be allowed before departure a reasonable period of time in order to enable them to settle their affairs in the State of employment.**
- 3. The provision of paragraphs 1 and 2 of the present article may not be interpreted as adversely affecting any right to stay and work otherwise granted to such family members by the legislation of the State of employment or by bilateral and multilateral treaties applicable to that State.**

190. In situations resulting from the termination of a residence permit or work permit in consequence of the death of the migrant worker concerned or the dissolution of marriage, a period of time is allowed in order to enable the other family members to leave the country, in coordination with the embassy of the State concerned, having regard to the position of the family and taking into consideration any special circumstances relating to their situation.

### **Article 51 of the Convention**

**Migrant workers who in the State of employment are not permitted freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere fact of the termination of their remunerated activity prior to the expiration of their work permit, except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were admitted. Such migrant workers shall have the right to seek alternative employment, participation in public work schemes and retraining during the remaining period of their authorization to work, subject to such conditions and limitations as are specified in the authorization to work.**

### **Article 52 of the Convention**

- 1. Migrant workers in the State of employment shall have the right freely to choose their remunerated activity, subject to the following restrictions or conditions.**
- 2. For any migrant worker a State of employment may:**
  - (a) Restrict access to limited categories of employment, functions, services or activities where this is necessary in the interests of this State and provided for by national legislation;**

**(b) Restrict free choice of remunerated activity in accordance with its legislation concerning recognition of occupational qualifications acquired outside its territory. However, States Parties concerned shall endeavour to provide for recognition of such qualifications.**

**3. For migrant workers whose permission to work is limited in time, a State of employment may also:**

**(a) Make the right freely to choose their remunerated activities subject to the condition that the migrant worker has resided lawfully in its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation that should not exceed two years;**

**(b) Limit access by a migrant worker to remunerated activities in pursuance of a policy of granting priority to its nationals or to persons who are assimilated to them for these purposes by virtue of legislation or bilateral or multilateral agreements. Any such limitation shall cease to apply to a migrant worker who has resided lawfully in its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation that should not exceed five years.**

**4. States of employment shall prescribe the conditions under which a migrant worker who has been admitted to take up employment may be authorized to engage in work on his or her own account. Account shall be taken of the period during which the worker has already been lawfully in the State of employment.**

#### **Article 53 of the Convention**

**1. Members of a migrant worker's family who have themselves an authorization of residence or admission that is without limit of time or is automatically renewable shall be permitted freely to choose their remunerated activity under the same conditions as are applicable to the said migrant worker in accordance with article 52 of the present Convention.**

**2. With respect to members of a migrant worker's family who are not permitted freely to choose their remunerated activity, States Parties shall consider favourably granting them priority in obtaining permission to engage in a remunerated activity over other workers who seek admission to the State of employment, subject to applicable bilateral and multilateral agreements.**

#### **Article 54 of the Convention**

- 1. Without prejudice to the terms of their authorization of residence or their permission to work and the rights provided for in articles 25 and 27 of the present Convention, migrant workers shall enjoy equality of treatment with nationals of the State of employment in respect of:**
  - (a) Protection against dismissal;**
  - (b) Unemployment benefits;**
  - (c) Access to public work schemes intended to combat unemployment;**
  - (d) Access to alternative employment in the event of loss of work or termination of other remunerated activity, subject to article 52 of the present Convention.**
- 2. If a migrant worker claims that the terms of his or her work contract have been violated by his or her employer, he or she shall have the right to address his or her case to the competent authorities of the State of employment, on terms provided for in article 18, paragraph 1, of the present Convention.**

#### **Article 55 of the Convention**

**Migrant workers who have been granted permission to engage in a remunerated activity, subject to the conditions attached to such permission, shall be entitled to equality of treatment with nationals of the State of employment in the exercise of that remunerated activity.**

#### **Article 56 of the Convention**

- 1. Migrant workers and members of their families referred to in the present part of the Convention may not be expelled from a State of employment, except for reasons defined in the national legislation of that State, and subject to the safeguards established in part III.**
- 2. Expulsion shall not be resorted to for the purpose of depriving a migrant worker or a member of his or her family of the rights arising out of the authorization of residence and the work permit.**
- 3. In considering whether to expel a migrant worker or a member of his or her family, account should be taken of humanitarian considerations and of the length of time that the person concerned has already resided in the State of employment.**

## **Article 57 of the Convention**

### **Provisions applicable to particular categories of migrant workers**

**The particular categories of migrant workers and members of their families specified in the present part of the Convention who are documented or in a regular situation shall enjoy the rights set forth in part III and, except as modified below, the rights set forth in part IV.**

191. The conditions governing work permits in Egypt and the situations in which a worker may be expelled and his work permit terminated have been discussed earlier in this report, in the comments on article 8 in part II above.

192. We may note at this point that all provisions of the Egyptian law relating to the national workforce apply to migrant workers as well. A migrant worker is always free to go to court to seek enforcement of his rights arising from his contract of employment and to appeal from decisions relating to the termination of his permits. Humanitarian aspects are taken into account on an ongoing basis, in coordination with the consular authorities of all countries.

## **Article 58 of the Convention**

- 1. Frontier workers, as defined in article 2, paragraph 2 (a), of the present Convention, shall be entitled to the rights provided for in part IV that can be applied to them by reason of their presence and work in the territory of the State of employment, taking into account that they do not have their habitual residence in that State.**
- 2. States of employment shall consider favourably granting frontier workers the right freely to choose their remunerated activity after a specified period of time. The granting of that right shall not affect their status as frontier workers.**

## **Article 59 of the Convention**

- 1. Seasonal workers, as defined in article 2, paragraph 2 (b), of the present Convention, shall be entitled to the rights provided for in part IV that can be applied to them by reason of their presence and work in the territory of the State of employment and that are compatible with their status in that State as seasonal workers, taking into account the fact that they are present in that State for only part of the year.**
- 2. The State of employment shall, subject to paragraph 1 of the present article, consider granting seasonal workers who have been employed in its territory for a significant period of time the possibility of taking up other remunerated activities and giving them priority over other workers who seek admission to that State, subject to applicable bilateral and multilateral agreements.**

### **Article 60 of the Convention**

**Itinerant workers, as defined in article 2, paragraph 2 (e) of the present Convention, shall be entitled to the rights provided for in part IV that can be granted to them by reason of their presence and work in the territory of the State of employment and that are compatible with their status as itinerant workers in that State.**

### **Article 61 of the Convention**

- 1. Project-tied workers, as defined in article 2, paragraph 2 (f), of the present Convention, and members of their families shall be entitled to the rights provided for in part IV except the provisions of article 43, paragraphs 1 (b) and (c), article 43, paragraph (d), as it pertains to social housing schemes, article 45, paragraph 1 (b), and articles 52 to 55.**
- 2. If a project-tied worker claims that the terms of his or her work contract have been violated by his or her employer, he or she shall have the right to address his or her case to the competent authorities of the State which has jurisdiction over that employer, on terms provided for in article 18, paragraph 1, of the present Convention.**
- 3. Subject to bilateral or multilateral agreements in force for them, the States Parties concerned shall endeavour to enable project-tied workers to remain adequately protected by the social security systems of their States of origin or habitual residence during their engagement in the project. States Parties concerned shall take appropriate measures with the aim of avoiding any denial of rights or duplication of payments in this respect.**
- 4. Without prejudice to the provisions of article 47 of the present Convention and to relevant bilateral and multilateral agreements, States Parties concerned shall permit payment of the earnings of project-tied workers in their State of origin or habitual residence.**

### **Article 62 of the Convention**

- 1. Specified-employment workers, as defined in article 2, paragraph 2 (g), of the present Convention, shall be entitled to the rights provided for in part IV, except the provisions of article 43, paragraphs 1 (b) and (c), article 43, paragraph (d), as it pertains to social housing schemes, article 52, and article 54, paragraph 1 (d).**
- 2. Members of the families of specified-employment workers shall be entitled to the rights relating to family members of migrant workers provided for in part IV of the present Convention, except the provisions of article 53.**



**Article 63 of the Convention**

- 1. Self-employed workers, as defined in article 2, paragraph 2 (h), of the present Convention, shall be entitled to the rights provided for in part IV with the exception of those rights which are exclusively applicable to workers having a contract of employment.**
- 2. Without prejudice to articles 52 and 79 of the present Convention, the termination of the economic activity of the self-employed workers shall not in itself imply the withdrawal of the authorization for them or for the members of their families to stay or to engage in a remunerated activity in the State of employment except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were admitted.**

193. The provisions of these articles of the Convention are deemed to be integral parts of Egyptian law and are enforceable as such in respect of the various groups defined in the Convention.

194. In Egypt, subjects of some neighbouring States enjoy special exemptions under the terms of agreements concerning freedom of work, as stated earlier in this report, in the comments on article 25 of the Convention.

**Article 64 of the Convention**

**Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers.**

- 1. Without prejudice to article 79 of the present Convention, the States Parties concerned shall as appropriate consult and cooperate with a view to promoting sound, equitable and humane conditions in connection with international migration of workers and members of their families.**
- 2. In this respect, due regard shall be paid not only to labour needs and resources, but also to the social, economic, cultural and other needs of migrant workers and members of their families involved, as well as to the consequences of such migration for the communities concerned.**

**Article 65 of the Convention**

- 1. States Parties shall maintain appropriate services to deal with questions concerning international migration of workers and members of their families. Their functions shall include, inter alia:**
  - (a) The formulation and implementation of policies regarding such migration;**

**(b) An exchange of information, consultation and cooperation with the competent authorities of other States Parties involved in such migration;**

**(c) The provision of appropriate information, particularly to employers, workers and their organizations on policies, laws and regulations relating to migration and employment, on agreements concluded with other States concerning migration and on other relevant matters;**

**(d) The provision of information and appropriate assistance to migrant workers and members of their families regarding requisite authorizations and formalities and arrangements for departure, travel, arrival, stay, remunerated activities, exit and return, as well as on conditions of work and life in the State of employment and on customs, currency, tax and other relevant laws and regulations.**

- 2. States Parties shall facilitate as appropriate the provision of adequate consular and other services that are necessary to meet the social, cultural and other needs of migrant workers and members of their families.**

#### **Article 66 of the Convention**

- 1. Subject to paragraph 2 of the present article, the right to undertake operations with a view to the recruitment of workers for employment in another State shall be restricted to:**

**(a) Public services or bodies of the State in which such operations take place;**

**(b) Public services or bodies of the State of employment on the basis of agreement between the States concerned;**

**(c) A body established by virtue of a bilateral or multilateral agreement.**

- 2. Subject to any authorization, approval and supervision by the public authorities of the States Parties concerned as may be established pursuant to the legislation and practice of those States, agencies, prospective employers or persons acting on their behalf may also be permitted to undertake the said operations.**

#### **Article 67 of the Convention**

- 1. States Parties concerned shall cooperate as appropriate in the adoption of measures regarding the orderly return of migrant workers and members of their families to the State of origin when they decide to return or their authorization of residence or employment expires or when they are in the State of employment in an irregular situation.**

2. **Concerning migrant workers and members of their families in a regular situation, States Parties concerned shall cooperate as appropriate, on terms agreed upon by those States, with a view to promoting adequate economic conditions for their resettlement and to facilitating their durable social and cultural reintegration in the State of origin.**

#### **Article 68 of the Convention**

1. **States Parties, including States of transit, shall collaborate with a view to preventing and eliminating illegal or clandestine movements and employment of migrant workers in an irregular situation. The measures to be taken to this end within the jurisdiction of each State concerned shall include:**
  - (a) **Appropriate measures against the dissemination of misleading information relating to emigration and immigration;**
  - (b) **Measures to detect and eradicate illegal or clandestine movements of migrant workers and members of their families and to impose effective sanctions on persons, groups or entities which organize, operate or assist in organizing or operating such movements;**
  - (c) **Measures to impose effective sanctions on persons, groups or entities which use violence, threats or intimidation against migrant workers or members of their families in an irregular situation.**
2. **States of employment shall take all adequate and effective measures to eliminate employment in their territory of migrant workers in an irregular situation, including, whenever appropriate, sanctions on employers of such workers. The rights of migrant workers vis-à-vis their employer arising from employment shall not be impaired by these measures.**

#### **Article 69 of the Convention**

1. **States Parties shall, when there are migrant workers and members of their families within their territory in an irregular situation, take appropriate measures to ensure that such a situation does not persist.**
2. **Whenever States Parties concerned consider the possibility of regularizing the situation of such persons in accordance with applicable national legislation and bilateral or multilateral agreements, appropriate account shall be taken of the circumstances of their entry, the duration of their stay in the States of employment and other relevant considerations, in particular those relating to their family situation.**

195. Owing to its unique geographic situation, Egypt has always been a point of transit between East and West, and as such it has seen many inward and outward migratory flows in the course of its history. As a result, Egyptian society has acquired distinctive characteristics arising from human interaction and the intermingling of various cultures and civilizations, and those characteristics are reflected in Egypt's long experience in dealing with the movement of individuals and accommodating various cultures. This process has taught it to accept beneficial changes and new concepts while rejecting those that are incompatible with the country's essential being and its civilization as it has been shaped over the millennia.

196. Egypt is a State that both sends out and receives migrants, and it is also a State of transit. An estimated 5 million Egyptians live outside the country as hard-working, productive, disciplined expatriate communities, characterized by respect for the laws, traditions and national feelings of the States in which they live, and not going to excessive lengths in their attachment to their mother country. At the same time, Egypt is a State of destination for the people of many neighbouring countries, some of whom enter it lawfully, while others come in clandestinely. Lastly, Egypt is a State of transit for people from many African and Asian countries on their way to Europe.

197. As Egypt sees the matter, a migrant is an exceptionally vital and courageous human being. Those who take the momentous decision to travel to a distant land, far from their homes and families, are for the most part motivated by a strong ambition to seek a better life, and are prepared to devote great efforts to the search. Consequently, if they are given an appropriate opportunity of making use of their skills on a basis of equality and non-discrimination, they may represent an asset to the communities that receive them. Their contributions are not only economic, but also social and cultural. In the light of these facts, it is important to correct a view that is commonly held in States that harbour migrants, namely, that migrants are a burden to be shed if possible. On the contrary, communities that receive migrants should make every effort to accommodate them by facilitating their integration, providing them with suitable opportunities, and respecting all aspects of their human rights, for the interests of migrants are closely bound up with the interests of their host communities.

198. At the national level, Egypt considers that it is essential to deal with migrants (legal or illegal), in accordance with law and international custom, with full respect for all their human rights. This is the most important of the principles to which Egypt is committed in dealing with migrants and guaranteeing that they are not subjected to discrimination in the matters outlined below:

- Respect for their private property;
- Action to ensure legal migrants' freedom of movement;
- Recognition of migrants' freedom of religious belief and practice and individual freedoms for legal migrants in accordance with the rules governing public order and public morality in the State;

- Protection of migrants' rights to resort to the national courts as either plaintiffs or defendants;
- Respect for legal migrants' right to engage in commercial, financial and industrial activities in accordance with the laws in force in the State.

199. A migrant worker who contravenes the legal procedures laid down in the Act concerning the Entry and Residence of Foreign Nationals (law No. 89 of 1960 as amended by law No. 88 of 2005) is liable to a monetary fine and required to leave the country. Under the law, he is allowed a period of time in which to leave the country voluntarily, with no restrictions on his freedom and no risk of detention. These measures are administered in coordination with the Embassy of his State of residence with a view to ensuring that the person concerned returns to the jurisdiction from which he came.

200. The issue of Egyptian workers who leave the country to seek employment in other countries is regulated by the Labour Code (law No. 12 of 2003). Articles 17-24 of part I, chapter 1 of the Code are concerned with the employment of Egyptians inside the country and abroad, and the Code also deals with the establishment of offices to maintain liaison with Egyptian workers outside the country under specific conditions.

201. In addition, a number of ministerial decrees have been issued regulating the establishment of offices for the purpose of registering Egyptian workers abroad. It is important to keep track of migrant Egyptian nationals who go abroad in search of work as a means of eliminating unlawful migration.

202. The Emigration Act (law No. 111 of 1983) prescribes the rules, regulations and procedures through which the State is able to provide services to Egyptian workers wishing to seek employment abroad, clear the way for their departure, and protect them in their States of destination by providing them with assistance through Egypt's consulates and embassies in those States.

203. Egypt strives constantly to regulate the situation of Egyptian workers abroad by entering into bilateral agreements designed expressly for that purpose. In addition, Egypt seeks to facilitate the implementation of legal procedures on behalf of Egyptian workers in States of employment, working through its consulates in those States to give effect to all procedures required for the purpose of regulating the presence of Egyptian nationals there.

204. Egypt has acceded to the United Nations Convention against National Organized Crime and the Protocol to that Convention against the Smuggling of Migrants as a means of joining with other countries in combating this unlawful activity.

205. Furthermore, Egypt participates in all international and regional efforts aimed at confronting the problems of unlawful migration and developing appropriate solutions, working in effective partnership with the international community.

206. We may add that Egypt endeavours to promote the welfare and protection of migrant workers by entering into bilateral labour agreements with States that receive Egyptian workers, with a view to enabling those States to provide adequate safeguards in the matters of the travel,

wages, health care and social welfare for migrant workers and to enforce all their rights under their labour contracts. The relevant Egyptian ministry has, by dint of constant efforts, succeeded in concluding bilateral labour agreements with a number of States with these ends in view.

207. Under the Labour Code (law No. 12 of 2003), the role of the private sector, as represented by firms that recruit Egyptian labour to work abroad, has been expanded and encouraged with a view to the opening of new markets and the creation of more job opportunities abroad by lawful means. The activities of these firms are closely monitored by the Ministry of Labour.

208. Moreover, Egypt has enacted laws and enacted regulations governing migration and the welfare of Egyptian nationals abroad, thereby asserting the constitutional right of Egyptian citizens, individually or collectively, to leave the country permanently or temporarily while retaining their Egyptian nationality. They are free to return to Egypt at any time.

209. The State makes use of a variety of measures to strengthen the ties of Egyptians working abroad with their native land. The most important of these measures are summarized below:

- Organization and holding of conferences and workshops, in Egypt and in other countries, to discuss the problems of migrant workers, develop solutions to them, and keep Egyptian émigrés informed about the affairs of their homeland and national issues;
- Support for the establishment of Egyptian clubs, associations and federations in States of destination and moral and material support for them after their establishment, with a view to ensuring the continued existence of vigorous Egyptian communities abroad;
- Provision of media programming dealing with issues of interest to Egyptians and providing them with factual information about their country;
- Action to help Egyptians abroad retain their Arabic language and culture and their national and Arab heritage, and action to promote spiritual ties among Egyptian émigrés;
- Action to enable the children of Egyptian émigrés to be educated in accordance with Egyptian curricula;
- Ongoing development of levels of communication with Egyptian émigrés, including in particular, scientists and persons with unusual technical skills, and support for these channels through a complete database on émigrés' areas of expertise;
- Cooperation and coordination among all Government agencies in the task of monitoring and supporting the affairs of Egyptian émigrés;

- Planning, organization, implementation and follow-up action in the matter of a policy on Egyptian migration abroad with a view to supporting Egyptian émigrés' ties to their native land and serving the objectives of their social and cultural development and their country's national interests;
- Preparation of draft agreements with foreign countries aimed at opening up new fields for migration by Egyptians, facilitating their residence in their countries of destination, and safeguarding their rights and interests there;
- Action to take advantage of the skills and competence of Egyptian scientists and persons with skills and experience living outside the country to advance Egypt's development and productive effort;
- Action to enable Egyptian émigrés to use their savings to further productive development projects in Egypt.

#### **Article 70 of the Convention**

**States Parties shall take measures not less favourable than those applied to nationals to ensure that working and living conditions of migrant workers and members of their families in a regular situation are in keeping with the standards of fitness, safety, health and principles of human dignity.**

210. The safety, health and occupational conditions of workers are regulated by the Unified Labour Code (law No. 12 of 2003), in accordance with ILO conventions. The provisions of the Code apply to all workers, whether Egyptian nationals or aliens in a regular situation, without distinction or discrimination.

#### **Article 71 of the Convention**

- 1. States Parties shall facilitate, whenever necessary, the repatriation to the State of origin of the bodies of deceased migrant workers or members of their families.**
- 2. As regards compensation matters relating to the death of a migrant worker or a member of his or her family, States Parties shall, as appropriate, provide assistance to the persons concerned with a view to the prompt settlement of such matters. Settlement of these matters shall be carried out on the basis of applicable national law in accordance with the provisions of the present Convention and any relevant bilateral or multilateral agreements.**

211. In the event of the death of a worker or a member of his family, the return of the body to the State of origin is arranged in coordination with the consular authorities of the State concerned. All financial benefits provided for under Egyptian law are paid, and all the relevant contractual conditions are fulfilled as specified in the worker's contract of employment, especially in respect of the benefits enjoyed by persons employed by various agencies.