

# Human rights

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### Introduction

The term “Human Rights” has been repeated in Egypt in recent years, especially in the aftermath of the July 3 coup d’etat (2013), which created a frightening environment of widespread systematic repression, within a State policy, including legislative, executive and judicial powers.

With the escalation of human rights violations, a number of human rights organizations have been formed to monitor and document the human rights situation in Egypt in order to achieve several objectives, including the prevention of perpetrators’ impunity and the creation of a general cultural environment within the Egyptian community that human rights are binding rules which must be respected by regimes, not an irrelevant intellectual luxury, as they are considered by the Egyptian regime at the present time.

*This report will discuss what human rights are, Egypt's position on them, and the steps that should be taken towards the human rights violations:*

“Human Rights”, as a term, has emerged after the end of major world wars, when the world felt its need for a governing legal system to establish legal bases that the entire international community must respect and abide by. In this sense, the Universal Declaration of Human Rights (UDHR) came as the first intellectual production of the international legislative system, which was intended to establish rules and principles that can be invoked to protect human rights; and then it was followed by six more detailed treaties as an international legal legislative package for human rights norms.

*What are human rights?*

Human rights are the basic criteria that people cannot live without dignity as human beings. They are universal, inalienable, and inherent in the dignity of every individual.

By adopting the Universal Declaration of Human Rights in 1948, the United Nations established common human rights standards.

According to the Universal Declaration of Human Rights (UDHR), “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. 2- Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty, the UDHR stated in Article 1 and 2. The UN General Assembly proclaimed the UDHR in Paris on 10 December 1948 (General Assembly resolution 217 A) as a common standard of achievements for all peoples and all nations, setting out the fundamental human rights to be universally protected.

Although the UDHR is not a binding international law, the universal ratification of it has given great importance to the principle of equality and respect for the human dignity of all people belonging to all religions regardless of whether the person is rich or poor, strong or weak, male or female.

Since the Universal Declaration of Human Rights, the United Nations has adopted numerous legally binding international instruments to promote those rights. These treaties are used as a framework for the discussion and application of human rights principles.

These instruments oblige states parties to implement the principles and rights they have provided. The general framework has also laid down laws and other instruments that subject governments to accountability in the event of human rights violation.

The general human rights framework includes the UDHR as well as six fundamental treaties:

- The International Covenant on Civil and Political Rights (ICCPR),
- The International Covenant on Economic, Social and Cultural Rights (ICESCR),
- The Convention on the Rights of the Child (CRC),
- The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment,
- The International Convention on the Elimination of All Forms of Racial Discrimination,
- The International Convention on the Elimination of All Forms of Discrimination against Women.

All countries have ratified at least one of these treaties, while many have ratified most of them.

The importance of these treaties is that they are used as a tool to hold governments accountable for any violation of the respect and protection of human rights in their countries.

As part of the general framework of the Human Rights Act, all these rights are indivisible and interdependent.

Awareness of the general human rights framework is of great importance in contributing to the promotion and protection of the rights of children and their implementation, since the Convention on the Rights of the Child and its obligations are part of this framework.

Egypt's accession to international and regional conventions on human rights

During Egypt's political life, over the past 70 years, Egypt has acceded to and signed many international and regional conventions and treaties that respect human rights - certainly only theoretically without practical application. It is noteworthy that Egypt's reservations on entire treaties or articles within a particular treaty were originally

based on the so-called “violation of Islamic Sharia (law)” or that they are contrary to Egypt's cultural and traditional components.

*Following are the international and regional instruments to which Egypt is a party:*

## **First: International conventions on human rights, to which Egypt is a party**

1- Slavery Convention of 1926: Egypt ratified the Slavery Convention on January 25, 1928, and made no reservations to any of its provisions. Egypt also ratified the 1953 Protocol amending the Slavery Convention of 1926 on September 29, 1954. This was published in the Egyptian Gazette on Issue No. 73 on 22/9/1955, and the convention came into force as of July 7, 1955.

2- *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery - Geneva, 7 September 1956.*

Egypt ratified this Convention on 17 April 1958 and made no reservations on any of its provisions. The convention came into force in Egypt as of 17 April 1958.

3- *Convention on the Prevention and Punishment of the Crime of Genocide*

Egypt ratified the Convention on January 28, 1952, and did not make any reservations on any of its provisions. Egypt acceded to the convention by Law No. 121 of 1951, published in the Egyptian Gazette, Issue No. (71), on 6 August 1951. The Convention entered into force on 3 May 1952, and was published by the official Gazette on 3 July 1952 in Issue No. 100.

4- *The ILO Conventions Nos. 29 and 105 of 1930 and 1957 respectively:*

1- *Forced Labor Convention, 1930 (No. 29): The convention concerns the forced or compulsory labor (Entry into force: 01 May 1932)*

2- *Abolition of Forced Labor Convention, 1957 (No. 105): The convention concerns the abolition of forced labor (Entry into force: 17 Jan 1959)*

Egypt acceded to ILO Convention No. 29 by Law No. 510 of 1955, published in the Egyptian Gazette (81 bis - extraordinary) on 23/10/1955, and it entered into force on 29 November, 1956 by virtue of the foreign ministry decree published in the Egyptian Gazette No. (3), on 9 January 1956.

Egypt also acceded to ILO Convention No. 105 by the Republican Decree No. 1240 of 4/10/1958 It was published in the Egyptian Gazette No. (101) on 25 December 1958, and entered into force on 23/10/1959, by virtue of the Foreign Ministry Decree of 13/11/1958.

*5- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, Lake Success, New York, 21 March 1950*

Egypt acceded to the Convention by Presidential Decree No. 884 of May 11, 1959, which was published in the Official Gazette No. 105 on 23/5/1959. Egypt ratified the Convention on June 12, 1959, and made no reservation on any of its provisions. It was published in the Official Gazette No. 244 on 9 September, 1959, and entered into force on 10 September 1959.

*6- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), 1966*

Egypt acceded to the Convention by Presidential Decree No. 369 of 1967 on 25 January 1967. It ratified the Convention on 1 May 1967 and made a reservation to Article 22 of the Convention, which provides for the referral of any dispute concerning the application or interpretation of the Convention to the International Court of Justice (Several States made reservations to the dispute settlement mechanism, not to the provisions of the Convention as Article 20 prohibits any reservation to the content of the Convention). The Convention was published in the Official Gazette No. 45 on 11 November 1972 and was enacted in Egypt on 4 January 1969.

*7- Convention on the Suppression and Punishment of the Crime of Apartheid- New York, 30 November 1973*

Egypt acceded to the Convention by Presidential Decree No. 62 of 1977, ratified it on June 13, 1977, published it in the official Gazette No. 32 on 11 August, 1977, and the Convention entered into force on 15 July 1977.

*8- UN Convention relating to the Status of Refugees, Geneva, 1951*

Egypt acceded to the Convention by Republican Decree No. 331 of 1980 on 28 June 1980, and ratified it on 22 May 1981. However, Egypt made reservations to the following articles:

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

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

- Article 22, which states that “The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.”

- Article 23, which states that “The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.”

Article 24, which states that “The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters: ...”, including: hours of work, holidays with pay, apprenticeship and training, social security, and the right to compensation”.

The Convention was published in the official Gazette No. 48 on 26 November 1981 and entered into force on 20 August 1981. However, reservations were not published in the official Gazette.

*9- Protocol relating to the Status of Refugees - Entry into force 4 October 1967, in accordance with article VIII*

Egypt acceded to the Protocol by Republican Decree No. 333 of 1980 on 28 June, 1980. Egypt ratified the Protocol on May 22, 1981, and made no reservations to any of its provisions. The Protocol was published in the Official Gazette No. 45 on 5/11/1981, and it entered into force as of 22 May 1981.

*10- International Covenant on Civil and Political Rights - Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 - entry into force 23 March 1976, in accordance with Article 49*

Egypt signed the Covenant on 4 August, 1967 and ratified it on 14 January 1982 and issued upon its accession the following declaration: "taking into account the provisions of the Islamic Sharia, provided that the Covenant should not conflict with it (Sharia)." Egypt acceded to the Covenant by Republican Decree No. 536 of 1981. It was published in Issue No. 15 of the Official Gazette on 15 April, 1982, and entered into force on 14 April 1982.

*11- International Covenant on Economic, Social and Cultural Rights, United Nations, 1966.*

Egypt signed the Covenant on 4 August 1967 and ratified it on 14 January 1982. Upon its accession, Egypt issued the following declaration "taking into account the provisions of the Islamic Sharia, provided that the Covenant should not conflict with it (Sharia)." Egypt acceded to the Covenant by Presidential Decree No. 537 of 1981. It was published in Issue No. 14 on 8 August 1982, and entered into force on 14 April 1982.

The drafting of Egypt's reservations regarding the two international covenants: on the civil and political rights on the one hand, and the economic, social and cultural rights on the other - have raised and continues to raise a real problem regarding the international recognition of the two declarations, as it has been registered with the United Nations Secretariat as declarations that do not amount to reservations.

*12- Convention on the Elimination of All Forms of Discrimination against Women - New York, 18 December 1979*

Egypt acceded to this Convention by Presidential Decree No. 434 of 1981, ratified it on 18 September 1981, and made the following reservations:

- Article 9, Paragraph 2: "States Parties shall grant women equal rights with men with respect to the nationality of their children." Egypt made a reservation on granting women equal rights with men in relation to the nationality of their children in order to avoid the child's acquisition of two nationalities.

- Article 16: which states that: "States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(a) The same right to enter into marriage;

(b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;

(c) The same rights and responsibilities during marriage and at its dissolution;

(d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.”

\*Concerning women’s equal rights with men the in all matters related to marriage, the relations of the family during marriage, and at its dissolution, Egypt made a reservation that this “must not contradict Islamic Shari'a”.

- Article 29, paragraph (2): which states that: “Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph I of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.”

- A general reservation to Article 2, that the Arab Republic of Egypt is ready to implement the provisions of this article, provided that “it does not conflict with Islamic Sharia.”

The Convention was published in the Official Gazette No. 51 on 17/12/1981 and was effective as of 18/10/1981.

### *13- UN Convention on the Political Rights of Women - New York, 31 March 1953*

Egypt acceded to the Convention by Republican Decree No. 345 of 17 June 1981, ratified the Convention on 8 September 1981, and made no reservation to any of its provisions. It was published in Official Gazette No. 49 on 3 December 1981.

*14- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984*

Egypt acceded to the Convention by Presidential Decree No. 154 of 6 April 1986, ratified it on 25 May 1986, and made no reservation to any of its provisions. It was published in the Official Gazette No. (1), on 7 January 1988, and entered into force 25 July 1986.

*15- Convention on the Rights of the Child, United Nations, 1990.*

Egypt acceded to the Convention by Presidential Decree No. 260 of 1990 on 24 May 1990, ratified it on 8 July 1990, and made reservations to all provisions and articles relating to “adoption”, particularly Articles 20 and 21 of the Convention. It was published in the Official Gazette No. 7 on 14 February 1991 and has been effective as of 2 September 1991.

*16- International Convention against Apartheid in Sports - New York, 10 December 1985*

Egypt acceded to the Convention by Presidential Decree No. 562 of 1990 on 23 December 1990, ratified it on 2 April 1991, and made no reservation to any of its provisions. It was published in the Official Gazette No. 24 on 17 June 1991, and was effective as of 2 May 1991.

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

Egypt acceded to the Convention by Republican Decree No. 446 of 1991 and it was approved by the People's Assembly on 26 December 1992. Egypt ratified the Convention on 16 February 1993 and published it in the Official Gazette No. 31 on 5 August 1993, by virtue of Foreign Ministry Resolution No. 38 of 5 June 1993. Egypt has made the following reservations to the Convention:

- Article 4, which states that: “For the purposes of the present Convention the term "members of the family" refers to persons married to migrant workers or having with them a relationship that, according to applicable law, produces effects equivalent to marriage, as well as their dependent children and other dependent persons who are recognized as members of the family by applicable legislation or applicable bilateral or multilateral agreements between the States concerned.”

- Article 18, Paragraph 6, which states that: “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.”

It is noteworthy that this Convention has not yet entered into force, for lack of the required number of states who acceded to the Convention, pursuant to article 87.

## Second: Regional conventions on human rights, to which Egypt is a party:

### 1- *The African Charter on Human and Peoples' Rights, 1980:*

Egypt acceded to this Charter by Presidential Decree No. 77 of 27/2/1984 and published it in the Official Gazette No. 17 on 23 April 1992. The Charter was effective as of October 21, 1986.

Egypt made reservations to:

- Articles 8 which states that: “Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.”

Article: 18 Paragraph 3, which states that “The State shall ensure the elimination of every discrimination against women, and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.”

Egypt’s reservation was that the application of the two articles “must not contradict the provisions of Islamic Sharia”.

- Article 9 Paragraph 1, which states that “Every individual shall have the right to receive information”, Egypt said it understands that this is limited to information that is permissible under Egyptian laws and regulations.

### *2- The Arab Charter on the Rights of the Child, 1983*

Egypt acceded to the Charter by Presidential Decree No. 365 of 1993, without making any reservations, and published it in the Official Gazette No. 11 on 7 March 1994. The Charter entered into force on 11 January 1994.

### *3- African Charter on the Rights and Welfare of the Child*

Egypt acceded to the Charter and ratified it, but it has not yet been published in the Official Gazette as it has not yet entered into force.

## **Third: International conventions on human rights, to which Egypt has not acceded:**

### *1- Protocols I and II to the International Covenant on Civil and Political Rights.*

- The first protocol states that “Considering that in order further to achieve the purposes of the International Covenant on Civil and Political Rights and the implementation of its provisions it would be appropriate to enable the Human Rights Committee set up in part IV of the Covenant to receive and consider, as provided in



the present Protocol, communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant.”

- The second protocol is about the abolition of the death penalty.

2- *Convention on the Status of Stateless Persons, 1954.*

3- *Convention on the Nationality of Married Women - New York, 20 February 1957*

4- *Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962*

5- *Convention on the Reduction of Statelessness in 1961.*

6- *Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity - New York, 26 November 1968*

7- *Rome Statute of the International Criminal Court, adopted in Rome 1998.*

8- *International Convention for the Protection of All Persons from Enforced Disappearance*

According to this quick presentation, Egypt is theoretically one of the highest countries in ratifying international conventions on human rights. However, observers of practical application of these agreements by Egypt's successive governments find a complete lack of respect the human rights, as lofty goals, binding principles, and applicable legislation without any excuses. This complete abandonment and continuous violation of human rights by the regime is in fact based on two aspects:

First: The Egyptian regime views human rights as “intellectual luxury”; and under the pretext that Egypt is fighting terrorism, the government continuously violate the human rights of the Egyptian people.

Second: The total absence of the idea of “accountability and prosecution” against abuses committed by members of the executive system in Egypt, which means disregard for the life of the citizen, that entails ongoing violations and crimes without fear of accountability.

In fact, the Egyptian military regime has been accustomed to human rights violations since the early fifties of the last century, including: a brutal security grip, a lack of respect for human rights, with continuous impunity. However, human rights violations have become very clear and evident to all segments of society – including supporters and opponents of the regime – especially after 3 July 2013 (the military coup d'état). Since then, the Egyptian regime practiced the most severe and widespread human rights violations and crimes, within a State policy, including the legislative, executive and judicial powers.

Certainly, this is a quick look at Egypt's position on the international agreements, especially those that Egypt has acceded to, and how there is a wide divergence between "theory and practice" in dealing with the rules enshrined in these conventions and international covenants.

These violations should be tracked and monitored by local, regional and international mechanisms adopted by local, regional and international organizations to promote and protect human rights, and to consider the commitment of political regimes to the implementation of those conventions on the ground.