United Nations CCPR/C/EGY/5

International Covenant on Civil and Political Rights

Distr.: General
18 November 2020
English
Original: Arabic
Arabic, English, French and Spanish only

Human Rights Committee

Fifth periodic report submitted by Egypt under article 40 of the Covenant, due in 2004*, **

[Date received: 12 November 2019]

* The present document is being issued without formal editing.
** The endnotes are reproduced in the language of submission only.

Introduction

1. In keeping with the commitment of Egypt to cooperating with international human rights mechanisms, and in expression of its readiness to fulfil its treaty obligations, Egypt submits the present report covering the period from the submission of its previous report through the end of 2019, in implementation of the provisions of the International Covenant on Civil and Political Rights, article 40, paragraph 1.

2. The present report covers progress made in ensuring the enjoyment of the rights enshrined in the Covenant by persons within the territory of the Arab Republic of Egypt and subject to its jurisdiction. It surveys changes in legislation and judicial and administrative practices relating to implementation of the Covenant's provisions since the Government submitted its third and fourth periodic report in 2001 (CCPR/C/EGY/2001/3), and particularly the period since the adoption of the 2014 Constitution through 2019.

3. Over the past few years, Egypt has undergone numerous internal developments in a highly fluid regional environment. On 25 January 2011, a massive popular revolt broke out. Egyptians demanded the overthrow of the political system and the protection of fundamental rights and freedoms. They raised the banner of freedom, a life of dignity and social justice. However, at the same time, certain terrorist elements took advantage of the situation in the country to overrun prisons, police stations, the courts and other organs of the State, vandalizing the premises and burning and destroying records and documents. Political events followed in rapid succession. In June 2012, a President of the Republic who belonged to the Muslim Brotherhood was elected with 51.7 per cent of the vote. The people were caught off guard by a series of authoritarian policies that shattered the rule of law and deviated from the objectives of the revolution. Those policies were devoted to giving sole authority to his group. He issued a unilateral constitutional declaration that shielded his decisions from judicial oversight. He attacked the independence of the judiciary by removing the Public Prosecutor. He refused to comply with any legally binding court rulings that did not further the interests of his group. He laid siege to the headquarters of the Supreme Constitutional Court and prevented it from carrying out its work. He and his party also engaged in a political discourse that incited hatred and violence among citizens and discriminated among them on the basis of political and religious affiliation. He formed a constitutional commission that included only supporters of his religion-based group. Despite a court ruling invalidating the formation of that commission on the grounds that it violated democratic standards, on 25 December 2012, a Constitution was promulgated that was characterized by exclusion and contained flagrant distortions of constitutional legislative power. That was followed by removal by the President of a number of judges from the Supreme Constitutional Court.

4. When the people realized that the President had deviated from the promised goals of the January Revolution and that he was destroying the rule of law, peaceful demonstrations broke out demanding early presidential elections. The President rejected those demands and his supporters met the demonstrations with violence and intimidation. As a result, on 30 June 2013, nearly 30 million citizens took to the streets to demand the overthrow of the existing regime and a reset of the course of their revolution. National forces reached a consensus on a road map for rebuilding constitutional institutions and establishing a democratic system that would address the shortcomings of the preceding phase. A 50-person committee with members from of all walks of life was formed to amend the Constitution. It drafted a Constitution that won 98.1 per cent of the vote in a referendum.

5. That Constitution was promulgated on 18 January 2014. That was followed in mid-May 2014 by presidential elections as the second stage of the road map. The current President won with 96.91 per cent of the vote. At the end of 2015, the last stage was completed with the election of members of the House of Representatives. The presidential and parliamentary elections were monitored by civil society organizations, the African Union and a number of regional and international organizations. Observers agreed that they met all standards of transparency, neutrality and integrity, thereby fulfilling the demands put forward by the Egyptian people on 30 June 2013 for building an institutional foundation for a democratic society that respects human rights and fundamental freedoms. The current President was re-elected in April 2018 with 97.08 of the vote.

6. The 2014 Constitution was a quantum leap in improving the human rights situation in Egypt. It reflected the nation's awareness of the universality and indivisibility of human rights, its total conviction of the need for equality among all citizens, and the need to ensure equal opportunities for enjoying these rights without discrimination on the basis of religion, creed, gender, origin, race, colour, language, disability, class, political or geographical affiliation, or any other reason. The Constitution enshrines a political system based on respect for human rights and fundamental freedoms. It emphasizes freedom of opinion, expression, belief, religious practice and access to information. It also affirms personal freedom and the inviolability of private life, and makes any violation thereof a crime with no statute of limitations. It prohibits torture in all its forms. It criminalizes all forms of slavery and human trafficking. It regards rights and freedoms inherent to individual citizen as not subject to suspension or curtailment. No law regulating them may restrict them or infringe on their core and essence. The Constitution affirms the right to assemble peacefully and form associations and parties, and the freedom to form trade unions. It guarantees the right of citizens to take part in the administration of public affairs in the country. It also guarantees the right to litigate, affirms the independence of the judiciary, and requires the State to provide citizens with security and tranquillity.

7. Article 151 of the Constitution requires the legislative, judicial and executive powers to comply with the provisions of ratified international treaties, which have the same status as domestic legislation. Accordingly, persons who suffer harm as a result of non-compliance with such treaties are entitled to seek legal remedies. The 2014 Constitution goes further than previous constitutions in this regard. Article 93 grants special status to ratified international human rights agreements, giving them the force of law. That confers upon the basic rights and freedoms in those agreements the protection accorded to constitutional principles. Article 121 gives laws regulating human rights and freedoms the status of laws complementary to the Constitution. That means that enacting such laws requires a two-thirds majority of the House of Representatives. It also means that any interested party may have recourse to the Supreme Constitutional Court to appeal against the constitutionality of legislative provisions that are in violation.

8. During the reporting period, Egypt acceded to several international conventions and treaties relating to civil and political human rights. In 2003 and 2004, it acceded to the United Nations Convention against Transnational Organized Crime; the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children; and the Protocol against the Smuggling of Migrants by Land, Sea and Air. In 2007, Egypt withdrew its reservation to article 9, paragraph 2, of the Convention on the Elimination of All Forms of Discrimination against Women concerning granting women an equal right to men with regard to the granting of citizenship to their children. In 2014, Egypt acceded to the Arab Convention against Transnational Organized Crime. In 2015, Egypt withdrew its reservation to article 21, paragraph 2, of the African Charter on the Rights and Welfare of the Child in Africa concerning the prohibition of marriage under the age of 18. In 2019, Egypt acceded to the Arab Charter of Human Rights. During that period, the Egyptian legislative framework saw the enactment of many laws that reflect a commitment to implementing various provisions of the Covenant. The most notable of those laws will be covered in detail below.[1]

9. The present report is divided into two parts. Part I covers legislative, judicial and administrative developments in implementing articles 1–27 of the Covenant, supported by certain data for years subsequent to 2014 (given what Egypt underwent prior to that period). We have tried to avoid repeating information already included in the latest reports submitted to the Committee against Torture, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities. Part II contains responses and clarifications regarding the concluding observations of the Human Rights Committee pursuant to consideration of the third and fourth periodic reports of Egypt (CCPR/C/EGY/2001/3). In some cases, we refer to information and clarifications already covered in Part I. We followed the guidelines for the treaty-specific document to be submitted by States parties under article 40 of the International Covenant on Civil and Political Rights (CCPR/C/2009/1) and paragraph 16 of General Assembly resolution 68/268 of 9 April 2014 (A/RES/68/268).

Part I
Information relating to implementation of the articles

Articles 1 to 3

10. Egypt is committed to respecting articles 1 to [4] guaranteeing all individuals within a State's territory and subject to its jurisdiction the rights recognized in the Covenant, including for peoples under foreign occupation. It takes the necessary legislative measures to safeguard the exercise of those rights. In accordance with the Constitution and under the law, it makes available effective remedies for any person whose rights or freedoms under the Covenant are violated. The Office of the Public Prosecutor has exclusive jurisdiction to initiate and bring criminal complaints. It enjoys the same immunities enjoyed by the judiciary under Chapter [3], section 1, of the Constitution, in its capacity as an integral part of the judiciary under article 189.

11. Article 93 of the Constitution grants special status to international human rights conventions. It provides that the State shall comply with international human rights conventions, covenants and instruments ratified by Egypt, and that they shall have the force of law after publication in accordance with established conditions, consistent with the Vienna Convention on the Law of Treaties, article 27. Consequently, the State's commitment to respect ratified international human rights conventions, covenants and instruments takes on the form of a constitutional obligation. The legislative authority may not enact any legislation inconsistent with the State's obligations under human rights conventions, covenants and charters. Any shirking of its responsibilities in that regard or failure to amend legislation to bring it into line with such conventions is considered a failure to comply with its constitutional obligation and contrary to constitutional provisions. That was confirmed by the Supreme Constitutional Court in Case No. 131 (Judicial Year 39) on 6 April 2019 and Case No. 114 (Judicial Year 29) on 14 January 2017. The Supreme Constitutional Court has also used international human rights instruments as a basic reference for rulings when considering and interpreting rights that have been the subject of constitutional disputes brought before it. For example, it exercised its constitutional oversight to determine the extent to which legislation conforms to the principle that no one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation, in line with the Covenant, article 11.[2] The Court has also affirmed the right to form civil associations and the principle that they cannot be dissolved merely by administrative decision, in line with the Covenant, article 22.[3] The Supreme Administrative Court and the Administrative Court of Justice have made reference to the Covenant in numerous rulings when exercising legislative oversight over Executive Branch actions and determining their compatibility with the Constitution, conventions and relevant laws.[4]

12. The Constitution contains 22 articles guaranteeing equality between women and men in rights, freedoms, public duties and opportunities without discrimination, most notably articles 11 and 53. In line with the Committee's general comment No. 4, Egypt has been keen to provide opportunities for women to improve their status in society, enhance their leadership roles and realize equality and equal opportunity with men in civil and political rights. That has already been detailed extensively in the report of Egypt to the Committee for the Elimination of Discrimination against Women.

Article 4

13. The motivating factor for declaring the state of emergency was the terrorism situation and the risks it posed to the stability of Egypt and the security and safety of its citizens. Since 2011, Egypt has seen large-scale incidents that have threatened its security and safety and targeted citizens and public and private facilities. That has prompted the imposition of a state of emergency in certain areas of Sinai – which does not apply to the rest of Egyptian territory – where curfews have been imposed. Even though terrorist incidents had been getting worse all over the country since the end of 2013, a state of public emergency was declared only in 2017, after terrorist attacks against Egyptian churches in various governorates killed and

injured more than 200 citizens. It was imposed in accordance with constitutional controls and under full judicial supervision. Even then, the state of emergency did not entail activation of powers under the Emergency Act. All criminal proceedings have remained subject to the general rules contained in the Constitution and the Code of Criminal Procedure. The practical effect of the state of emergency remains the imposition of curfews at certain times in North Sinai governorate.

14. In keeping with its full awareness of the exceptional nature of the state of emergency, the 2014 Constitution's rules and procedures for declaring a state of emergency include numerous safeguards to make sure that it is warranted. Those safeguards include not allowing the President of the Republic to declare a state of emergency until after consulting the Cabinet and submitting the declaration to the House of Representatives. If a majority of members of the House of Representatives approve it, the state of emergency is declared for no longer than three months. It can be extended for a similar period only by approval of two thirds of the House.

15. The Supreme Constitutional Court has affirmed that the Emergency Act is a special regulation intended to support the Executive Branch by providing it with certain mechanisms to restrict public rights and freedoms in order to address emergency circumstances that threaten the country's public safety or national security, such as war, foreign threats, disturbances that threaten internal security, pandemics, and similar situations that have an intimate bearing on public safety and national security. In that respect, it is an entirely exceptional regulation designed to achieve a specific goal. It may not be enforced broadly. A narrow interpretation of its provisions must be adhered to.[5] The Supreme Constitutional Court ruled unconstitutional article 1, paragraph 1, of the Emergency Act (No. 162 of 1958), which had allowed the President of the Republic, under a state of emergency, to arrest suspicious persons or those who put security and public order at risk, and permitted the search of persons and places without complying with the provisions of the Code of Criminal Procedure. In its reasons for the ruling, the Court came down against a broad interpretation of the Emergency Act, arguing that it should be implemented only within the narrowest limits and strictly in compliance with established legislative rules, the most important of which is non-violation of other provisions of the Constitution. The Court stressed that the fact that the Emergency Act was enacted based on a provision of the Constitution did not mean that the Act may violate other provisions of the Constitution. On the basis of that ruling, administrative detention orders are no longer allowed. Imprisonment must be pursuant to a judicial decision.[6]

16. As stated in a previous report, the Emergency Act contains no provisions derogating from the obligations set forth under paragraph 2, article 4, of the Covenant. It is therefore consistent with the Committee's general comment No. 29. The Act does not provide for any suspension of the provisions of the Constitution or curtailment of any of the inviolable rights provided for in the aforementioned paragraph. We refer you to the comments in our previous report made with regard to this article on the procedures for declaring a state of emergency, measures that might be taken thereunder, and grievance procedures.

17. With regard to guarantees that counter-terrorism laws are consistent with the rights guaranteed by the Covenant, the Counter-Terrorism Act (No. 94 of 2015) includes a definition of a terrorist act as any use of force, violence, threat or intimidation at home or abroad for the purpose of disrupting public order, endangering the safety, interests or security of society; harming or terrorizing individuals; endangering their lives, freedoms, public or private rights or security, or other freedoms guaranteed by the Constitution and the law; damaging national unity, social peace or national security; damaging the environment, natural resources, antiquities, or any public or private assets, building or property, or occupying or appropriating such; preventing or obstructing public authorities, judicial agencies or entities, Government authorities or local branches, houses of worship, hospitals, educational institutions or academies, diplomatic or consular missions, or regional and international organizations in Egypt from performing their tasks or going about their business; disrupting enforcement of any constitutional provisions, laws or regulations; or any other behaviour engaged in for the purpose of realizing any of the objectives mentioned in paragraph 1 of this article, or preparation for or incitement to such, if it is likely to damage communications, information systems, financial or banking systems, the national economy,

energy reserves, security reserves of food and water commodities or materials, or safety or medical services during disasters or crises.

18. The rights protected and guaranteed by the Constitution and under the law remain in force and are not suspended when the Counter-Terrorism Act is enforced. The articles enacting it provide for the Code of Criminal Procedure – which is the general law governing criminal proceedings – to be followed in cases of terrorism crimes. The Counter-Terrorism Act itself confirms that principle by providing for certain procedures. Article 44 grants a person accused of a terrorist or related crime the right to appeal orders for preventive detention or extension of detention before the competent court without paying fees. Article 45 provides that a person accused of a terrorist crime may only be searched by reasoned judicial authorization. Article 46 provides that reasoned judicial authorization is similarly required to monitor and record conversations and messages transmitted via wired, wireless or any other means of modern communication, or to record or film anything happening in private locations or posted on communication or information networks or websites. There are also other measures that that require such authorization.

19. In order to strike a balance between confronting the threat posed by terrorism on the one hand and ensuring the right to freedom on the other, the powers granted to law enforcement authorities engaged in counter-terrorism apply only in cases where that particular type of crime is being committed, and they must be exercised through specific procedures and rules that maintain procedural legitimacy and guarantee the public rights and freedoms of citizens. These procedures are subject to oversight by the Judicial Branch. At the same time, the Judicial Branch, represented by the Office of the Public Prosecutor, is permitted to conduct special procedures of its own in order to carry out its work. Those rules of procedure are provided for in the Counter-Terrorism Act, articles 40, 41 and 42. Evidence-gathering agencies have the right to provisionally hold terrorism suspects for no longer than 14 days, renewable for one time, under the supervision of the Office of the Public Prosecutor and conditional upon issuance of a reasoned judicial decision. A number of guidelines for such detention have been set forth. They require anyone being held to be informed of the reasons for their detention, enabled to contact their family, allowed to seek the aid of a defence attorney and have a record kept of their statements.

20. It should be noted that the Government, in fulfilment of its constitutional obligations, recently submitted some amendments to the Code of Criminal Procedure to the House of Representatives. The amendments seek to broaden guarantees for the rights and prerogatives of the defence during the stages of evidence gathering, preliminary investigation and criminal trial. They also introduce new rules for protecting witnesses and victims and conducting criminal proceedings remotely.

Article 5

21. We refer you to what has already been stated in paragraphs 6, 7 and 11 of the present report about how the Egyptian constitutional system elevates the provisions of the Covenant – given that it is an international human rights agreement – to the level of constitutional provisions that have the highest status in the legislative code. Any interested party is allowed to request that legislative provisions contrary to those of the Covenant be ruled unconstitutional, whether the legislation in question predates or postdates the Covenant. The Covenant has been considered part of national law since its entry into force and is complied with by all the authorities. That means that anyone harmed by a violation of the rights prescribed therein has the right of recourse to the courts to demand exercise of those rights and restitution for harm.

Article 6

22. Egypt believes that the right to life is the supreme inviolable right. It is one of the inherent rights of the human being from which all other rights and freedoms flow, as we stated in our last report to the Committee. Therefore, in the Egyptian legal system, this right enjoys full protection and may not be arbitrarily denied under any circumstances.

23. As in many other countries, the law allows for imposition of the death penalty for the most serious crimes, such as premeditated murder, poisoning, terrorism and espionage, which is in accordance with article 6, paragraph 2, of the Covenant. That punishment is surrounded by numerous safeguards in order to balance society's right to public deterrence against the individual's right to life. In addition, all standards are applied for conducting a fair trial and preserving the right of the convicted person not to be subjected to any violation or cruel treatment. All this is in line with the Committee's general comment No. 36, paragraph 16. The psychological and religious needs of the sentenced person must be taken into account before carrying out the sentence.[7] The imposition of the state of emergency is without prejudice to any of the safeguards for the application of the death penalty, in line with what we have stated in paragraphs 15, 16 and 18 of the present report.

24. Egypt subscribes to the vision set forth in United Nations document A/73/1004 issued on 16 September 2009. It believes that the death penalty is a judicial and legislative matter that falls among the sovereign issues to be decided by the criminal justice system of each individual State. Consideration of whether or not it should remain in force needs to take into account numerous considerations having to do with the particularities of societies, cultures and traditions. The decision to abolish or suspend this penalty should only be taken after a series of discussions at the national level, and only after examining the impact of such abolition or suspension on the rights of victims and guarantees of effective redress for them and their families. In addition, consideration should be given to the effect it might have on rates of serious crimes and the security and peace of society.

25. With regard to the rules and regulations that govern the use of force and firearms by law enforcement, those agencies adhere to international standards for rules of engagement and the use of force when in pursuit of suspected criminals. The Ministry of the Interior has put in place a package of measures in this regard. They include the adoption of an incremental approach to law enforcement. The amount of time during which offenders are warned to desist while being sprayed with water has been lengthened. More severe steps are not taken until all avenues of negotiation have been exhausted via a hierarchy of orders that goes to the highest levels of security command. In addition, different approaches are taken when dealing with children, women or older persons. Security forces receive training on how to protect public facilities. Methods of dispersing riots using smoke bombs and pepper sprays are being developed, while broadcasts, circulars and instructions on human rights protection measures during security operations have been disseminated. Seminars are held to imbue security officials with the legal culture on the legitimate use of force under international standards. In addition, training is provided to Police Academy students on how to handle situations such as detention, arrest, search, transfer and treatment of prisoners. The training – which includes mechanisms to secure peaceful demonstrations and to deal with riots, sit-ins and the sabotage or attack of public facilities while respecting human rights – has been expanded to include modern technological investigative methods. Any allegations of excessive use of force are referred for investigation to the Office of the Public Prosecutor while oversight mechanisms within the Ministry of the Interior take the necessary disciplinary measures.

26. In implementation of Decision of the President of the Republic No. 314 (2017) establishing a consolidated grievance system at the level of the Republic, the Ministry of Interior has introduced an electronic system for processing complaints and reports about the activities of the Ministry's agencies. Those complaints are analysed to identify any shortcomings that reflect negatively on respect for human rights and to draw lessons learned from them. Such cases are reviewed and immediate disciplinary measures and criminal proceedings are taken on a case-by-case basis when any acts of lawlessness are proven to have occurred, particularly with regard to the use of unjustified excessive force or cases of reckless or unlawful use of firearms.

27. With regard to measures to prevent enforced disappearances, the Constitution and the law provide for guarantees and measures to protect individuals from enforced disappearance under any circumstances. With regard to rights, constitutional guarantees, oversight mechanisms for prisons and places of detention, procedures for filing complaints about alleged cases of enforced disappearances, and available remedies, we refer to the sections of the present report dealing with articles 9 and 10.

28. Investigations by the Office of the Public Prosecutor, as an independent judicial body, show that most of the alleged cases involve persons who have disappeared of the their own free will to join terrorist groups, move abroad illegally, escape revenge, change their religion, marry without parental consent, or for some other social reason. Investigations also show that some of them are being held in ongoing criminal proceedings and are on trial. It should be noted that there are almost 100 million people in Egypt. It is impossible to track the movements of every citizen, especially when article 62 of the Constitution guarantees freedom of movement, residence and migration and states that no citizen may be expelled from State territory, prohibited from returning, prohibited from leaving a particular region of the State, forced to reside in a particular place or prohibited from residing in a particular place except by reasoned judicial order for a limited time under circumstances specified by law. The Government is committed to full and ongoing cooperation with the Working Group on Enforced or Involuntary Disappearances. It responds quickly to the group's inquiries, and officials meet with the Working Group constantly on the margins of its sessions. That cooperation resulted in the closing of 412 cases from 2015 through 12 September 2019.

Article 7

29. We begin by referring you to the periodic report of Egypt to the Committee against Torture. It should be noted that articles 51 and 52 of the 2014 Constitution provide that dignity is the inviolable right of every human being, that the State is committed to respecting and protecting it, and that torture in all its forms is a crime with no statute of limitations. The Penal Code adopts a generally recognized approach to criminal legislative policy that is incremental and proportionate in criminalization and penalization. It uses multiple specifications and penalties to deal with crimes of torture rather than applying a one-size-fits-all definition and punishment. Penalties match the severity of a given violation of any protected right. That ensures that justice is brought about through criminal accountability that varies the severity of the criminal penalty depending on the gravity of the offence, in line with paragraph 4 of the Committee's general comment No. 20.

30. The Code criminalizes all forms of torture in articles 126, 129, 375 bis and 375 bis (a). That crime is punishable regardless of its purpose, whether it be to obtain information, extract a confession, punish a particular act, or intimidate or coerce, or if it is done on a discriminatory basis. Articles 117, 127 and 280 criminalize all forms of inhumane or degrading treatment of a citizen by a public official, from material violations of any kind to verbal or psychological violations that might infringe on dignity or cause physical pain.

31. Article 40 of the Penal Code sets forth as a general principle that any person shall be considered an accessory to a crime – which would include the crime of torture – if they incite it, agree with another person to commit it, or assist the perpetrators in preparing, facilitating or carrying it out. Article 41 punishes an accessory to a crime with the same penalty as the perpetrator.

32. In line with paragraph 13 of the Committee's general comment No. 20, article 55 of the 2014 Constitution affirms that any statement proven to have been made by a detainee under torture, intimidation, coercion, physical or moral abuse or threat shall be invalid and have no effect. The same provision had already been made in the Code of Criminal Procedure, article 302. The Egyptian Court of Cassation has repeatedly affirmed this principle.[8] It has emphasized that invoking the orders of superiors cannot serve as a justification for torture, and that the limits of obedience to superiors do not extend to the commission of crimes.[9]

33. Egypt is aware that certain isolated instances of this practice may occur on its territory. However, these are exceptions to the general prohibition of this crime. Such violations do not in any way reflect the Government's policy or its stance against it. That is attested to by the many criminal investigations and trials of police officers conducted from the beginning of 2014 to 10 April 2019, which have included the following: 30 incidents of torture, 66 incidents of coercion, and 215 incidents of ill-treatment. Criminal investigations and prosecutions have resulted in 70 convictions, 156 discontinuances and 85 cases still ongoing. During that same period, disciplinary hearings were conducted against police officers for practices that did not rise to the level of torture and other types of ill-treatment, or hearings

following criminal convictions. There were 344 such hearings resulting in 207 disciplinary actions.

34. In line with paragraph 3 of the Committee's general comment No. 20, the Emergency Act contains no provisions for suspension of constitutional provisions, the law or the judiciary, or the curtailment of any inviolable rights or freedoms. Therefore, no form of torture may be permitted under any circumstances, as we made clear above in paragraphs 15, 16 and 18 of the present report.

35. With regard to reform approaches and measures to ban corporal punishment in schools and other educational institutions, there have been several ministerial decisions. The most recent was Decision No. 287 of 19 September 2016 on school discipline regulations, aimed at strengthening the values of tolerance and mutual respect between teachers and students. It specifies measures to address student violations and discipline them without using any kind of corporal punishment. It also supports the role of social workers in educational institutions in combating phenomena that harm students (such as violence), monitoring, following up on and treating at-risk students, receiving complaints about physical or psychological abuse of students in school, and taking the necessary legal measures.

36. With regard to provisions governing experimentation on humans, article 60 of the 2014 Constitution states that the human body is inviolable, and any assault, disfigurement or mutilation thereof is a crime punishable by law. Trafficking in organs is prohibited. Medical or scientific experiments may be conducted only with documented free consent and must be done in accordance with the established principles of medical science as regulated by the law. In accordance with this constitutional obligation, the Government has prepared a draft act concerning clinical trials that is currently under consideration in the House of Representatives.[10]

Article 8

37. In 2003, in recognition that trafficking in human beings is the contemporary face of slavery and in acknowledgment of the seriousness of that phenomenon, which is a violation of the human right to freedom, security and personal dignity, Egypt joined the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. In 2014, Egypt acceded to the Arab Convention against Transnational Organized Crime. These efforts culminated in article 89 of the 2014 Constitution, which prohibits all forms of slavery, oppression, forced exploitation of human beings, sex trafficking, and other forms of human trafficking, all of which are criminalized under the law.

38. In compliance with international pledges, Act No. 64 (2010) concerning human trafficking criminalized all contemporary forms of slavery. A perpetrator of this crime is defined as anyone who conducts a transaction of any kind involving a natural person that includes sale, purchase, transport, delivery or harbouring, whether inside the country or abroad, through the use of any means such as force, violence, threat, abduction, fraud, abuse of power, or exploitation of vulnerability or need, in exchange for the consent of any person to traffick another person who is under their control. All that applies if the transaction is for the purpose of exploitation in any way, including sexual exploitation, exploitation of children for prostitution, forced labour, servitude, slavery or any comparable practice, begging or the removal of human organs.

39. The law guarantees special protection for victims. It provides that the consent of the victim to being exploited shall not be taken into consideration in any kind of human trafficking. Greater protection is provided to children and persons with no family. In the case of children or persons with no family, it is not necessary for one of the above means to have been used in order to establish that trafficking has occurred. Nor is the consent of the guardian or anyone else responsible for the child's care taken into account. To ensure that victims are protected, the Act has an entire chapter entitled "Protection of victims". It provides that victims may not be penalized or held criminally or civilly liable for any crime that arises from or is connected to their victimization. It also affirms that they should enjoy all their basic human rights and freedoms. At all stages of evidence collection, investigation or trial, care

must be taken to identify, classify and determine the identity, nationality and age of the victim, and ensure that they are kept far from the clutches of the perpetrators.

40. The Act also affirms the need to guarantee victims the following rights: the right to physical, psychological and moral safety; the right to protect their personal inviolability and identity; the right to be informed about the relevant administrative, legal and judicial procedures and to obtain information relating to them; the right to be heard and have their views and interests taken into account at all stages of criminal proceedings; and the right to legal assistance and the aid of counsel during the investigation and trial stages. The court is obligated to take action to protect victims and witnesses and prevent them from being influenced, which may require concealing their identities. The State is obligated to create suitable conditions for victims to receive health, psychological, educational and social assistance and care, and be rehabilitated and reintegrated into society within a framework of freedom and human dignity. It must help victims return quickly and safely to their homelands if they are foreigners or non-permanent residents. Victims must also be provided with appropriate temporary housing separate from that of the perpetrator, and be allowed visits from their families, lawyers and representatives of the competent authorities.

41. The Act requires all possible assistance to be provided to Egyptian victims of human trafficking offences through diplomatic missions abroad in coordination with the competent authorities of the host States, in particular with regard to their safe and speedy return to Egypt. Reciprocal coordination is to be carried out with the relevant authorities in other countries to facilitate the safe and speedy return of foreign victims to their countries of origin. The Act also provides that the judiciary and the police shall cooperate with their foreign counterparts to combat and prosecute human trafficking offences within the framework of rules established by bilateral or multilateral agreements in force in the Arab Republic of Egypt, or in accordance with the principle of reciprocity.

42. The Act imposes severe penalties on all parties involved in human trafficking offence, ranging from aggravated imprisonment to life imprisonment to a fine of up to 500,000 Egyptian pounds. Between March 2018 and February 2019, nine sentences were handed down in human trafficking cases with sentences of life imprisonment and the maximum fine. In compliance with international agreements and in implementation of the Act, the Executive Branch has taken numerous measures to combat this crime.[11] It also conducts training and awareness-raising for law-enforcement agencies in how to curb it.[12]

43. In order to protect the inviolability of the body and to combat trafficking in human organs, article 60 of the 2014 Constitution prohibits trafficking in human organs. Article 61 provides that tissue and organ donation is a gift of life. Every human being has the right to donate organs during life or after death under a documented consent or will. It requires that a mechanism be established to regulate organ donation and transplantation in accordance with the law. This reinforces the guarantees contained in Act No. 5 (2010) regulating human organ transplants regarding the controls necessary for human organ transplants to ensure the preservation of the rights of all parties and the elimination of abuses. One of the most notable provisions of the Act was to establish precise and objective controls for the transfer process. The transfer of a human organ is not permissible unless it the only means of preserving the life of the transferee, it does not lead to intermixing of genealogical lines and it is done via donation and with the written consent of the transferee. A human organ or any part of a dead human body may only be transferred to a living human being at the bequest of the deceased.

44. The Act imposes firm and strict control over medical facilities that carry out organ transplants. It provides for the establishment of the Supreme Commission for the Transfer of Human Organs, whose task is to identify licensed facilities, make sure licensing requirements are met, and maintain ongoing monitoring and supervision. The transplant must be approved by a medical committee, none of whose members are taking part in the procedure. A transplant from a deceased body may not take place until death has been confirmed and revival is impossible, as determined by consensus of the members of the committee. Act No. 142 (2017) amended some of the provisions of Act No. 5 (2010) to increase penalties, which range from life imprisonment to aggravated imprisonment and a fine of not less than 500,000 pounds and not more than 2 million pounds depending on the nature of the infraction.

45. The Government is also taking several measures to protect the interests of domestic workers and ensure that no one is subjected to compulsory servitude or labour. They include adoption of a pilot contract for domestic workers to regulate a balanced relationship between the domestic worker and the head of the household. A system for assessing professional skills is applied to domestic workers so they can obtain certifications on their national identity cards authorizing them to practice their profession. They may also obtain social insurance and are guaranteed the right to establish a trade union to defend their rights and protect their interests in accordance with article 2 of Act No. 213 (2017) concerning trade unions. The Government is currently drafting an act regulating domestic work. It covers training, working hours, vacations, wages, insurance, home inspection mechanisms and filing of grievances, in addition to other provisions that take account of workers' interests and the particularities of their labour relations.

Article 9

46. Successive Egyptian Constitutions have provided for fundamental guarantees to protect personal freedom and safety, taking their cue from agreed-upon international standards.[13] Articles 54 and 55 of the 2014 Constitution introduced safeguards, including that arrest, search, imprisonment or any restriction of liberty can only occur in cases of flagrante delicto or on the basis of a reasoned warrant required by investigation. Anyone whose freedom is restricted must be informed of the reasons and apprised of their rights in writing. They must be allowed to contact relatives and meet with a lawyer immediately during the evidence-gathering stage, as well as the investigation and trial phases. A judicial officer must, upon request, present the person in question to the investigating authorities, whether the prosecutor or the judge, within 24 hours after the arrest, so that an inquiry can be conducted and a decision issued. An interrogation can only be conducted in the presence of the person's lawyer. If the person does not have a lawyer, a lawyer must be assigned to him or her, with appropriate assistance provided to persons with disabilities. The Constitution also allows anyone whose freedoms have been restricted, and anyone else, the right to file a grievance before the court, and have it ruled on within a week of the restriction being imposed or else be released immediately. In all cases, accused persons may be tried for offences carrying a penalty of imprisonment only in the presence of a deputized or appointed lawyer

47. The Constitution places a high value on freedom, personal safety and other human rights and fundamental freedoms. Article 99 states that any attack on personal liberty or the inviolability of the private life of citizens and other public rights and freedoms guaranteed by the Constitution and the law is a crime with no criminal or civil statute of limitations. The person harmed may initiate criminal proceedings directly. The State guarantees fair compensation to those who have been victims of a violation. The National Council for Human Rights must inform the Public Prosecutor of any violation of those rights and the latter may intervene in civil proceedings on behalf of the victim upon their request in the manner prescribed by law.

48. In line with the Committee's general comment No. 8, the legislative framework has many safeguards to ensure implementation of the Constitution's provisions guaranteeing the right to liberty and security of person. Article 22 of the Code of Criminal Procedure provides that judicial officers serve under the Public Prosecutor and are subject to his supervision in their professional functions. The Public Prosecutor may request the competent party to examine the case of anyone who commits a violation or falls short in performing their duty. In addition, the Public Prosecutor may request that disciplinary action be taken against the person in question, without prejudice to any possible criminal proceedings. Article 34 provides that in cases where a serious offence or misdemeanour punishable by imprisonment for a term of over six months is being committed in flagrante delicto, a judicial officer may order the arrest of the suspect present at the scene where there is sufficient evidence to lay a charge.

49. Article 36 of the Code provides that the judicial officer must immediately take the statement of the arrested person. If the arrested person fails to exonerate themselves, the judicial officer shall, within 24 hours, remand them to the competent office of the Public Prosecutor where they will be either detained or released. The judicial instructions governing

the work of the Office of the Public Prosecutor require that staff be present on the premises for evening shifts on working days, and morning and evening shifts on weekends and official holidays. Article 40 provides that persons may only be arrested or imprisoned by order of the competent legal authorities. They must be treated in a manner that maintains their dignity. They may not be physically or psychologically tortured. Article 41 provides that a person may only be incarcerated in a designated prison. A prison warden may only accept a prisoner by signed order of the competent authority. A prisoner may not be held beyond the period specified in the order.

50. Article 139 provides that any person placed under provisional detention must be informed of the reasons immediately. They have the right to contact anyone they wish and engage an attorney. Article 42 provides that public prosecutors and the presiding and deputy judges of courts of first instance or courts of appeal may visit prisons within their jurisdictions to make sure that no one is being held illegally. They also have the right to inspect prison records and arrest and imprisonment orders, and communicate with prisoners to hear complaints. Article 43 provides that every prisoner has the right to file a written or oral complaint to the prison warden and to request that it be communicated to the Office of the Public Prosecutor. The warden must receive the complaint and pass it on immediately after documenting it. Anyone who becomes aware that someone is being detained illegally or in a non-designated prison is obligated to notify prosecutors. Upon being made aware, a prosecutor must immediately travel to the place where the detainee is being held and conduct the necessary investigation. Articles 124 and 125 provide that in cases other than flagrante delicto or urgency owing to fear of loss of evidence, a suspect may not be interrogated or confronted in connection with a crime until their attorney – if they have one – has been invited to attend. If the suspect has no attorney, or if the attorney refuses to attend after being invited, the interrogator must provide the suspect with an attorney and allow that attorney access to the details of the investigation on the day prior to the interrogation. In no case may the accused person be separated from their lawyer during the questioning.

51. Act No. 145 (2006) amending the Code of Criminal Procedure reformulated the rules governing provisional detention. It includes conditions that must be present for it to be applied in certain crimes. It sets upper limits on duration that vary depending on the nature of the crime. During the initial investigative stage and the other stages of the criminal proceedings, the duration may not exceed one third of the maximum penalty of deprivation of liberty. It may not exceed 6 months for misdemeanours, 18 months for felonies, or two years if the penalty is life imprisonment or death. The law requires pretrial detention orders to be issued by an official of a certain level, as well as regulations and procedures for challenging such orders. It sets forth alternatives to provisional detention and provides for other measures that can be taken instead. Those include requiring a suspect not to leave his home or area, to present at a police station at certain times, or to refrain from frequenting certain locations.[14] The Office of the Public Prosecutor is also required to publish verdicts of innocence and orders to vacate criminal cases in official gazettes at Government expense in order to provide a clean slate to exonerated suspects, who are entitled to material compensation for time served in provisional detention.

52. Egypt has seen painful terrorist incidents that judicial investigations revealed to have involved complex circumstances and numerous suspects with ties to domestic and foreign networks. Act No. 83 (2013) amended the Code of Criminal Procedure to allow the Court of Cassation and the Court of Appeal – but not the Public Prosecutor – to order provisional detention for 45 days subject to renewal for a suspect who has already been sentenced to death or life imprisonment, without complying with other provisions on the duration of provisional detention. This is known as detention pending criminal trial. The reason for this is that in such cases criminal proceedings can be prolonged to allow all the evidence against the accused to be considered. Defence counsel must have time to refute that evidence, as well as to hear witnesses for the defence and the prosecution, who in one case numbered more than 800. Under the Egyptian legal system, the same rules for criminal proceedings applied to both Egyptian nationals and foreigners, although there are some additional rules that provide additional rights to the latter in their capacity as foreigners.[15]

53. With regard to the rules on hospital confinement for the mentally ill, article 24 of the Act concerning care the mentally ill[16] provides that when a decision is issued by the Office

of the Public Prosecutor to admit a suspect to a mental health facility for examination, the regional mental health council must charge a three-doctor panel with examining that person's psychological and mental condition in accordance with the provisions of the decision or judgment. The competent judicial authority must be informed of the suspect's psychological and mental condition as determined by the evaluation[17] within the time period specified in the decision of the judicial authorities. Article 25 provides that confinement to the facility may be terminated or the patient granted a treatment furlough only after referral to the judicial authority that ordered the confinement. A patient being treated under a judgment or court order enjoys all the rights of patients. Article 26 allows the director of the facility, in the event that the patient is stricken by an organic illness, to given permission for the patient to leave with a police escort for treatment in a specialized hospital.

54. In accordance with article 54 of the Constitution, the Government has submitted to the House of Representatives proposed amendments to the Code of Criminal Procedure, including the insertion of articles regulating compensation for provisional detention. They provide for eligibility, procedures and assessment, with an emphasis on the need for the compensation to cover the material and moral damages directly caused by the restriction of liberty.

55. With regard to guarantees of consistency of the Counter-Terrorism Act with the rights guaranteed by the Covenant, we refer you to paragraphs 17–19 of the present report.

Article 10

56. Successive Egyptian constitutions have provided for humane treatment of those deprived of their freedoms. The legislative framework contains numerous guarantees, which, taken together, constitute exemplary rules and principles for the treatment of prisoners.[18] The locations and movements of prisoners are duly recorded in registers. Article 5 of the Prisons Act (No. 396 of 1956) prohibits imprisonment save by a written order signed by the competent legal authority, and also prohibits holding a prisoner beyond the duration stipulated in the order. Article 6 requires the warden, or an official appointed for this purpose, prior to a person being placed in a prison to receive a copy of the incarceration order after signature of the original upon receipt. Article 7 provides that a copy of the incarceration order should be sent to the prisoner, along with all his papers, when being transferred from one prison to another. Article 8 of the Act provides that when a prisoner enters prison, a summary of his incarceration order shall be registered in the public register of detainees. The registration must take place in the presence of the person who delivered the prisoner, and that person shall then sign the register. Article 75, amended by Act 106 (2015), provides that each prison must maintain a number of registers overseen, maintained and filled out by the warden.[19] Amended article 85 of that same Act allows the Public Prosecutor and his agents in their various jurisdictions to enter all other places of imprisonment at any time.[20]

57. With regard to the provision of medical care to prisoners, article 33 of the same Act provides that every prison, central or not, must have one or more doctors, one of whom is resident. Article 33-bis requires Government and university medical facilities to treat prisoners referred to them from prisons. Article 36 of the Act states that any case of an inmate whom the prison doctor finds to be suffering from a life-threatening or debilitating illness is to be drawn to the attention of the director of the prison medical service so that the inmate in question can be examined, with the collaboration a forensic doctor, in order to consider release. Any release order is to be implemented after being endorsed by the Deputy Minister for Prisons and approved by the Public Prosecutor. The implementing regulations for the Act[21] provide further rules regulating the right of prisoners to health care. Article 24 provides that the prison doctor is responsible for health-care procedures to ensure the well-being of inmates, in particular by preventing infectious diseases; supervising healthy nourishment, correct attire and proper furnishing; and overseeing the cleanliness of work areas, living quarters and all other locations within prisons. Article 27 requires that the prison doctor examine each prisoner immediately upon arrival at the prison, as well as treat sick prisoners daily, treat any prisoner who complains of illness, order the transfer of prisoners to the prison hospital, and check prisoners in solitary confinement on a daily basis. Article 31 provides that if the doctor finds that the health of an inmate has been harmed by the time spent in

solitary confinement or by the labour or type of labour, he must give written notification to the warden to that effect and the warden must carry out the doctor's instructions. Article 34 provides that any prisoner sentenced to a penalty that includes labour may apply for exemption from work for health reasons.

58. With regard to the right of prisoners to receive visits and correspondence, article 38 of the Prisons Act provides that all prisoners have the right to send letters, make phone calls, and have their families visit twice a month. That same right is granted to persons in provisional detention. The prison administration must provide visitors with proper waiting and visiting rooms. Article 40 of the Act provides that the Public Prosecutor, the Solicitor-General, the Deputy Minister for Prisons, or the latter's deputy may allow the family of an inmate to visit their relative outside normal working hours, if necessary. The Act's implementing regulations detail the visitation rights of prisoners. Article 60 gives those sentenced to simple or pretrial detention the right to engage in correspondence at any time. Their relatives may visit them once a week on any day of the week, except Fridays and official holidays. Article 64 gives any person sentenced to restriction of liberty the right to send four letters per month from the start date of the sentence and to receive any incoming correspondence. The person's family is allowed to visit once every 15 days, starting one month after the start of the sentence. Article 64-bis allows convicted and provisionally detained persons a telephone call of no longer than three minutes twice a month starting from the date they are eligible for visitation. All this is in line with paragraph 3 of the Committee's general comment No. 9. Article 38-bis of the Prisons Act also allows the Deputy Minister for Prisons to give permission to representatives of embassies and consuls to visit prisoners of the nationality of the States they represent or whose interests are represented by those embassies, and to provide them with the necessary facilities on condition of reciprocity.

59. Article 13 of the Prisons Act requires inmates to be divided into at least three categories depending on the type of treatment and living conditions they require. Article 82 bis of the internal prison regulations provides for the formation of a committee inside each prison to be chaired by the warden or his representative and made up of officials responsible for investigations, discipline and living quarters, in addition to a doctor and a social worker. It is the responsibility of the committee to classify prisoners on the basis of offence committed, length of sentence and criminal record, as well as age, health and social and cultural status. That is in line with subparagraph 2 (b) of general comment No. 9.

60. With regard to the incarceration of juveniles, article 112 of the Child Act (No. 12 of 1996)[22] prohibits the detention or imprisonment of children in the same location as adults and stipulates that, during their detention, children must be separated into categories according to age, sex and the type of offence committed. The same article states that any public official or person assigned to perform a public service who detains or imprisons a child in the same location as one or more adults shall be liable to a term of imprisonment of between 3 months and 2 years and/or payment of a fine of between 1,000 and 5,000 Egyptian pounds. The implementing regulations for juvenile penal institutions require a social worker to accompany incoming children over the course of the day as they move around social care facilities designated for holding children so as to follow up on their situation and notify the relevant authorities of any violations. A surveillance camera system must be installed to prevent such violations and arrest perpetrators should any occur.

61. With regard to disciplinary measures against prisoners, they do not include corporal punishment. Article 43 of the Prisons Act list them as follows: (a) A warning; (b) Deprivation of all or some of the privileges assigned to the rank or category of the prisoner concerned, for a period of not more than 30 days; (c) Postponement of the promotion of the prisoner from his current rank to a higher rank, for a period of not more than 6 months if the sentence is one of ordinary imprisonment and for a period of not more than 1 year if the sentence is life imprisonment or rigorous imprisonment; (d) Demotion of the prisoner from his current rank to a lower rank for a period of not more than 6 months if the sentence is one of ordinary imprisonment and for a period of not more than 1 year if the sentence is life imprisonment or aggravated imprisonment; (e) Solitary confinement for a period of not more than 30 days; (f) Placement of the prisoner in a maximum security cell for a period of no more than six months, on condition that he is not under 18 years of age and not over 60 years of age.

62. Article 44 of the same Act identifies who is competent to hand down penalties. According to the article, the prison warden can impose the following penalties: (a) A warning; (b) Deprivation of all or some of the privileges assigned to the rank or category of the prisoner concerned; (c) Postponement of the promotion of the prisoner from his current rank to a higher rank, for a period of not more than 3 months if the sentence is one of ordinary imprisonment and for a period of not more than 1 month if the sentence is life imprisonment or rigorous imprisonment; (d) Solitary confinement for a period of not more than 15 days. The penalties are to be imposed after informing the prisoner of the actions imputed to him, listening to what he has to say and investigating his defence. The prison warden's decision to impose the penalty is final. All other penalties can be imposed only by the Deputy Minister for Prisons acting on a request from the prison superintendent. The superintendent must first draw up a record including the prisoner's own statements, steps taken to investigate the prisoner's defence and the testimony of witnesses.

63. The same Act also sets forth guidelines that must be followed when penalties are imposed. Article 45 requires a special register to be kept of punishments imposed upon inmates. Article 46 provides that the prison warden must immediately inform the Deputy Minister for Prisons, the Director of Security and the State Prosecution Office about any prison riots, disturbances or hunger strikes and measures taken by the prison administration. Article 47 of the Act provides that no disciplinary penalty applied in accordance with the provisions of the Act shall prevent the prisoner being released on the date specified in the sentence. Article 48 provides that the disciplinary regime applied to persons being held in preventive detention shall be the same as that applied to inmates convicted to terms of ordinary imprisonment, except that they shall not be transferred to a high-security facility.

64. Placement in solitary confinement as a disciplinary penalty is only applied in specific cases and for set periods. The law surrounds the use of solitary confinement with a number of safeguards as it is considered to be the most severe disciplinary penalty that can be used against an inmate. For that reason, it can be only applied by decision of the warden if the inmate commits a serious infraction of the obligations provided for in the Prisons Act and its implementing regulations, and after having informed the prisoner of the actions imputed to him, listening to what he has to say and investigating his defence. The duration of the detention under the prison administration's decision may not exceed 15 days, nor may the total period of solitary confinement exceed 30 days. Imposition of solitary confinement must be recorded in a special register, as per article 45 of the Prisons Act. During prison inspections, the register is to be placed at the disposal of judges and members of the Public Prosecutor's Office. Article 39 of the same Act provides that under no circumstances may solitary confinement prevent a prisoner from meeting with his lawyer. Moreover, according to article 31 of internal prison regulations, implementation of the penalty must be suspended if the doctor believes that remaining in solitary confinement is damaging the prisoner's health. In such a case, the doctor must inform the warden in writing of his recommendations for rectifying the damage, and the director or warden must implement the doctor's recommendations. In addition, a prisoner being held in solitary confinement has the right to file a complaint about any violation of his rights, lodge a grievance against the solitary confinement itself, and the decision before the administrative judiciary, in line with normal procedures.

65. It should be noted that the Prisons Act and its implementing regulations distinguish between solitary confinement as a disciplinary penalty, as outlined above, and the placement of a prisoner in a private cell. The latter reflects an approach to prisoner accommodation that takes account of the special needs of a particular individual – for example state of health or advanced age – so as to ensure that the person in question enjoys appropriate health care and living facilities. Thus, placement in a private cell is not a disciplinary penalty and does not detract from the rights of the inmate concerned, who continues to enjoy the same rights and receive the same services as his peers.

66. With regard to the guidelines for the treatment of provisionally detained suspects and keeping them separate from convicted persons, in compliance with article 96 of the Constitution on protections for suspects and in line with paragraph 1 (a) of article 9 of the Committee's general comment No. 9, article 14 of the Prisons Law provides that provisionally detained persons shall reside in locations separate from other prisoners. It is

possible to permit a provisionally detained person to live in a furnished room. The Act does not stop there. It makes treats accused persons differently from convicted persons and gives them numerous privileges.[23]

67. As part of prisoner rehabilitation efforts, the Ministry of the Interior is taking a package of measures. Rooms have been set aside for students at various stages of education to create a suitable study environment. Textbooks and writing implements are provided to students enrolled in all levels of education and illiteracy eradication programmes. Coordination is conducted with the Ministry of Education and Technical Education, colleges and academies to convene special examination committees inside prisons. Coordination is also conducted with the Islamic Research Complex and the Waqf directorates to hold monthly seminars inside prisons, as well as with various regional dioceses and patriarchates to recommend priests to give religious lessons to Christian inmates and lead prayers for their various denominations. Since the 2018/19 school year, two industrial secondary schools have been operating in Minya and Jamasah prisons. The total number of inmates enrolled at various levels of education is 7,289. In addition, pensions and assistance were paid to 66,391 families and children of prisoners for a total of 29,837,103 Egyptian pounds between 2015 and March 2019. During that same period, 47,337 scholarships were provided to the children of prisoners at a cost of 19,606,560 pounds. There were also several other initiatives aimed at improving the conditions of the prison population, including expanding prisoner rehabilitation programmes with a view to training and employing them in different crafts and providing them with wages to help them meet the costs of living through various productive enterprises projects. Prison libraries have grown to 95,947 volumes.

68. Penal institutions and social welfare homes offer programmes and services for the rehabilitation of child inmates. That includes health services. Such facilities are required to have health clinics. Children must have periodic medical exams and be provided with suitable treatment. Isolation wards are set aside for cases of infectious disease. Educational services are also provided. They are enabled to take examinations, whether conducted by committees or held in coordination with the Ministry of Education within those facilities or in schools affiliated with the educational district in which they are located. The State is responsible for paying school fees and the cost of school supplies. Inmates in penal institutions and social welfare homes who have reached the legally prescribed age may enrol in vocational training to make it easier for them to get jobs after serving their sentences. Social, religious, athletic, cultural and recreational services are also provided with the aim of modifying behaviours to conform to the values and traditions of society. That includes holding children's competitions and parties, visiting archaeological and recreational sites, supplying daily newspapers, weekly magazines, books and brochures, and enabling inmates to pursue their hobbies.

69. Article 56 of the Constitution provides that prisons, other places of detention, and treatment and correctional institutions are subject to the supervision of the judiciary. The same is provided for by article 42 of the Code of Criminal Procedure, article 85 of the Prisons Act and article 27 of the Judicial Authority Act. Under those provisions, judges and members of the Office of the Public Prosecutor – as an independent judicial body – oversee and inspect prisons, other places of detention, and treatment and correctional institutions to check that the law is being applied and take the necessary action in case of any violations. They also receive prisoners' complaints and examine prison documents and registers. Articles 1747 to 1750 of the judicial guidelines regulating the work of the Office of the Public Prosecutor require the solicitors-general of the main public prosecution offices, or their deputies, to inspect the ordinary prisons located within their respective areas of jurisdiction. Moreover, the heads or directors of regional public prosecution offices must conduct unannounced inspections of the regional prisons under their jurisdiction at least once every month. They must inspect registers and examine arrest and incarceration orders to make sure that they comply with standard forms, and receive prisoner complaints. Since 2017, judges and State prosecutors have conducted a total of 124 prison visits.

70. In 2003, the National Council for Human Rights[24] was established as an independent national instrument to reinforce and protect human rights guaranteed by the Constitution in the light of international and regional human rights agreements ratified by Egypt. In accordance with article 3 of the Act creating it, the Council has a mandate to receive and look into complaints, to refer them to the relevant authorities for resolution, and to promote a

culture of human rights education. In compliance with article 214 of the Constitution, in line with the Paris Principles for national human rights institutions, and in response to proposals and recommendations of the National Council for Human Rights, the Act establishing that Council was amended by Act No. 197 (2017) to confirm its independence with regard to its composition[25], functions and competences, and its budget and accounts. It also has the right to visit prisons and other places of incarceration to make sure that inmates are treated properly and are able to exercise their rights. The Council prepares reports on all such visits that include observations and recommendations. The Human Rights Committee of the House of Representatives also routinely visits prisons. From 2017 through the date of the present report, it and other national human rights institutions had conducted a total of 12 visits.

71. To ensure that prisoners have access to grievance procedures, the Act guarantees the right of any individual to submit a complaint and have it investigated immediately and fairly. The complainant and witnesses are guaranteed protection against abuse and intimidation. Article 25 of the Code of Criminal Procedure and amendments thereto allow anyone with knowledge of the commission of a crime to inform the Office of the Public Prosecutor or a judicial officer. Article 43 provides for the right of anyone who is aware of a prisoner being held illegally or in a non-designated location to submit a complaint to a member of the Office of the Public Prosecutor. Article 26 makes it obligatory for public officials or anyone charged with public service to report any crimes they become aware of in the course of performing their job or because of it. During the reporting period, there have been numerous legislative amendments to ensure human rights with respect to various aspects of the treatment of persons deprived of liberty and guarantee that they receive humane treatment.[26]

72. The preceding must be viewed side by side with the Code of Criminal Procedure, which obliges investigators to initiate investigations into any offence that is considered a felony under the provisions of the Act. Investigating crimes that constitute only misdemeanours or violations is not required by any provision of the Act. However, judicial instructions regulating the work of the Office of the Public Prosecutor [27] do require investigation of misdemeanours and violations (as well as felonies) committed by police officers – whether in the course of their duties or not – and incidents occurring in prisons. The exception is where a complaint is made against a prison official, in which case prosecutors are instructed to travel to the prison themselves to investigate without delay.

73. Public Prosecutor decision No. 2034 (2017) established a Department of Human Rights within the Office of the Public Prosecutor. It is charged with receiving, considering and opening investigations into human rights violations. It refers any other complaints to the competent prosecutor's office for appropriate legal action after presentation to the Public Prosecutor. It follows up human rights cases being pursued by public prosecutors. Since its creation, as of September 2019, the Department has received 2,249 reports. That includes 662 via Government agencies, 765 from citizens via social media, 174 from the National Council for Human Rights, 515 from the National Council for Childhood and Motherhood, 61 conveyed directly to the Department, and 72 communications from the competent prosecutors. Of those reports, 1,986 have been considered and investigated, and 263 are still under consideration.

74. The Ministry of the Interior has also created a human rights division. It is responsible for monitoring the compliance of officers and personnel with the provisions of the law, the Constitution and international human rights treaties in the performance of their duties. It receives citizens' complaints about alleged human rights violations. The division has installed human rights offices in all police stations. They are charged with monitoring each station's operations and how its officers and personnel interact with citizens, receive complaints and take the necessary measures in a timely manner.

75. As part of the push to disseminate a culture of human rights by training and educating law enforcement personnel, human rights has become one of the main subjects that must be studied and passed at the Police Academy. A "human rights and community communication" diploma is now being offered by the Academy's graduate school. A unit on "human rights in depth" has become one of the mandatory subjects for all diplomas. The Academy has awarded 41 doctoral degrees in the field of human rights. Some 14 doctoral dissertations are registered and in preparation. Some 104 research projects in this area have been prepared by student officers. The Ministry of The Interior also publishes manuals on human rights and

circulates them to officers and personnel. It held 139 specialized training courses for officers in various areas of human rights between 2015 to 2018, as well as 2,796 training courses for personnel and civilian employees of the Ministry to develop skills in the humanities and social sciences, including specialized lectures in the field of human rights. Altogether, there have been 462 lectures on various human rights topics. In the 2016–2019 period, 100 training courses were held for officers and personnel working in the prison sector and social welfare homes on dealing with prisoners, children in custody and women. In March 2017, a protocol of cooperation was signed between the human rights division of the Ministry of the Interior and the National Council for Human Rights under which 10 courses were held on human rights in security work, attended by 300 officers from various police stations and departments to raise awareness of what is required by the Constitution, the law and international human rights conventions. In that same vein, the Criminal Research and Training Institute of the Office of the Public Prosecutor was established in 2015. It holds basic and specialized courses on rules and safeguards for investigating various types of crimes. From 2017 to the present, some 1,180 attendees have benefitted.

76. With a view to reducing prison overcrowding, the Government has developed a plan to construct, develop and enlarge prisons. The move is designed to protect the dignity and health of inmates in response to recommendations from the State Prosecution Service, the human rights committee of the House of Representatives and the National Council for Human Rights. Detention cells have been improved for the health of detainees. At the same time the Government is trying to reduce the number of inmates through various periodic release measures.[28]

77. It should be clear from the above that the Egyptian legal system includes principles, regulations and instructions regulating the treatment of persons deprived of liberty. Taken together, they form a set of standard minimum rules for treating inmates and basic principles for protecting all persons who are subject to any form of detention or imprisonment. They are designed to prevent torture and mistreatment and ensure that prisons and other places of detention, treatment facilities and correctional institutions are subject to monitoring and inspection.

Article 11

78. The legislative structure of Egypt does not include provisions for imprisonment for inability to meet a contractual obligation alone. There is no penalty for not being able to fulfil a contractual obligation, unless it also involves deceit, fraud, or some other type of offence, such as breach of trust, in line with the provisions of the article. The Supreme Constitutional Court has ruled on more than one occasion that domestic legislative provisions must be consistent with article 11 of the Covenant.[29] It should be noted that in 2019, Egypt joined the Arab Charter on Human Rights, whose article 18 echoes the same principle as the article.

Article 12

79. In keeping with the belief that rights having to do with freedom of movement and residence are public rights that must be guaranteed to every citizen and that any restriction of those rights without legitimate justification constitutes an attack on the personal freedom of citizens, successive Egyptian constitutions have guaranteed this freedom. Article 62 of the 2014 Constitution provides that freedom of movement, residence and migration is guaranteed. No citizen may be expelled from State territory, prohibited from returning, prohibited from leaving a particular region of the State, forced to reside in a particular place or prohibited from residing in a particular place except by reasoned judicial order for a limited time under circumstances specified by law. Article 63 of the Constitution prohibits all forms and types of arbitrary forced displacement of citizens and makes such displacement a crime that is not subject to the statute of limitations. Article 91 allows for the granting of political asylum to any foreigner persecuted for defending the interests of peoples, human rights, peace or justice, while prohibiting the extradition of political refugees.

80. In accordance with the constitutional prohibition provided for in article 62, Act No. 97 (2015) amended the Graft Act and Act No. 175 (2018) on combating information technology crimes to allow the competent investigative authorities – if there is sufficient evidence for serious charges involving crimes provided for under those two acts – to order the suspect to be prohibited from travelling abroad, or to place his name on a watch list, while guaranteeing the right to appeal against such an order before the competent court.

81. The House of Representatives is currently discussing amendments to the Code of Criminal Procedure proposed by the Government. They include consolidating regulation of travel ban rulings handed down in cases where there is sufficient evidence for serious charges involving commission or attempt to commit an offence. That would be through a reasoned fixed-term court order, with a guarantee of the right to appeal that order before the competent courts. In all cases, a travel ban will expire two years from the date of issuance of the judicial order, upon issuance of a decision that there are no grounds for prosecuting a criminal case, or upon issuance of a final verdict of innocence, whichever comes earliest.

82. In line with obligations arising out of the 1951 Convention relating to the Status of Refugees, Egypt cooperates with the local bureau of the Office of the United Nations High Commissioner for Human Rights (UNHCR) which, under an agreement signed between the two parties in 1954, registers refugees and asylum seekers. Egypt guarantees refugees and asylum seekers freedom of residence and movement. In 2018, 12 centres were set up to provide services to refugees and migrants in the governorates. Refugee students number 71,851, not counting Syrians who are enrolled in State-run schools where they are treated on a par with Egyptians. Thanks to cooperation with UNHCR, specialized social workers are available for unaccompanied minors, who also enjoy access to all basic services. Currently, there are 250,000 refugees and asylum seekers of 55 different nationalities registered with UNHCR. In addition, there are some 5 million persons, most of them fleeing from armed conflicts in neighbouring States, who have not sought asylum status to facilitate their integration into society. They are not segregated into camps, and they enjoy the same basic services as Egyptians free of charge.

83. In general, Egypt believes that it is important to respect the principle of sharing the burden of hosting refugees and that short-term solutions based on the provision of assistance are insufficient. It is vital to find long-term solutions that tackle the underlying causes of migration, with a comprehensive vision that embraces not just security but also development. As part of its commitments under the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, and within the Migration Policy Framework for Africa, Egypt takes part in regional mechanisms such as the Khartoum Process (African Union-Horn of Africa initiative on human trafficking and smuggling of migrants). It also participates in consultative mechanisms on migration, both within the League of Arab States and at the international level, such as at the Valetta Summit on Migration. Furthermore, Egypt had a hand in drawing up the global compact on refugees and the Global Compact for Safe, Orderly and Regular Migration, adopted in 2018.

84. As we noted in the introduction to the present report, during the reporting period, Egypt acceded to the United Nations Convention against Transnational Organized Crime and the Protocol against the Smuggling of Migrants by Land, Sea and Air, as well as the Arab Convention against Transnational Organized Crime. In accordance with international obligations under those conventions, Act 82 (2016) on combating the smuggling of migrants was enacted with the aim of confronting organizations involved in the crime of smuggling migrants. It criminalizes the formation of or participation in any such organizations, and all forms of migrant smuggling. It also imposes progressive restriction-of-liberty penalties when called for. It protects trafficked migrants by granting them the right of voluntary return and contact with their diplomatic representative. The National Council for Childhood and Motherhood serves as the legal representative of unaccompanied children whose families or legal representatives cannot be located. The Government is committed to taking suitable measures to protect the rights of migrants during investigations and interrogations. They are informed of their right to legal aid, with special attention to women and children, and Egyptians and foreigners are guaranteed equal rights. The Council has set up a fund to combat illegal migration and protect migrants and witnesses, taking into account the social dimension of confronting that phenomenon.

85. In 2017, in accordance with the provisions of the Act, a National Coordinating Committee for Preventing and Combating Illegal Migration and Human Trafficking was formed. It coordinates policies, plans and programmes, offers care and services to smuggled migrants, and protects witnesses within the framework of international obligations arising from bilateral or multilateral international agreements in force in Egypt. As soon as it began operating, the Committee launched its National Strategy on Combating Illegal Migration for 2016–2026. The aim is to promote cooperation between the Government and non-governmental, regional and international stakeholders with a view to curbing irregular migration, improving informational capacities, raising public awareness, mobilizing resources and strengthening the legal framework to help combat the phenomenon. The strategy focuses on development as a key factor and seeks to support legal forms of migration. The Committee has conducted social and field studies to identify the governorates that generate the most illegal migration of young people and unaccompanied children so that it can target them when implementing the Strategy and conduct community awareness activities in conjunction with civil society. The first action plan for the implementation of the strategy has been completed and the second will continue to be applied through 2020. As a result of these efforts, no vessel carrying irregular migrants has left Egyptian shores since September 2016.

Article 13

86. Act 89 (1960) concerning the entry, residence and exit of foreigners in the territory of the Arab Republic of Egypt regulates conditions and procedures for the residence of foreigners. Foreigners with personal residency permits may only be deported if they are found to constitute a threat to the security or integrity of the State at home or abroad, its national economy, public health, public morals or public tranquillity. Deportation decisions must go through a number of procedures. Each case is examined separately to determine the objective legal reasons for the deportation. Then the person concerned is summoned, questioned and presented with the necessary clarifications in the presence of a lawyer, an embassy representative and an interpreter. Finally, a deportation decision is issued by the Minister of the Interior after approval by a committee of representatives of the relevant Government agencies. In all cases, that decision can be appealed to the Council of State. It is also possible to request an urgent suspension of implementation of the decision.

Article 14

87. Egypt’s successive Constitutions, through the 2014 Constitution, provide basic guarantees for a fair trial, taking agreed-upon international standards as their guide. According to article 94 of the Constitution, the rule of law is the basis of governance in the State. The State is subject to the law, and the independence, inviolability and impartiality of the judiciary are essential guarantees protecting rights and freedoms. Article 184 provides that the judiciary is independent. Judicial authority is vested in courts of various types and degrees, which issue their judgments in accordance with the law. The powers of the judiciary are defined by law and interference in the administration of justice is an offence not subject to the statute of limitations. Article 185 provides that each judicial body or entity shall manage its own affairs. Each shall have an independent budget, and its opinion is taken into account in draft laws regulating its business. Article 186 states that judges are independent and may not be dismissed. They are subject to no authority other than that of the law and are equal in rights and duties. The conditions and procedures for their appointment, secondment and retirement are governed by law, which also regulates their disciplinary accountability. Article 189 provides that the Office of the Public Prosecutor is an integral part of the judiciary. It is charged with investigating, pressing charges and prosecuting all criminal cases. Its staff conduct investigation and referral procedures with integrity, independence and neutrality. Article 302 of the Code of Criminal Procedure provides that judges shall rule on cases according to their convictions with full freedom.

88. The constitutional and legal framework has numerous guarantees to ensure a fair trial. Article 54 of the Constitution provides that persons whose freedoms have been restricted

must be immediately informed of the reasons, notified of their rights in writing and allowed to immediately contact their family and meet with their lawyer during the evidence-gathering stage as well as during the investigation and trial stages. That same article provides for the right to the assistance of an attorney during the trial. If the accused has no lawyer, the court is obligated to appoint one. Article 55 provides that the trial must disregard any statement, declaration or confession given by the accused under torture, and that legal penalties are not retroactive.[30] Article 96 provides for the principle that accused persons are presumed innocent until proven guilty at a legal trial at which they are guaranteed the right to defend themselves. Article 97 provides that the right to litigation is guaranteed to all. The State must try to bring litigants together and to work to resolve cases promptly. No action or administrative decision shall be immune from judicial scrutiny. Persons may only be tried before their natural judge. Extraordinary courts are forbidden. Article 98 provides for the right to defence,[31] which means the right of the accused and the lawyer to take any investigative measures to prove innocence. That includes presenting witnesses, experts, evidence and oral and written arguments.[32]

89. Article 187 of the Constitution affirms the principle of public court hearings. It provides that court hearings shall be public unless the court decides to keep them secret for reasons of public order or morals. In all cases, the ruling shall be handed down in a public session. The same is provided for in the Judiciary Act (No. 46 of 1972), article 18, and the Code of Criminal Procedure, article 268. Article 19 of the Judiciary Act guarantees the right to be assisted by an interpreter. The Code of Criminal Procedure requires arguments to be made orally before the courts. The courts must conduct the final investigation of the case, initiate their own proceedings and hear the prosecution and defence arguments. It is not permitted to rely on any evidence not presented at a hearing.

90. The Act affirms the adversarial principle. Accused persons must be present at trial proceedings and be confronted with all the evidence so that they can refute it or confess to the charge should they so wish. The Code of Criminal Procedure regulates appeals of criminal verdicts. It allows for appeals of misdemeanour verdicts through the appeals and cassation process. It also allows for avenues of appeal of sentences issued in absentia in felonies, both before the Court of First Instance and before the Court of Appeals. With regard to felonies, they are heard at a single level. A judgment in absentia is vacated upon the appearance of the accused. An appeal against the judgment in person may be made via cassation. Article 96 of the Constitution introduces the requirement that felony cases be heard at two levels.

91. With regard to the framework governing the Bar Association, article 198 of the Constitution provides that the legal profession is an independent profession. It takes part with the judiciary in the administration of justice, upholding the rule of law, and ensuring the right to defence. It is to be practised independently by lawyers, including lawyers for public sector entities and corporations and the public business sector. In the course of exercising the right to defence before the courts, all lawyers shall enjoy the guarantees and protections granted to them by law, which are also applicable with respect to the investigation and evidence agencies. Except in cases of flagrante delicto, arresting or detaining lawyers while they are carrying out the right of defence is prohibited. All this must be done in the manner prescribed by law.

92. Article 120 of the Legal Profession Act[33] provides that the Bar Association is an independent professional institution made up of the lawyers registered in its rolls. It enjoys a legal personality. Article 121 sets forth the objectives of the Association in regulating the practice of the legal profession and ensuring its good functioning, guaranteeing the right of citizens to a defence and providing legal assistance to those unable to obtain it, looking after the interests of its members, promoting the spirit of cooperation among them and ensuring their independence in carrying out their mission.

93. With regard to trials of civilians before military courts, article 204 of the Constitution states that the military judiciary is an independent judicial body. Civilians may be tried before military courts only for certain offences, including but not limited to assault on military personnel, military installations or similar facilities. That is in line with articles 9 and 14 of the International Covenant on Civil and Political Rights and the Human Rights Committee’s general comments No. 13 of 1984 and No. 32 of 2007, both of which admit the trial of civilians before military court in exceptional circumstances. Judges in military courts have

the same independence and immunities as the ordinary judiciary and accused persons enjoy the same safeguards as they would before the ordinary courts: the right to a defence, to access to the case file, to a public trial and to appeal of their sentence before a higher court. In addition, the Criminal Code, the Code of Criminal Procedure, and the act concerning the circumstances and procedures for lodging appeals with the Court of Cassation are all applicable to trials within the military justice system.[34]

94. Article 43 of the amended Military Judiciary Act (No. 12 of 2014) provides that the military courts are as follows: The Supreme Military Court of Appeals, the Military Court for Felonies, the Military Court of Appeals for Misdemeanours, and the Military Court for Misdemeanours. All military court rulings can be appealed before the Supreme Military Court of Appeals. Military misdemeanour cases are heard at two levels. Military court rulings on misdemeanours can be appealed to the Military Court of Appeals. That Act also provides for the right to appeal rulings issued by the Military Court for Felonies before the Supreme Military Court of Appeals, which hears appeals filed by both the military prosecutor and convicted persons. Appeals may also be filed by petitioning for retrial for all rulings from military courts.

Article 15

95. Articles 95 and 96 of the 2014 Constitution affirm that no individual may be convicted of any crime because of an act the commission or omission that was not at the time a crime under the law. The articles apply the principle of non-retroactiveness of punitive laws and provide that the accused is innocent until proven guilty in a fair trial at which he was ensured the opportunity to defend himself. Penal legislation affirms the principle that the law that is in the best interest of the accused must apply if it was enacted after the act but before the final ruling in the criminal proceedings. It prohibits punishing the accused with a penalty more severe than that required by law or a penalty that has not been handed down in a ruling.[35] An accused person enjoys the same fair trial guarantees before a military court as were described above for an ordinary court. The fundamental principles contained in this article are closely connected to the principle of criminal legitimacy, which is always in force and is not suspended by the declaration of a state of emergency or any other circumstances.

Article 16

96. With regard to the definition of a legal personality and when it can be acquired, we refer you to Egypt’s previous report to the Committee.

97. Egyptian legislation includes provisions to establish and ensure the recognition and registration of babies born in Egypt or abroad. They are guaranteed access to personal identity documents. Articles 6 and 80 of the Constitution state that Egyptian citizenship is the right of a person born to an Egyptian father or mother, and that legal recognition and the granting of official papers attesting to personal data are guaranteed and regulated by law. The Personal Status Code (No. 143 of 1994) establishes integrated regulations for all procedures relating to proof of birth and obtaining an identity card. It charges the Civil Status Authority with establishing a national database that includes a special register that gives all citizens a national number starting at birth for their entire lives. The number is not reused even after the person’s death. The Code provides that all State agencies must deal with citizens via that number.

98. The Code specifies who is responsible for reporting births: they include the child’s father, the child’s mother (provided that the marital relationship is documented), and directors of hospitals, penal institutions, quarantine institutions and other places where the births occur. It permits notifications to be accepted from relatives and adult in-laws up to the second degree who attended the birth. It requires doctors and licensed childbirth professionals to provide birth certificates confirming the occurrence, date, mother’s name and sex. The Act requires that a birth be reported within 15 days of its occurrence. In the case of a newborn child of unknown parentage, the Act provides that it must immediately be handed over to an institution that takes in newborns, to the police in the jurisdiction in which it was found, or

to the village sheikh or headman. If either of the child's parents wish to acknowledge paternity or motherhood, they must present themselves to the police in the jurisdiction where the child was found.

99. The Code also charges health offices with receiving reports of births and deaths occurring in Egypt for both citizens and resident foreigners. Those offices must record such reports and send them to the civil registry departments charges with entering birth records in special registers, so that birth and death certificates, identity cards and copies of all civil status records can be issued. The Code grants any person the right to have an official copy made of records having to do with events relating to their ascendants, descendants or spouses. It allows the courts to request an official copy of such records. It provides that records kept by the Authority have probative value unless they are proven to be false, invalid or fraudulent by a legal ruling. In civil status matters, Government and non-governmental entities must rely on the data in those records.

100. The Code requires that within six months of reaching the age of 16, every citizen must apply for a personal identity card from the civil registration office located within their jurisdiction. An identity card is to be accepted as proof of the data contained on it. Government and non-governmental entities must rely on it in establishing the identity of its carrier. In order to guarantee this right to Egyptians living abroad, the Code requires that births to persons residing or travelling abroad must be reported within three months of the event or arrival. The notification must be made by an authorized person and must be reported to the Egyptian Consulate in the State where the event or arrival took place or to a civil status registration office abroad. The Code recognizes the validity of any registration of civil status events occurring in a foreign State to an Egyptian citizen if it is done in accordance with the provisions of the laws of that State, provided that does not conflict with national laws. It provides that requests from citizens located abroad for issuance of an identity card, replacement of a lost or damaged one, or any change or renewal must be made to an Egyptian consulate or a civil registry office for citizens abroad in the absence of a consulate.

Article 17

101. In keeping with the belief that citizens' private lives are inviolable and that the right to privacy is complementary to personal freedom, the 2014 Constitution takes a more progressive approach than previous Constitutions to elevating safeguards for the privacy of citizens already provided for in the Code of Criminal Procedure – which were covered in our last report – to the level of constitutional guarantees. Article 54 of the Constitution provides that personal freedom is a natural right that is protected and may not be violated. Apart from situations of flagrante delicto, it is not permissible to arrest, search, detain, or restrict the freedom of any person except pursuant to a reasoned judicial order necessitated by an investigation. Article 57 provides that private life is inviolable; it is protected and may not be infringed upon. Postal, telegram, electronic, telephone and other kinds of communication are inviolable. Their confidentiality is guaranteed. They may only be seized, inspected or monitored by reasoned court order, and only for a limited time under conditions specified by law. Article 58 states that homes are inviolable, and, except in cases of danger or distress, may only be entered, searched, monitored or surveilled based on a reasoned judicial order that specifies the location, time and purpose, all under the conditions and in the manner specified by law. Persons inside houses must be warned when they are entered or searched and shown the order issued in that regard.

102. The Supreme Constitutional Court exercises oversight in the light of those articles to make sure that laws do not violate the personal freedom and privacy of citizens.[36] The Court of Cassation, followed by the criminal courts, has established that searches should be carried out in a manner that does not infringe on human dignity[37] and is not tainted by abuse of power and or arbitrary acts.[38] In order to preserve female honour when carrying out searches, article 46 of the Code of Criminal Procedure requires that women be searched by a female assigned by the judicial officer.[39]

103. In our digital age, protection of personal data is a basic human right that is bound up with the inviolability of personal life as provided for in article 57 of the Constitution. The

Government is preparing a draft act to protect personal data; it is currently under discussion in the House of Representatives.[40]

104. With regard to recourse to justice available to persons who wish to file a complaint about violation of their rights under that article, we refer you to what was covered previously in paragraphs 64 and 69–74 of the present report.

Article 18

105. Successive Constitutions have affirmed the principle of freedom of belief, religious practice and establishment of houses of worship, starting with the 1923 Constitution. Articles 3, 53 and 64 of the 2014 Constitution state that the principles of the religious laws of Christian and Jewish Egyptians are the main source of legislation regulating their personal status, religious affairs and choice of spiritual leaders. Citizens are equal before the law. They are equal in rights, freedoms and public duties. There is no discrimination among them on the basis of religion or belief. Freedom of belief is absolute. Freedom to practise religious rites and establish places of worship for the peoples of the divinely revealed religions is a right regulated by law. Article 235 requires the House of Representatives, in its first term following the entry of the Constitution into force, to enact a law regulating the construction and renovation of churches in order to ensure that Christians are free to practise their religious rites.

106. In accordance with article 235 of the Constitution, Act No. 80 (2016) concerning the regulation, construction and renovation of churches was enacted. It affirms the right of Christian Egyptian citizens to build and renovate churches so as to ensure freedom of practice of religious rites by putting in place – for the first time – legislative regulations that specify precisely the rules and procedures to be followed to obtain a permit for any church-related construction work. It also includes procedures to end what were previously deemed administrative violations and legalize the status of buildings where religious rites were already being held. It considers any church building in which religious rites were being practised as of the date of its entry into force to be a licensed church, provided that the applicant for legalization can establish ownership and certify structural integrity. As of the date of the preparation of the present report, some 1,171 churches and service buildings have been legalized in accordance with the provisions of this Act.

107. In implementation of the Constitution's guarantee of freedom to practise religious rites as an external manifestation of freedom of belief, the Supreme Constitutional Court ruled unconstitutional a provision in article 71 of Act No. 47 (1978) concerning the regulation of civilian employees of the State[41] that restricted the scope of application of that principle to performance the Hajj obligation[42] to the exclusion of visits to Jerusalem for Christian employees. That was echoed in the provision for the right of Christians to take leave for that purpose contained in article 52 of the Civil Service Act and article 143 of its implementing regulations.

108. Beginning in the academic year 2018/19, a pro-human rights and anti-corruption module has been taught in all higher faculties and institutes. It is a compulsory module that candidates must take in order to graduate. Beyond that, the introduction of human rights concepts and principles into basic education proceeding apace. Other modules have been introduced on women's rights, children's rights, democracy, citizenship, freedom of opinion and acceptance of the other. The criteria and indicators for some subjects and activities have been adjusted to include behavioural practices and guidance for expressing one's opinions without offending others. The personalities of students are developed to imbue them with the principles of tolerance and acceptance of the other. Moderate religious thought and moral values are promoted. In cooperation with international and non-governmental organizations, activities have been set up and programmes implemented to establish and promote the practice of these concepts on the ground in the educational system.[43]

109. A number of other steps have also been taken to disseminate the principles of tolerance and understanding and promote interfaith dialogue. The Supreme Council for Islamic Affairs of the Ministry of Religious Endowments has established a Forum for Tolerance and Moderation to spread a culture of dialogue and repudiation of violence, fanaticism, terrorism

and religious hatred. Al-Azhar University has introduced modules into its curriculum at various stages of study that try to provide Sharia grounding for the values of the true original Islamic religion in order bring about a better life for individuals in an environment of religious, denominational and cultural pluralism. Al-Azhar and the Orthodox Church continue to work together under the Egyptian Family House initiative to promote the values and principles of citizenship for all, combat incitement, discrimination and violence on the basis of religion, and spread a culture of tolerance among citizens. In 2015, Al-Azhar established the Global Observatory to monitor ideas and opinions being spread by takfirist and violent groups on social media, and to correct misconceptions in a modern way that can reach the minds of young people. The Ministry of Religious Endowments also publishes multilingual publications to promote human rights, citizenship rights and concepts of peaceful coexistence, and to combat radical and extremist ideas. Titles include *Protecting Churches in Islam* and *Concepts that Must Be Corrected*. Finally, a new initiative has been introduced to develop the teaching of religious education in schools. Part of the curriculum is devoted in doctrines that are taught separately to students according to their religion, while the lion's share is taught jointly. All students are taught the principles of tolerance, human values and the common denominators among the divinely revealed religious laws.

Article 19

110. In line with article 19, paragraph 3, of the Covenant, article 65 of the 2014 Constitution provides that freedom of thought and opinion is guaranteed. All persons have the right to express their opinion in speech, writing, images or any other means of expression or publication. That confirms the provisions of successive Egyptian Constitutions guaranteeing freedom of opinion and expression. It extends to the right of individuals to embrace any opinions in any area without those opinions being used as grounds to hold them accountable, restrict their freedom or discriminate against them, provided that they remain within legal bounds and do not cause harm to another or to society. Article 67 guarantees freedom of artistic and literary expression. No lawsuits may be brought to suspend or seize artistic, literary or intellectual works, or against their creators except through the Office of the Public Prosecutor. It also provides that no penalties restricting freedom may be imposed for crimes committed because of the public nature of the artistic, literary or intellectual product, provided they do not extend to incitement to violence, discrimination among citizens or an attack on personal reputation.

111. Out of its conviction that freedom of the press and media is a cornerstone of a sound democratic system, to protect and strengthen that freedom, and as a safeguard against limitations on that freedom that might prevent the press and media from carrying out their mission of serving society by expressing and helping to form public opinion with freedom and independence, article 70 of the Constitution guarantees freedom of the press and printing, including paper, visual, audio and digital publications. Egyptians – natural or legal persons, public or private – are granted the right to own and publish newspapers and disseminate visual, audio and digital media. It also provides that newspapers may be issued once notification is given in the manner regulated by law. Article 71 prohibits any censorship of newspapers and media except in time of war or general mobilization. No penalty of restriction of liberty may be imposed for crimes committed by means of publication or publicity. That is in contrast to crimes involving incitement to violence, discrimination among citizens or damage to personal reputation, for which the law does stipulate penalties.

112. Article 72 provides that the State shall ensure the independence of all press institutions and the media owned by them, in order to ensure their neutrality and allow them to express any political or ideological trends, opinions or social interests. It guarantees equality and equal opportunity in addressing the public. Article 211 establishes the Supreme Council for Media Regulation as an independent body responsible for regulating audio and visual media affairs. The Council regulates print, digital and other media. The Constitution provides for the preservation of its independence, neutrality, pluralism and diversity, the prohibition of monopolistic practices, the monitoring of the sources of funding of press and media institutions, and the establishment of controls and standards to ensure that the press and media adhere to the rules and ethics of the profession. In implementation of article 212, the National

Press and Media Authority was established as an independent body. It manages state-owned television, radio and digital media outlets. It develops their assets, safeguards their independence and neutrality, and ensures that they comply with proper professional, administrative and economic standards. In implementation of article 213, the National Press and Media Authority was established as an independent body. It manages state-owned television, radio and digital media outlets. It develops their assets, safeguards their independence and neutrality, and ensures that they comply with proper professional, administrative and economic standards.

113. Acts 178, 179 and 180 of 2018, taken together, contain the laws regulating the press and media and reinforcing their independence in accordance with the Constitution. Newspapers may be published with proper notice. Opinions published by journalists and media figures cannot be a reason for holding them accountable. Their right to obtain and publish information is guaranteed. They may not be forced to disclose their sources. It is prohibited to confiscate, suspend or close print and electronic newspapers or audio or visual media, or to impose restriction-of-liberty penalties for crimes that occur via publication or publicity, except in cases provided for in the Constitution. It is also prohibited to search the office or residence of a print or media journalist for an offence committed via a newspaper or the media unless a public prosecutor is present. Print or media journalists may not be subject to criminal penalties for criticizing the acts of a public official, a person acting in the capacity of public representative or a person charged with public service via publication or broadcast unless it is proven that such publication or broadcast was done in bad faith, had no basis in truth or did not involve acts performed in connection with a public post, capacity or service.

114. To guarantee access to and free circulation of information, article 68 of the 2014 Constitution – for the first time – provides that official information, data, statistics and documents are the property of the people. Disclosure of such information by the relevant sources is a right guaranteed by the State to all citizens. The State is obligated to make such information available to citizens with transparency. The law shall provide for rules for access, availability, confidentiality, storage and preservation of such data, and also for filing complaints about any failure to be forthcoming with it. In implementation of that article, the House of Representatives is currently considering an act to regulate the right of access to information. Its philosophy is that the default is for information to be accessible and to circulate. Blocking such circulation is the exception and should not be expanded or treated as the norm. Information should be restricted only to cases where privacy or national security is being violated.

115. In an effort to strike a balance between freedom of opinion and expression and constitutional protections for a life of dignity and the right to privacy, Act No. 175 (2018) concerning information technology crimes was enacted to combat illegal use of computers and information networks. It specifies punishable acts, sets forth rules, provisions and measures to be followed by service providers to ensure that users are provided with communication services, and defines their obligations. It also contains an integrated framework of rules and procedures for blocking sites when there is evidence that they have posted any statements, figures, images, films, propaganda material or the like that would constitute a crime under the Act. All that must be done by reasoned judicial orders. The right to file a complaint is guaranteed. The investigating agency must present an order to block a website to a court within 24 hours. The court must issue a reasoned decision on the order within no more than 72 hours of being presented with it.

Article 20

116. Article 53 of the 2014 Constitution – for the first time compared to previous constitutions – provides that discrimination and incitement to hatred are punishable crimes. It requires the State to take measures to eliminate all forms of discrimination. That reinforces what had already been provided for in Act 126 (2011) amending the Penal Code, which inserted article 161-bis (a) imposing imprisonment and a fine, or one of the two, on anyone who by commission or omission causes discrimination against individuals or a group on the

basis of sex, origin, language, religion or creed, where that discrimination undermines the principle of equal opportunity or social justice or disturbs peace.

117. In keeping with that constitutional provision, the call to end all forms of discrimination and incitement to violence and to combat hate speech in all its forms has been incorporated into numerous items of legislation, the most important of which are as follows:

- Act No. 45 (2014) regulating the exercise of political rights prohibits putting at risk the inviolability of the private lives of citizens or candidates, threatening national unity, or using religious or any other slogans that promote discrimination among citizens or incite hatred as part of election campaigning.
- Act No. 93 (2016) concerning the Media Syndicate calls for the Syndicate to issue a charter of honour that includes a code of professional conduct containing principles and obligations governing media work. In particular, the media should refrain from putting at risk the inviolability of private life, slandering personal reputations, inciting violence or discrimination among citizens, or adopting or publishing hate speech. The media charter of honour and code of professional conduct have now been issued, and they include the above.
- Act No. 180 (2018) concerning regulation of the press and media and the Supreme Council for Media Regulation prohibits press and media institutions or websites from publishing or broadcasting any material or advertising with content contrary to the provisions of the Constitution or inciting discrimination, violence, racism or hatred. It also prohibits issuing any newspaper, licensing any media outlet or website, or allowing such to remain in operation if it is founded on discrimination on the basis of religion, denomination, sex, origin, sect, ethnicity or regional allegiance, or practices activities that are contrary to democracy, are of a clandestine nature, or incite, promote or permit licentiousness, hatred or violence.
- Act No. 149 (2019) regulating civil society activities prohibits promotion by non-governmental organizations of discrimination among citizens because of gender, origin, colour, language, religion or creed or any activity that incites racism or violence.

Article 21

118. In keeping with the principle that the right of assembly is the best refuge and environment for the exercise of freedom of expression, and that it promotes interaction and the meeting of minds, Act No. 107 (2013) regulates the right of citizens to hold and join peaceful public meetings, marches and demonstrations. That right is guaranteed by the very act of giving notification. The Act grants citizens the right to organize public meetings or conduct marches and demonstrations, provided that notification is given at police headquarters or a station in the district where the public meeting or starting point of the march or demonstration is located at least 3 and no more than 15 working days prior to the start of the general meeting, march or demonstration. If the meeting is electoral, that period is reduced to 24 hours. That allows sufficient time for the security services to take measures to protect the meeting, march or demonstration and its participants, to protect private and public lives and property, and to provide alternative routes to the roads affected.

119. For that same reason, the Act requires notification of the venue of the meeting, the location and route of the march or demonstration, the start and end times, the subject of the public meeting, march or demonstration, the purpose, and the demands and slogans that will be raised by the participants. That is to determine the extent to which the meeting or demonstration conforms to the provisions of the Constitution and the law, and to prevent any meeting or demonstration that promotes discrimination or hatred or incites the commission of crimes. Articles 5, 6 and 7 prohibit public meetings for political purposes in places of worship, squares or annexes thereto. Participants in public meetings, marches or demonstrations are also prohibited from carrying any weapons, ammunition, explosives, fireworks, incendiary materials or other tools or materials that pose a danger to individuals, installations or property. They are prohibited from disturbing security or public order;

disrupting or calling for disruption of production; blocking the interests of citizens; hurting or putting citizens at risk, or preventing them from exercising their rights or conducting business; impeding the course of justice or the functioning of public facilities; cutting off roads, communication or land, water or air transport; disrupting or endangering traffic; or attacking or endangering lives or public or private property. All these prohibitions constitute necessary measures required by the maintenance of public safety and public order and the protection of the rights and freedoms of others, in line with the restrictions mentioned in article 21 of the Covenant.

120. Article 11 of the Act provides that the security forces must take measures to secure any public meeting, march or demonstration for which notification has been provided. They must preserve the safety of participants and public and private lives and property without impeding the purpose of the gathering. If, in the course of the public meeting, march or demonstration, any of the participants commits an act that constitutes a punishable crime or goes beyond the bounds of peaceful expression of opinion, security forces in official uniform, pursuant to an order from the competent field commander in accordance with article 12, have the right to break up the public meeting or disperse the march or demonstration, and arrest anyone suspected of committing a crime. That article requires security forces to take such action in accordance with the following methods and stages: First, participants in the general meeting, march or demonstration must be asked to leave voluntarily. Repeated and audible verbal warnings must be issued to break up the general meeting, march or demonstration, specifying the routes the participants should take when departing. Secondly, if participants do not respond to the warnings to leave, the security forces must disperse them using the following means in the following order: water cannons, tear gas, and then batons. In the event that those means of dispersing participants do not work, or they commit acts of violence, vandalism or damage and destruction of public or private property, or attack other persons or the security forces, article 13 allows the security forces to use force gradually. They must fire warning shots first, then use percussion or smoke bombs, then use rubber cartridge rounds, and then use non-rubber cartridge rounds. If firearms are used by participants, that creates the legitimate right of defence. Participants are to be dealt with and attacks repelled by means commensurate with the risk to life, assets or property.

121. In view of the importance of the exercise of the right to assemble as a cornerstone of freedom of opinion and expression, article 14 of the Act requires the Minister of Interior to coordinate with the relevant Governor to issue a decision to designate a secure buffer zone in front of vital sites, such as presidential headquarters, parliamentary organs, the headquarters of international organizations and diplomatic missions, government, military, security and oversight facilities, prosecution offices, hospitals, airports, oil installations, educational institutions, museums, archaeological sites and other public facilities. Participants in public meetings, marches or demonstrations are prohibited from encroaching on the designated buffer zone.

122. The 2014 Constitution upholds the right of citizens to hold public meetings, marches, demonstrations and engage in all forms of peaceful protest simply by notifying the authorities. That takes away the choice of means of exercising that right from the legislative authority. It requires specifically that notification be used as opposed to other means of exercising a right, such as permission or authorization. In compliance with a ruling of the Supreme Constitutional Court,[44] Act No. 14 (2017) was enacted amending article 10 of the Act regulating peaceful public meetings, marches and demonstrations. Under the amendment, the right to ban, postpone or alter the route of demonstrations passed from the Ministry of the Interior to the judiciary, thereby ensuring that citizens and the administrative authorities are equal before the courts. The amendment also allows for appeals against the decisions of ad hoc judges in accordance with the rules established by the Code of Civil and Commercial Procedure.

Article 22

123. Article 75 of the 2014 Constitution guarantees the right of citizens to form civic associations and organizations on a democratic basis. It grants them legal personalities simply by notification and prohibits administrative agencies from interfering in their affairs or

dissolving them, their boards or their boards of trustees except by judicial decision. It also prohibits the establishment or continuation of associations or institutions that engage in activities of a secret, military or paramilitary nature, in line with international standards. Act No. 149 (2019) regulating civil society activities was passed after a series of community dialogues to address flaws in the old law,[45] in line with the intent of the Constitution. It provides for the right of associations to receive funds and grants after notifying the administrative authorities. If there is no objection within 60 days, that counts as approval. In addition, it reduces licence fees for foreign non-governmental organizations operating in Egypt to a maximum of 50,000 pounds and raises the percentage of foreigners allowed to be members of civil society organizations or their boards of directors to 25 per cent. It establishes a fund to support civil society organization projects with technical, financial and administrative assistance, and sets forth comprehensive regulations for volunteer work. The law does not provide for any restriction-of-liberty penalties for violations of any of its provisions.

124. In view of the important role in development played by civil society organizations, which now number more than 57,000, in 2017, governors began inviting a representative of the Regional Federation of Civil Society Organizations in each governorate to attend the meetings of governorate executive councils. The purpose of the initiative was to open lines of communication with the different components of civil society and coordinate efforts to provide services to citizens. The Government has also put forward an additional provision to the draft act on local administration currently being debated in the House of Representatives. Under the new provision, a representative of the Regional Federation of Civil Society Organizations would be included on the executive council of each governorate.

125. Egypt also recognizes that the freedom to form and organize trade unions on a democratic basis is the best way to enable workers to express their opinion, defend their rights and protect their interests legitimately. Successive constitutions have emphasized the freedom to form trade unions. The 2014 Constitution guarantees what is provided for in International Labour Organization (ILO) Conventions No. 87 on Freedom of Association and Protection of the Right to Organise, and No. 98 on the Right to Organize and Collective Bargaining, to which Egypt acceded in 1954 and 1957, respectively. Article 76 states that the establishment of trade unions and federations on a democratic basis is a right guaranteed by law. They have a legal personality, may practise their activities, freely, and contribute to raising the skill levels, defending the rights and protecting the interests of their members. The State guarantees the independence of trade unions and federations. Their boards of directors may only be dissolved by judicial ruling. They may not be established within Government bodies.

126. On that basis, Act No. 213 (2017) on trade union organizations and protection of the right to union organization was enacted to address shortfalls in the previous Act No. 35 (1976) on trade unions, in line with international standards for the formation of trade unions. It grants all union organizations – be they trade union committees, general unions or trade federations – a legal personality. It gives organizations not established in accordance with the provisions of the previous act the right to rectify their statuses under the current act. Article 10 sets forth the hierarchy of trade union activity, namely trade union committees, public unions and trade federations, without requiring any lower-level trade union organization to join a higher-level organization. Articles 4 and 21 provide for the right of workers to form, join or withdraw from trade unions, and the right of those who practise more than one profession to join more than one union organization.

127. In order to ensure the independence of trade union organizations in the conduct of their affairs, articles 59 and 64 of the Act grant them financial and administrative independence without oversight or supervision by trade federations or trade union committees. Article 7 prohibits the dissolution of the board of directors of the trade union organization without a judicial ruling. Article 30 confirms that the general assembly of a trade union organization is the supreme authority that formulates its policy and oversees all its affairs in accordance with the regulations in its statute. Article 36 allows the boards of directors of trade union organizations to be elected by their general assemblies without any interference or supervision by any other trade union organization, even one they are affiliated with. Out of the belief that the right of a worker to strike is a basic trade union freedom,

article 14 affirms the right of a trade union organization, whatever its level, to organize a strike in accordance with the regulations of its basic statue without requiring the approval of a higher-level organization. Trade-union elections were held under the Act in May 2018, following a 12-year suspension. That led to a turnover of 80 per cent of members on around 2,500 committees, 145 of which are not part of the General Federation.

128. In keeping with ILO recommendations, Act No. 142 (2019) amended the Act regulating trade union organizations. All restriction-of-liberty penalties were abolished while the quorum for establishing a union committee was lowered from 150 workers to 50. At the same time, the number of union committees required to form a general union was reduced from 15 to 10 and the number of workers from 20,000 to 15,000, while the number of general unions required to form a union federation was reduced from 10 to 7 and the number of workers from 200,000 to 150,000.

129. In that same vein, because of the unique nature of media work and its connection to freedom of opinion and expression, Act No. 93 (2016) on the Media Syndicate enshrines the independence of the Syndicate and protects the rights and freedoms of journalists in the exercise of their profession, within the framework of a media charter of honour drawn up by the Association's general assembly to guarantee society's right to be served by a professional and responsible media.

130. The establishment of political parties and the safeguards guaranteed to them will be addressed in paragraph 170 in part II of the present report.

Article 23

131. Article 10 of the Constitution affirms that the family is the foundation of society and charges the State with protecting its cohesion and stability and reinforcing its values. Article 11 provides that the State must empower women to balance family duties with work obligations. It requires it to provide care and protection for motherhood and childhood, and for women breadwinners. In accordance with these constitutional obligations and in line with the obligations of Egypt under the international conventions it has ratified, national legislation and policies are aimed at regulating and protecting all aspects of the family. Act 143 (1994) concerning civil status was amended by the insertion of article 31-bis (a), which prohibits the documentation of a marriage contract for persons under the age of 18, and punishes violations[46]. As a consequence, in 2015, Egypt withdrew its reservation to the African Charter on the Rights and Welfare of the Child, article 21, paragraph 2, prohibiting marriage under 18 years of age.

132. Since 2015, Egypt, in conjunction with several other States, has periodically submitted a resolution on the protection of the family to the Human Rights Council, in line with article 23 of the Covenant. It has been actively involved in the activities of the Group of Friends of the Family in New York and Geneva.

133. In contrast to the legislative and executive measures taken at the national level to strengthen and protect the family in the areas of economic, social and cultural rights, legislation on civil and political rights has been devoted to guaranteeing the realization of equality between men and women in marriage, including both entering into and ending a marriage, in accordance with the principles of the Islamic sharia. Laws having to do with employment, such as the Civil Service Act and the Labour Act (No. 12 of 2013), include many provisions that guarantee special care for working women with the aim of helping them reconcile their duties towards the family with their work. They may not be discriminated against in the work environment. In addition, the Personal Status Code imposes obligations on the husband towards the wife and children during marriage and divorce. That has already been detailed in the reports submitted by Egypt to the Committee for the Elimination of Discrimination against Women and the Committee on the Rights of the Child, and is addressed further below in paragraphs 154–156 of part II of the present report.

134. With regard to cases where one of the spouses might be deprived of liberty, article 485 of the Code of Criminal Procedure allows for a restriction-of-liberty sentence for a woman who is six months pregnant to be postponed until two months after delivery. If a

pregnancy becomes apparent while the sentence is being served, the pregnant woman receives special treatment until she gives birth. Article 488 provides for a sentence imposed on a man or his wife to be postponed until the other is released – provided that both prison sentence are less than a year, even if they are for different crimes, and neither has been imprisoned before – if they are guardians of a child under 15 years of age. Article 68 of Act 106 (2015) on the regulation of prisons provides that a death sentence imposed on a pregnant woman shall not be carried out until two years after she has given birth. Article 20 provides that a women prisoner shall retain custody of her child until he or she reaches the age of four and stay with the child during the first two years. If she does not want the child to stay with her or when it reaches that age, it will be turned over to whoever has the legal right to custody, and if that person refuses, then to the next in line. If everyone legally entitled to custody refuses, then the warden must place the child in a suitable welfare home, notify the imprisoned mother of its whereabouts, and facilitate her regular access to it.

Article 24

135. In addition to what was covered in paragraphs 97–100 regarding registration of newborns, recognition of legal personality and access to identity cards, the Constitution affirms the rights of the child without discrimination. Article 80 defines a child as anyone who has not reached 18 years of age. Children must be protected and their rights maintained. In particular they have the right to a name, identity papers, free compulsory vaccinations, health and family or foster care, basic nutrition, proper upbringing, safe shelter, emotional and cognitive development, and education. That includes children with disabilities. The Constitution requires children to be protected from all forms of violence, abuse, mistreatment and sexual and commercial exploitation. It provides for the establishment of a judicial system for child victims. It prohibits holding children criminally responsible or detaining them except in accordance with the law and for a specified period. They must be provided with legal assistance. They must be detained in suitable locations separate from adult detention centres. The State must work to realize the best interests of children in all measures taken with respect to them. In accordance with constitutional obligations, several legislative and executive measures have been taken. They are detailed in the report of Egypt to the Committee on the Rights of the Child. In particular, we note the following:

(a) Article 14 of the Child Act requires births to be reported within 15 days of the date of birth.

(b) Article 111 of the Child Act provides that no accused person shall be sentenced to death, life imprisonment, or forced labour if he or she had not reached the age of 18 at the time of committing the crime. A child between the ages of 7 and 12 who commits a felony or misdemeanour may only be tried by a child court, which may place the child in a specialized hospital or a social welfare home.

(c) The Child Act has been amended to make the age of children covered by the foster care system three months instead of two years.[47] The foster care system for children deprived of family care has been developed, as has the child welfare system, child residential institutions, the system of social welfare institutions for children at risk of delinquency, the care system in observation homes that house children under 15 who are being held in custody pending a legal ruling, and the system of social monitoring offices that consider cases referred to the Office of the Public Prosecutor, the police or observation homes in order to draw up treatment and care plans for the child within the family.

(d) Several amendments have been inserted into the Child Act, the most important of which was to end to criminal proceedings against children when they reach the age of 18.[48]

(e) In 2007, after the Nationality Act was amended by article 2 of Act No. 154 (2004), Egypt withdrew its reservation to article 9, paragraph 2, of the Convention on the Elimination of All Forms of Discrimination against Women. Egyptian nationality is now granted to anyone born to an Egyptian father or an Egyptian mother, and to those born in Egypt of unknown parentage. A foundling is considered to have been born in Egypt unless proven otherwise. Anyone who is proven to have foreign citizenship alongside Egyptian citizenship may declare to the Minister of the Interior the intention to give up Egyptian

citizenship. Such a declaration may be made on behalf of a minor by a legal representative or a mother, or, in the absence of either, a guardian. A minor whose citizenship has been revoked in this way may declare his or her intention to recover it within a year of reaching the age of majority.

(f) The Public Prosecutor issued circular No. 7 of 2018 on operationalizing child protection committees and developing the criminal justice system for children. A hotline was established between the Office of the Public Prosecutor and the National Council for Childhood and Motherhood, so that the Office can notify the Council of any reports it receives of assaults on children. The Human Rights Department in the office of the Public Prosecutor also has competence in cases of violence against children. It initiates investigations of reports from the National Council for Childhood and Motherhood and oversees periodic inspections of welfare homes to make sure they are suitable for the children living in them.

Article 25

136. Article 9 of the 2014 Constitution requires the State to provide equal opportunities for all citizens without discrimination. Article 53 provides that citizens are equal before the law and have the same public rights and duties. There can be no discrimination between citizens on the basis of religion, belief, gender, origin, race, colour, language, disability, social class, political or geographical affiliation, or for any other reason. In affirmation of the right of access to public services on the basis of equality, equal opportunity and non-discrimination, articles 17, 18, 19, 46, 78 and 79 of the Constitution provide for the obligation to provide social security services. An inclusive social security system must be provided for all Egyptians. Every citizen is entitled to health, education, a healthy and sound environment, decent and safe housing, healthy and adequate nutrition and clean water. This is addressed in detail in the report of Egypt to the Committee on Economic, Social and Cultural Rights.

137. The right to vote and run in elections is among the public rights that must be guaranteed to all citizens to ensure their contribution to public life directly or indirectly through the selection of their leaders and representatives. In line with paragraph 6 of general comment No. 25, article 87 of the Constitution provides for the right of every citizen to vote, stand for election and to express their opinions via referendum. The Constitution goes beyond that to consider the participation of citizens in public life – through the exercise of those rights – to be a national duty that must be carried out. It requires the name of each citizen to be entered in a voter database without them asking if the citizen meets voting requirements, and for the voter rolls to be purged periodically in accordance with the law. It guarantees the safety, neutrality and fairness of referendum and election procedures. It prohibits the use of public funds, Government agencies, public facilities, houses of worship, business sector establishments and civil society organizations and institutions for political purposes and electioneering, thereby intending to ensure free and fair elections that enable the voters to express their opinion freely. Article 88 requires the State to look after the interests of Egyptians living abroad, protect them, guarantee their rights and freedoms, enable them to perform their public duties towards the State and society and engage them in the nation's development.

138. With regard to the constitutional framework governing representative bodies, article 102 provides that the House of Representatives shall be composed of no fewer than 450 members elected by direct, secret public balloting, with no fewer than a quarter of the total number of seats allocated to women. It sets the conditions of eligibility to be a candidate for the House of Representatives. A candidate must be Egyptian, enjoy civil and political rights, have a certificate of completion of basic education at least, and not be younger than 25 years of age on the day that nominations are opened. The law provides for other conditions for candidacy, the electoral system and drawing electoral districts in a manner that takes into account equitable representation of the population and the governorates.

139. In April 2019, the Constitution was updated by amendments establishing a Senate. Articles 248 and 249 define the competences of the Senate as considering and proposing what it believes will ensure consolidation of the foundations of democracy and support social

peace, the basic constituents and supreme values of society, and public rights, freedoms and duties, and strengthen the democratic system. It shall express its opinion on the proposed amendments to articles of the Constitution, draft general plans for social and economic development, and treaties involving truces, alliances or anything relating to sovereign rights. The Senate is also charged with expressing its opinion on draft laws and proposals supplementing the Constitution that are referred to it by the President of the Republic or the House of Representatives and matters referred to it by the President having to do with the public policy of the State or its policy on Arab or foreign affairs.

140. Article 250 provides that the Senate shall consist of a number of members to be determined by law. It shall have at least 180 members, two thirds of whom shall be elected by direct secret universal suffrage, with the remaining one third appointed by the President. Article 251 sets the conditions of eligibility to be a candidate for the Senate. A candidate must be Egyptian, enjoy civil and political rights, have a university degree or the equivalent, and not be younger than 35 years of age on the day that nominations are opened. The law provides for other conditions for candidacy, the electoral system and drawing electoral districts in a manner that takes into account equitable representation of the population and the governorates.

141. In line with the Committee's general comment No. 25, article 208 of the Constitution provides for the establishment of a National Elections Commission as an independent body with a purely judicial composition. It is exclusively responsible for the administration of referendums and presidential, parliamentary and local elections. That includes preparation and modernization of the voter database, proposals for districting, setting and publicizing and monitoring compliance with rules for electoral campaigning, financing and spending, facilitating voting procedures for Egyptians living abroad, and any other procedures all the way through announcement of the outcome. In March 2018, the Authority oversaw presidential elections in which 41.16 per cent of the electorate at home and abroad chose between two rival candidates, with the winner receiving 97 per cent of votes cast. In April 2019, it supervised a constitutional referendum in which 44.4 per cent of the electorate at home and abroad participated, with the proposed amendment being approved by an 88.8 per cent majority.

142. As for the legislative framework, article 1 of Act No. 45 (2014) on the exercise of political rights stipulates that every Egyptian man and woman 18 years of age and over has an obligation to express an opinion in referendums and presidential, parliamentary and local elections. An exception from performing this duty is made for officers and members of the main, subsidiary and auxiliary armed forces, and officers and members of the police during their service. Article 2 specifies groups temporarily deprived of exercise of their political rights. Article 13 requires all persons eligible to exercise political rights, male and female, to be registered in a voter database. Persons who have acquired Egyptian nationality via naturalization may only be registered five or more years after acquiring it. Article 40 requires the voting process to be conducted under the full supervision of the National Elections Commission. It provides that the Commission will form branch committees to supervise the voting and vote-counting, headed by a member of a judicial agency or body.

143. Article 1 of Act No. 46 (2014) concerning the House of Representatives stipulated that the first House of Representatives following the entry into force of the 2014 Constitution was to be made up of 568 members elected by direct secret universal suffrage. It gave the President the right to appoint no more than 5 per cent of the members in accordance with the rules set forth in the Act. Article 4 provided that the Republic's governorates should be divided into a number of districts based on the individual system and four districts based on the list system. Two of those districts were assigned 15 seats, and the two others were assigned 45 seats. It also provided that the number of representatives elected by each district using the individual system should be proportional to the number of inhabitants and voters, taking into account fair and equitable representation of the population, the governorates and the voters. Article 5 also requires that Christians, workers and farmers, youths, persons with disabilities, Egyptians living abroad and women be included in the electoral lists, with a view to positive discrimination. Article 8 sets forth conditions that must be met by anyone running for the House of Representatives. Article 11 also prohibits the acceptance of nomination papers from members of the armed forces, the police, general intelligence, members of

Administrative Control Authority, judges or ministers before they have submitted resignations from their posts or positions.

144. In exercising its oversight by verifying the compliance of the Act regulating the apportionment of electoral districts with the requirement of fair representation provided for in article 102 of the Constitution, the Supreme Constitutional Court ruled unconstitutional article 3 of the Presidential Decision promulgating Act No. 202 (2014) concerning electoral districts for the House of Representatives. It ruled with regard to its applicability to the districts based on the individual system that the article did not comply with the principles of fair representation of inhabitants and equitable representation of voters. It ruled that there was discrimination owing to the varying proportional weights given to citizens in different electoral districts without any objective reason for that discrimination[49].

145. In line with article 25 (c) of the Covenant, article 14 of the Constitution provides that public posts are the right of citizens on the basis of competence, without favouritism or mediation. The State guarantees and protects the rights of persons occupying such posts. They are to carry out their duties in the service of the people's interests. In line with paragraph 24 of the Committee's public comment No. 25, the Civil Service Act, which is the general law governing employees of the State administrative apparatus, reiterates in its article 1 that same constitutional obligation, prohibiting discrimination between officials in the application of its provisions on the grounds of religion, sex or for any other reason. Article 12 provides that appointments are by decision of the President of the Republic or someone he delegates on the basis of competence and merit, without favouritism or mediation. Appointments are made through a posting on the Egyptian Government web portal. They must include job specifications and conditions of employment in such a way as to ensure equal opportunities and equality among citizens. Appointments must be made through an examination administered by the Central Agency for Organization and Administration through a selection committee supervised by the competent minister. Appointments must be made in accordance with the final rankings of examination results. In the case of a tie, the position is to be offered to the applicant with the highest grade, then the highest step within that grade, the highest degree qualification, the earliest graduation date, and the oldest age. Articles 14, 21, 29, 30 and 69 specify conditions for appointment, promotion and termination of public office without discrimination.

Article 26

146. Successive Egyptian constitutions have been keen to provide for the principle of equality of all persons before the law. They stress equality in rights and duties without discrimination. The 2014 Constitution, like previous constitutions, does not recognize the concept of a minority. Its preamble emphasizes the principle of citizenship and equality among the members of the national community. Article 4 provides that sovereignty belongs to the people alone, which exercises it and protects it. The people are the source of all authorities. They safeguard their national unity, which is based on the principle of equality, justice and equal opportunity between citizens. Article 9 provides that the State is committed to providing equal opportunity among citizens without discrimination. Article 53 provides that citizens are equal before the law, possess equal rights and public duties, and may not be discriminated against on the basis of religion, creed, sex, origin, race, colour, language, disability, social class, political or geographical affiliation, or for any other reason. It enshrines the value of equality before the law for all and provides that discrimination is a crime punishable by law. It requires the State to take necessary measures to end all forms of discrimination.

147. In many of its rulings, the Supreme Constitutional Court has stressed that successive Egyptian constitutions – starting with the 1923 Constitution and on through the present Constitution – have all echoed the principle of equality before the law and guaranteed its applicability to all citizens. It is the basis of justice, freedom and social peace. Its purpose is essentially to protect the rights and freedoms of citizens in the face of any kind of discrimination that might undermine them or restrict their exercise. In essence, this principle has become a means of ensuring equal legal protection. Its scope is not limited to the rights and freedoms enshrined in the Constitution. It also applies to the rights guaranteed to citizens

by legislation within its discretionary authority, in the light of what it sees as the public interest. The Court has argued that the principle of equality before the law is applicable to any act committed in violation of equal legal protection attributed to the State, whether its legislative or executive branch. Neither of those two branches may impose differential treatment not justified by a difference connected in some logical way with the purposes of a legislative act issued by either of them[50].

148. In compliance with the principle of equality before the law and non-discrimination, many laws expressly provide for equality and oppose discrimination on any basis. Such laws include the Civil Service Act, the provisions of which with regard to civil service posts were described above in paragraph 145 of the present report. Similarly, article 2 of Act No. 182 (2018) regulating contracts signed by public agencies states that its goals include reinforcing the principles of governance; implementing standards of openness, transparency, integrity, free competition, equality and equal opportunity; and steering clear of conflicts of interest. Article 4 of the Act on trade union organizations and protection of the right to organize trade unions provides that workers have the right to form, join and leave trade union organizations without discrimination. Article 4 of Act No. 10 (2018) concerning persons with disabilities provides that the State is obligated to protect the rights of persons with disabilities as provided for in that or any other law. In particular, there may be no discrimination on the basis of disability, type of disability or sex of the disabled person. The Act provides for de facto equality in all basic human rights and freedoms in all areas, and the removal of all obstacles that obstruct the exercise of those rights. Article 4 of the Act concerning regulation of the press and media and the Supreme Council for Media Regulation prohibits the publication or broadcast of any content or advertising that incites discrimination, violence, racism or hatred. Article 13 of Act No. 181 (2018) concerning consumer protection prohibits the import, production, trading or advertising of products in a manner that discriminates against or mistreats citizens, or violates public order or morals.

Article 27

149. Like its predecessors, the 2014 Constitution does not recognize the concept of a minority. Its preamble emphasizes the principle of citizenship and equality among the members of the national community and it criminalizes any discrimination among citizens. That has been confirmed by numerous rulings of the Supreme Constitutional Court and laws, as we explained above in paragraphs 145–149 of the present report. The Constitution accords major importance to the status of citizenship, which it couples with the concept of rule of law, citing them as the two bases of the State's democratic republican system. It wants to ensure equality among the Egyptian population as a whole in constitutional rights and duties.

150. Articles 47 and 48 of the Constitution also require the preservation of Egyptian cultural identity, without discrimination on the basis of financial capacity, geographical location or anything else, with attention to remote areas and the groups most in need. Article 50 provides that the Egyptian civilizational and cultural heritage, material and moral, in all its diversity and major periods – ancient Egyptian, Coptic and Islamic – is a national and human treasure that the State must preserve and maintain. The same applies to contemporary architectural, literary and artistic cultural assets in all their varieties. An attack on any of them is a punishable offence. The State must also pay special attention to preserving the components of multiculturalism in Egypt.

Part II
Survey of efforts to implement the Committee's concluding observations pursuant to consideration of the third and fourth periodic reports of Egypt

151. The observation in paragraph 4 under section C on the legal standing of the Covenant in relation to domestic law was dealt with in detail in paragraph 11 of the present report.

152. The observation in paragraph 6 under section C on the state of emergency was responded to in detail in paragraphs 13–16 of the present report.

153. The observation in paragraph 7 under section C on stepping up efforts to secure greater participation by women at all levels was responded to in detail in the report of Egypt to the Committee on the Elimination of Discrimination against Women.

154. With regard to the observation in paragraph 8 under section C on reviewing legal procedures under Act No. 1 (2000) because they impose financial discrimination against women seeking divorce through unilateral repudiation by requiring them to forego their financial rights, we state the following: We must clarify that the law treats men and women equally when it comes to divorce. It gives both the right to file legal suit to demand a divorce to end damage to either party in the marital relationship. Therefore, a woman may file for divorce in court on grounds of damages at the hand of the husband, and she may prove the damage by all means of evidence. When the divorce ruling is handed down, the wife gets everything she is entitled to, including the dowry, waiting-period maintenance and alimony, her share of marital assets, and the engagement and wedding gifts. The law also allows the wife to file unilaterally for divorce when intimacy with her husband has become impossible, without having to demonstrate harm. Filing in such a case does not entail waiving the woman's right to her share of marital assets or the engagement or marriage gifts, and the children retain their right to upkeep, housing and education and medical expenses. All a woman loses when granted a unilateral divorce request is the dowry and the waiting-period maintenance and alimony. That is in accordance with Islamic law, which is the main source of legislation under the Constitution. This Act applies to Muslims. The personal status of Egyptian Christians and Jews is regulated by the religious law of their respective faiths. The Constitution guarantees every human being the right to believe in any religion and creed they wish that satisfies their conscience and soul.

155. With regard to the observation in paragraph 9 under section C regarding discriminatory penal provisions with respect to men and women regarding adultery, we state the following: Consideration is being given to preparing a draft law that guarantees equality between men and women in rights and penalties in cases involving the crime of adultery.

156. The observation in paragraph 10 under section C regarding doing away with the discriminatory situation with respect to men and women regarding the transmission of nationality to their children has been responded to. Under the 2014 Constitution, Egyptian nationality became the right of anyone born to an Egyptian father or mother, as is explained in paragraphs 97 and 135 (e) of the present report.

157. The observation in paragraph 11 under section C regarding combating and raising awareness about the practice of female genital mutilation has been responded to in detail in the two reports submitted by Egypt to the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child.

158. The observation in paragraph 12 under section C regarding the death penalty and related safeguards has been dealt with in detail in paragraphs 22–24 of the present report.

159. The observation in paragraph 13 under section C regarding investigating crimes of torture and arbitrary deprivation of life has been responded to in detail in paragraphs 26, 29–34 and 61–77 of the present report.

161. The observation in paragraph 14 under section C regarding the legal rules regulating detention in custody, pretrial detention, and access to a lawyer during the investigation and trial phases has been dealt with in detail in paragraphs 13–20, 46–54 and 66 of the present report.

161. The observation in paragraph 15 under section C regarding oversight and inspections of prisons and other places of detention has been responded to in detail in paragraphs 56–77 of the present report.

162. The observation in paragraph 16 (a) under section C regarding the definition of terrorism having the effect of increasing the number of offences subject to the death penalty has been dealt with in detail in paragraphs 17–20 and 22–24 of the present report.

163. The observation in paragraph 16 (b) under section C regarding guarantees with respect to the military courts has been dealt with in detail in paragraphs 93–94 of the present report.

164. The observation in paragraph 16 (c) under section C regarding counter-terrorism measures has been dealt with in detail in paragraphs 13 and 17–20.

165. With regard to the observation in paragraph 17 under section C regarding freedom of religion for the Bahai community, we state the following: In the course of addressing article 18 of the Covenant above, we have already affirmed that freedom of belief and freedom to practise a religion and build houses of worship are among the deeply established constitutional principles that successive Egyptian Constitutions have been scrupulous about guaranteeing. Those freedoms are intimately connected with citizenship, which article 1 of the 2014 Constitution regards as a cornerstone of the State and its democratic republican system. The Constitution guarantees every human being the right to believe in any religion and creed that satisfies their conscience and soul. The freedom to conduct and practise religious rites is restricted only by the condition that it not disturb public order, public morals or the rights and fundamental freedoms of others. In confirmation of the foregoing, the Supreme Constitutional Court ruled in Appeal No. 153 (Judicial Year 32) on 4 February 2017 that freedom of belief is an inherent freedom that – according to the Constitution, article 92, paragraph 1 – may not be suspended or curtailed. No proper understanding of that freedom could admit a person being forced to accept a creed they do not believe in or to renounce a creed they have adopted or proclaimed. Nor may one creed be favoured over another by denying, belittling or disparaging it. On the contrary, religions should be tolerant and mutually respectful of one another. It is not permitted for the protection of this freedom for one person to cause harm to another. The freedom to hold and practise religious rites and to establish places of worship represents the external manifestation of freedom of belief. It moves faith from the realm of belief to the realm of emotion. The Constitution has expressly stated that it is limited to the three recognized divinely revealed religions, namely Judaism, Christianity and Islam. It is up to the law to regulate this right without violating its core or essence. It is restricted by the condition that it not disturb public order or conflict with morals. All of this is consistent with the Covenant, paragraph 3, article 18. In a related development, the Court of Administrative Justice, in Appeal No. 12780 (Year 61) on 29 January 2008 ruled to suspend implementation of the administrative decision to refuse to accept a dash or distinctive mark in front of the religion box on birth certificates or identity papers that were issued by mistake with the word Bahai in front of the religion box, or documents with the word “none” or just a dash. In its reasons for the ruling, the Court indicated that it relied on the principle that no citizen may be compelled to enter one of the divinely revealed religions if their papers and documents show no box checked for a divinely revealed religion. Such a person is entitled to have a national identification number card issued with nothing in the religion box or a mark that indicates that they do not embrace any of the three divinely revealed religions. However, their right to practise their rituals is restricted to their own homes. They may not establish houses of worship, on the grounds that legitimate establishment of houses of worship is limited to the three divinely revealed religions recognized by the State.

166. The observation in paragraph 18 under section C regarding calls for racial or religious hatred which constituted incitement to discrimination has been responded to in detail in paragraphs 109 and 116–117 of the present report.

167. With regard to the observation in paragraph 19 under section C regarding criminalization of private sexual relations between consenting adults, we state the following: We must make clear that pursuant to the accession of Egypt to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others in 1959, Act No. 10 (1961) was enacted criminalizing acts of incitement, employment, solicitation or seduction with intent to commit debauchery or prostitution, or facilitation of travel abroad or entry into the country for the purpose of engaging in such. Penalties are increased in cases where that is done by means of fraud, coercion, threat or abuse of power, or if the victim is under 21 years old, or if the victim is less than 16 years old, or the perpetrator is a relative, a person charged with the victim’s education or supervision, or someone working in the house. Abetting or exploiting prostitution is also criminalized. Therefore, the legislative structure does not criminalize private sexual relations between

consenting adults except when it involves the practice of prostitution as a form of trafficking in persons.[51]

168. The observation in paragraph 20 regarding strengthening human rights education and using education to forestall all displays of intolerance and discrimination based on religion or belief has been responded to in detail in paragraphs 75, 108 and 109 of the present report.

169. The observation in paragraph 21 under section C on forming associations was responded to in detail in paragraphs 123–124 of the present report.

170. With regard to the observation in paragraph 22 under section C on establishing political parties, we state the following: This was responded to by Act No. 12 (2011) amending Act No. 40 (1977) concerning political parties. That Act provides that parties may be established by providing written notification to an independent commission of purely judicial composition headed by the Deputy Chief Justice of the Court of Cassation. It shall be composed of six judges from the Court of Cassation, the Court of First Instance and the State Council. That commission will be charged with examining and considering the notification of establishment. The party is considered to be accepted if 30 days pass after submitting the notification with no objection from the commission. If there is an objection, it must be presented within no more than eight days to the Supreme Administrative Court for support or dismissal. Otherwise, the process will continue as if it had never happened. Article 5 of the 2014 Constitution confirms the preceding. It provides for political and partisan pluralism as one of the cornerstones of the State's political system. Article 74 provides that citizens have the right to form political parties by notification as regulated by the law. It prohibits engaging in political activity on a religious basis or based on discrimination by reason of sex, origin, sect or geographic location. No activity be practised that is contrary to democratic principles, secret, or of a military or paramilitary nature. It also provides that parties may be dissolved only by judicial ruling. There are currently 92 political parties, 20 of which are represented in the House of Representatives.

171. With regard to the observation in paragraph 23 under section C regarding wide dissemination of periodic reports and concluding observations, we state the following: This was responded to by circulating the Committee's conclusions and recommendations to the relevant agencies of the State for consideration and compliance to the extent possible. The same goes for the Committee's general comments. The result is reflected in the efforts described above in the present report.

Conclusion

172. In the preceding, we have set forth the earnest and ongoing steps being taken by Egypt to meet its obligations under the Covenant. Although nothing is perfect, Egypt has been doing its best in the face of economic challenges and the threat of terrorism that endangers the security of society and impedes development efforts. Egypt affirms its willingness to continue to cooperate with international and regional treaty mechanisms to advance human rights within its borders and around the world.

Notes

([1]) أبرز هذه القوانين ما يلى:

- القانون 94 لسنة 2003 بإنشاء المجلس القومي لحقوق الإنسان.
- القوانين 95 لسنة 2003 و147 لسنة 2006 و11، 126 لسنة 2011 و78 لسنة 2016 و5 لسنة 2018 بتعديل قانون العقوبات.
- القانون 154 لسنة 2004 بتعديل قانون الجنسية 26 لسنة 1975.
- القانون 4 لسنة 2005 بتعديل قانون الأحوال الشخصية.
- القوانين 152 لسنة 2001 و6 لسنة 2009 و94 لسنة 2014 و106 لسنة 2015 و6 لسنة 2018 بتعديل قانون تنظيم السجون.

- القوانين 145 لسنة 2006 و74 لسنة 2007 و16 لسنة 2015 بتعديل أحكام قانون الإجراءات الجنائية.
- القانون 94 لسنة 2015 بشأن مكافحة الإرهاب.
- القانون 64 لسنة 2010 بشأن مكافحة الإتجار فى البشر.
- القانونين 126 لسنة 2008 و6 لسنة 2015 بشأن تعديل أحكام قانون الطفل.
- القانون 12 لسنة 2011 بتعديل قانون الأحزاب السياسية.
- القانون 45 لسنة 2014 بشأن تنظيم مباشرة الحقوق السياسية.
- القانون 46 لسنة 2014 بشأن مجلس النواب.
- القانون 198 لسنة 2017 بإنشاء الهيئة الوطنية للانتخابات.
- القانون 81 لسنة 2016 بشأن إصدار قانون الخدمة المدنية.
- القانون 14 لسنة 2017 بتعديل قانون تنظيم حق المواطنين في الاجتماعات العامة والمواكب والتظاهرات السلمية والانضمام إليها.
- القانون 80 لسنة 2016 بشأن بناء وترميم الكنائس.
- القانون 213 لسنة 2017 بشأن إصدار قانون المنظمات النقابية العمالية.
- القانون 93 لسنة 2016 بشأن نقابة الإعلاميين.
- القوانين 178 و179 و180 لسنة 2018 بشأن تنظيم الصحافة والمجلس الأعلى للإعلام والهيئة الوطنية للإعلام والهيئة الوطنية للصحافة.
- القانون 175 لسنة 2018 بشأن مكافحة جرائم تقنية المعلومات.

([2]) القضية رقم 35 لسنة 30 قضائية دستورية بجلسة 2014/6/1، والقضية رقم 127 لسنة 30 قضائية دستورية بجلسة 2014/4/6، والقضية رقم 22 لسنة 29 قضائية دستورية بجلسة 2015/5/9، والقضية 116 لسنة 29 قضائية دستورية بجلسة 2015/7/25

([3]) القضية رقم 160 لسنة 37 قضائية دستورية بجلسة 2018/6/2، والقضية رقم 84 لسنة 39 قضائية دستورية بجلسة 2019/2/2

([4]) على سبيل المثال، حكم المحكمة الإدارية العليا في الطعن رقم 10171 لسنة 54 قضائية بجلسة 2011/2/26 الذي راقب - على ضوء المادة 19 من العهد- مدى التزام السلطة التنفيذية في تصرفاتها بمبدأ حق كل إنسان في اعتناق الآراء دون مضايقة وحق كل إنسان في التعبير؛ وكذا حكم القضاء الإداري في القضية رقم 28157 لسنة 60 قضائية بجلسة 2010/3/30 الذي راقب مدى كفالة حق التقاضي للمواطنين في ضوء المادة 14 من العهد، وحكمه في القضية رقم 30728 لسنة 58 قضائية بجلسة 2006/12/26 الذي راقب مدى وفاء الدولة بصون الحرية الشخصية على ضوء المادة 9 من العهد، وحكمه في القضية رقم 13677 لسنة 62 قضائية بجلسة 2009/11/24 والذي راقب مدى التزام السلطة التنفيذية بمعاملة جميع الأشخاص المحرومين من حرياتهم معاملة إنسانية مع احترام الكرامة المتأصلة في الإنسان على ضوء المادة 10 من العهد، وغير ذلك من أحكام تؤكد على مبدأ النفاذ المباشر لأحكام العهد واحتلالها ذات مرتبة القوانين الوطنية في مصر.

([5]) القضية رقم 74 لسنة 23 قضائية دستورية بجلسة 2006/1/15، وبذات المضمون القضية رقم 146 لسنة 25 قضائية دستورية بجلسة 2009/1/4.

([6]) القضية رقم 17 لسنة 15 قضائية دستورية بجلسة 2013/6/2.

([7]) أهم الضمانات التي يقررها القانون لتوقيع عقوبة الإعدام:

أ. رصد عقوبة الإعدام لأشد الجرائم الجنائية خطورة وأكثرها جسامة. ومؤدى ذلك تمتع المتهم بضمانات المحاكمة المقررة أمام محكمة الجنايات المنصوص على إجراءاتها بالمواد 366-397 من قانون الإجراءات الجنائية.

ب. وجوب إجماع آراء قضاة المحكمة على الحكم بالإعدام وفقاً للمادة 381 من قانون الإجراءات الجنائية، بينما أن الأصل العام هو إصدار الأحكام بأغلبية أراء قضاة المحكمة، وذلك حرصاً على إحاطة أحكام الإعدام تحديداً بضمان إجرائي يكفل صدور الحكم عن يقين كامل وعقيدة راسخة بارتكاب الجاني الجريمة وتكامل أدلة الدعوى وصحة إجراءاتها. فإن تشكك أحد قضاة المحاكمة في أي مما سلف، لا يصدر الحكم علي المتهم بعقوبة الإعدام.

ج. التزام النيابة العامة بعرض القضية المحكوم فيها بعقوبة الإعدام على محكمة النقض، ولو لم يطعن المحكوم عليه على الحكم، عملاً بحكم المادة 46 من القانون 57 لسنة 1959 بشأن حالات وإجراءات الطعن أمام محكمة النقض، وذلك بهدف تحقق محكمة النقض التي تحتل قمة الهرم القضائي من مطابقة الحكم بعقوبة الإعدام للقانون.

د. التزام وزير العدل برفع أوراق الدعوى الصادر فيها حكم نهائي بعقوبة الإعدام لرئيس الجمهورية، حيث يمكن أن يستعمل حقه في العفو أو تخفيف العقوبة، وفقاً للمادة 470 من قانون الإجراءات الجنائية.

ه. وجوب حضور دفاع عن المتهم أمام النيابة العامة وأثناء المحاكمة، وفقاً للمادتين 275 و376 من قانون الإجراءات الجنائية.

و. حظر توقيع عقوبة الإعدام على المتهم الذي لم يجاوز 18 سنة ميلادية كاملة وقت ارتكاب الجريمة، وفقاً للمادة 111 من قانون الطفل 12 لسنة 1996 بعد تعديلها بالقانون 126 لسنة 2008.

ز. وقف تنفيذ عقوبة الإعدام على المرأة الحبلى إلى ما بعد سنتين من وضعها، وفقاً للمادة 68 من قانون تنظيم السجون بعد تعديلها بالقانون 106 لسنة 2015.

ح. حظر تنفيذ عقوبة الإعدام في أيام الأعياد الرسمية أو الأعياد الخاصة بديانة المحكوم عليه، وفقاً للمادة 475 من قانون الإجراءات الجنائية.

ط. حق المحكوم عليه بعقوبة الإعدام في لقاء ذويه أو رجل دين في اليوم الذي يعين لتنفيذ الحكم إن رغب في ذلك، وفقاً للمادة 472 من قانون الإجراءات الجنائية، على أن يكون ذلك بعيداً عن محل التنفيذ. وإذا كانت ديانة المحكوم عليه تفرض عليه الاعتراف أو غيره من الفروض الدينية، وجب تقديم التسهيلات اللازمة لتمكين أحد رجال الدين من مقابلته.

ي. وجوب تنفيذ عقوبة الإعدام وفقاً للمادة 474 من قانون الإجراءات الجنائية تحت إشراف أحد وكلاء النائب العام وبحضور مأمور السجن، وكذلك وجوب حضور طبيب لضمان رعاية جثمان المحكوم عليه قبل وبعد التنفيذ وسهولة تنفيذ العقوبة دون إطالة مدة الإيلام.

ك. وجوب أن يؤذن لمدافع المحكوم عليه بحضور تنفيذ حكم الإعدام، وأن يتلى منطوق الحكم الصادر بالإعدام والتهمة، وذلك في مكان التنفيذ بمسمع من الحاضرين، وإذا رغب المحكوم عليه في إبداء أقواله حرر وكيل النائب العام محضراً بها. ويجب عند تمام تنفيذ العقوبة أن يحرر وكيل النائب العام محضراً بذلك، ويثبت فيه شهادة الطبيب بالوفاة وساعة حدوثها، وفقاً للمادة 474 من قانون الإجراءات الجنائية.

ل. دفن جثة من حكم عليه بعقوبة الإعدام على نفقة الدولة، ما لم يكن له أقارب يطلبون القيام بذلك، ويجب أن يكون الدفن بغير احتفال، وفقاً للمادة 477 من قانون الإجراءات الجنائية.

([8]) قضت محكمة النقض في الطعن رقم 30639 لسنة 72 قضائية بجلسة 2003/4/23 بإهدار كل دليل أياً كان نوعه، سواء كان قولياً أو مادياً، أو مستمداً من دليل قولي، طالما جاء عن إرادة غير حرة، وسواء رجع ذلك لأي ممارسة من ممارسات التعذيب أو المعاملة اللاإنسانية، أو رجع لمجرد التهديد بها أو التأثير بشكل مباشر أو غير مباشر فيمن أدلى بتلك الأقوال بأي شكل. كما قضت ذات المحكمة في الطعن رقم 18753 لسنة 65 قضائية بجلسة 1998/12/15 ببطلان الاعتراف الذي يصدر وليد الإكراه، وعدم التعويل على هذا الاعتراف للإدانة، ولو كان التدليل الناتج عن هذا الاعتراف صادقاً ومطابقاً للأدلة الأخرى المشروعة القائمة في الدعوى. فالغلبة للشرعية الإجرائية، وذلك لاعتبارات اسمى يغياها الدستور والقانون.

([9]) قضت محكمة النقض في الطعن رقم 5732 لسنة 63 قضائية بجلسة 1995/3/8 بأنه "من المقرر أن طاعة الرئيس لا تمتد بأي حال إلى ارتكاب الجرائم، وأنه ليس على المرؤوس أن يطيع الأمر الصادر إليه من رئيسه بارتكاب فعل يعلم هو أن القانون يعاقب عليه".

([10]) تقوم فلسفة مشروع القانون على تنفيذ دور الدولة في تعزيز وحماية الصحة وصون حقوق المرضى. ويهدف أساساً إلى حماية من يخضعون للأبحاث الطبية الإكلينيكية والحفاظ على حقوقهم. ويتضمن مشروع القانون إنشاء مجلس أعلى لأخلاقيات البحوث الطبية يختص بإعداد المعايير والضوابط واللوائح الخاصة بأخلاقيات البحوث الطبية لحماية الإنسان، والمراجعة الدورية والتفتيش على الجهات البحثية وفحص الشكاوى واتخاذ الإجراءات اللازمة حيال مخالفة أي من أحكام القانون وإبلاغ جهات التحقيق المختصة. كما يشمل تنظيماً متكاملاً للتأكد من الحصول على موافقة من يخضعون للأبحاث والحفاظ على حقوقهم والتعامل مع بياناتهم والمحافظة على سريتها، وأفرد عقوبات صارمة في حالة مخالفة أحكامه.

([11]) من أهم هذه الإجراءات ما يلى:

أ. إنشاء اللجنة الوطنية المعنية بمكافحة الهجرة غير الشرعية والإتجار فى البشر، وتختص بتنسيق السياسات والخطط والبرامج الوطنية الموضوعة لمكافحة الإتجار فى البشر وحماية المجني عليهم وتقديم الخدمات لهم وحماية الشهود. وتضم اللجنة في عضويتها ممثلين عن مختلف الجهات الحكومية المعنية، إلى جانب ممثلين عن المجلس القومى لحقوق الإنسان والمجلس القومي للمرأة والمجلس القومي للطفولة والأمومة.

ب. اعتماد الاستراتيجية الوطنية لمكافحة الإتجار فى البشر في أكتوبر 2016، بهدف وضع منظومة متكاملة تضمن مكافحة جرائم الإتجار فى البشر عن طريق منع وتجفيف منابعها، وتفعيل الملاحقة الأمنية والقضائية وفقاً للحقوق والضمانات التي كفلها الدستور والقوانين الوطنية، وتوفير الحماية اللازمة للضحايا وإعادة تأهيلهم.

ج. زيادة قنوات الإبلاغ عن جريمة الإتجار فى البشر، ومن بينها رفع كفاءة الخطوط الساخنة التابعة للمجلس القومي للمرأة والمجلس القومي للطفولة والأمومة، إلى جانب المجلس القومى لحقوق الإنسان، وذلك من خلال تدريب القائمين على استقبال الاتصالات ورفع الإمكانات الفنية للخطوط.

د. توفير مقر آمن لضحايا الإتجار فى البشر من الأطفال والنساء، حيث يجري تجهيزه لاستقبال الضحايا وتدعيمه بالكوادر الفنية والطبية والاجتماعية المؤهلة للتعامل مع الضحايا، وذلك من خلال برامج تدريبية لتأهيلهم وتعريف القائمين على المأوى بالتجارب الشبيهة في الدول الأخرى.

ه. الانتهاء من وضع آلية الإحالة الوطنية لمساندة ضحايا الإتجار فى البشر (NRM) كنظام وطني لتيسير وتسريع الاتصالات المتبادلة بين الأطراف الوطنية المعنية بمناهضة جريمة الإتجار فى البشر وإنفاذ القانون.

و. إعداد "الدليل الإرشادي لحماية العمالة المصرية بالخارج من الإتجار فى البشر" وتعميمه على السفارات والقنصليات المصرية بالخارج ووزارة القوى العاملة، إلى جانب "الدليل الإرشادي الموجز لأعضاء النيابة العامة في تحقيق جرائم الإتجار فى البشر" وتعميمه على جميع أعضاء النيابة العامة.

ز. إعداد خريطة توضح مدى انتشار جرائم الإتجار فى البشر في المحافظات المختلفة.

ح. إنشاء دوائر جنائية بجميع محاكم الاستئناف على مستوى الجمهورية تختص بالنظر في جرائم الإتجار فى البشر.

ط. تضمين المناهج الدراسية بأكاديمية الشرطة وبرامج الدورات التدريبية المختلفة لأفراد الشرطة موضوعات مكافحة الإتجار فى البشر، وتكليف الضباط الدارسين بالديبلومات التي تمنحها كلية الدراسات العليا بالأكاديمية للعام 2019/2018 بإعداد أبحاث حول موضوعات مكافحة الإتجار فى البشر، أبرزها "الإتجار فى البشر كإحدى صور الجريمة المنظمة في ظل الاتفاقيات الدولية والقوانين الوطنية" و"التعاون الدولي في مجال مكافحة الإتجار فى البشر"، إلى جانب تزويد مكتبات كليات ومعاهد أكاديمية الشرطة بالوثائق والكتب والأبحاث الدولية ذات الصلة.

ي. انضمام مصر إلى حملة "القلب الأزرق" العالمية للتوعية بجريمة الإتجار فى البشر، التي يتبناها مكتب الأمم المتحدة المعني بالمخدرات والجريمة في إطار جهود الوقاية من الإتجار فى البشر.

([12]) عقدت اللجنة الوطنية لمكافحة الهجرة غير الشرعية والإتجار فى البشر 25 دورة تدريبية فى 2018/ 2019 لعدد 555 من القضاة وأعضاء النيابة العامة، إلى جانب 32 دورة لعدد 565 من أعضاء هيئة الرقابة الإدارية والشرطة والأخصائيين الاجتماعيين ومنظمات المجتمع المدني والإعلاميين.

([13]) نصت المادة 41 من دستور 1971 على أن "الحرية الشخصية حق طبيعي وهي مصونة لا تمس. وفيما عدا حالة التلبس، لا يجوز القبض على أحد أو تفتيشه أو حبسه أو تقييد حريته بأي قيد أو منعه من التنقل إلا بأمر تستلزمه ضرورة التحقيق وصيانة أمن المجتمع. ويصدر هذا الأمر من القاضي المختص أو النيابة العامة، وذلك وفقاً لأحكام القانون. ويحدد القانون مدة الحبس الاحتياطي." ونص في المادة 42 على أن "كل مواطن يقبض عليه أو يحبس أو تقيد حريته بأي قيد تجب معاملته بما يحفظ عليه كرامة الإنسان، ولا يجوز إيذاؤه بدنياً أو معنوياً، كما لا يجوز حجزه أو حبسه في غير الأماكن الخاضعة للقوانين الصادرة بتنظيم السجون، وكل قول يثبت أنه صدر من مواطن تحت وطأة شيء مما تقدم أو التهديد بشيء منه يهدر ولا يعول عليه." كما نص فى المادة 71 على أن "يُبلغ كل من يقبض عليه أو يعتقل بأسباب القبض عليه أو اعتقاله فوراً. ويكون له حق الاتصال بمن يرى إبلاغه بما وقع أو الاستعانة به على الوجه الذي ينظمه القانون. ويجب إعلانه على وجه السرعة بالتهم الموجهة إليه. وله ولغيره التظلم أمام القضاء من الإجراء الذي قيد حريته الشخصية. وينظم القانون حق التظلم بما يكفل الفصل فيه خلال مدة محددة، وإلا وجب الإفراج حتماً."

([14]) المادة 201 من قانون الإجراءات الجنائية بعد تعديلها بالقانون رقم 145 لسنة 2006.

([15]) وجوب حضور مترجم حال الحاجة إلى ذلك، أو تمكينه من الاتصال بسفارة دولته أو بسفارة الدولة التي يقيم فيها عادة إن كان بلا جنسية، وأن الجهة المنوط بها إخطار السفارة التي يتبعها المتهم تتمثل في وزارة الداخلية خلال فترة الاستدلال، وعقب ذلك تختص النيابة العامة بذلك عن طريق مكتب التعاون الدولي.

([16]) الصادر بالقانون رقم 71 لسنة 2009.

([17]) ويشمل التقرير: أ) حالة المودع النفسية أو العقلية وقت ارتكاب الجريمة من حيث مدى توافر الإدراك أو الاختيار؛ ب) حالة المودع النفسية أو العقلية وقت إجراء التقييم؛ ج) الخطة العلاجية المقترحة.

([18]) نصت المادة 42 من دستور 1971 على أن "كل مواطن يقبض عليه أو يحبس أو تقيد حريته بأي قيد تجب معاملته بما يحفظ عليه كرامة الإنسان. ولا يجوز إيذاؤه بدنياً أو معنوياً، كما لا يجوز حجزه أو حبسه في غير الأماكن الخاضعة للقوانين الصادرة بتنظيم السجون. وكل قول يثبت أنه صدر من مواطن تحت وطأة شيء مما تقدم أو التهديد بشيء منه يهدر ولا يعول عليه." ونصت المادة 55 من دستور 2014 على أن "كل من يقبض عليه، أو يحبس، أو تقيد حريته تجب معاملته بما يحفظ عليه كرامته، ولا يجوز تعذيبه، ولا ترهيبه، ولا إكراهه، ولا إيذاؤه بدنياً أو معنوياً، ولا يكون حجزه، أو حبسه إلا في أماكن مخصصة لذلك لائقة إنسانياً وصحياً. وتلتزم الدولة بتوفير وسائل الإتاحة للأشخاص ذوي الإعاقة، ومخالفة شيء من ذلك جريمة يعاقب مرتكبها وفقاً للقانون، وللمتهم حق الصمت، وكل قول يثبت أنه صدر من محتجز تحت وطأة شيء مما تقدم، أو التهديد بشيء منه، يهدر ولا يعول عليه. "

([19]) سجل عمومي للمسجونين، ودفتر يومية حوادث السجن، وسجل أمتعة للمسجونين، وسجل تشغيل المسجونين، وسجل الجزاءات، وسجل الهاربين من السجن، وسجل الشكاوى والطلبات المقدمة من المسجونين، وسجل للزيارات يُعد لتدوين ملاحظات الزائرين الذين لهم صفة رسمية، والسجلات القضائية التي يرى النائب العام ضرورة استعمالها تنفيذاً لأحكام القانون، وسجل لكل مسجون به بحث شامل عن حالته من النواحي الاجتماعية والطبية والنفسية، يذكر فيه توصيات الأخصائي الاجتماعي، وأي سجل آخر يرى مساعد الوزير لقطاع مصلحة السجون ضرورة استعماله.

([20]) للتحقق من: أ) تنفيذ أوامر النيابة وقاضي التحقيق في القضايا التي يندب لتحقيقها وقرارات المحاكم على الوجه المبين فيها؛ ب) عدم وجود شخص مسجون بغير وجه قانوني؛ ج) عدم تشغيل مسجون لم يقض الحكم الصادر ضده بتشغيله، فيما عدا الأحوال المبينة في القانون؛ د) عزل كل فئة من المسجونين عن الفئة الأخرى ومعاملتهم المعاملة المقررة لفئتهم؛ هـ) استعمال السجلات المفروضة طبقاً للقانون بطريقة منتظمة؛ و) قبول شكاوى المسجونين وفحص السجلات والأوراق القضائية للتحقق من مطابقتها للنماذج المقررة، وعلى مأمور السجن أن يوافيهم بجميع ما يطلبونه من البيانات الخاصة بالمهمة الموكول إليهم القيام بها.

([21]) الصادرة بقرار وزير الداخلية رقم 79 لسنة 1961، والمعدلة بالقرار رقم 345 لسنة 2017.

([22]) تنص الفقرة الأولى من المادة 94 من هذا القانون على أن "تمتنع المسئولية الجنائية على الطفل الذي لم يجاوز اثنتي عشرة سنة ميلادية كاملة وقت ارتكاب الجريمة". وتجيز الفقرة الثانية من ذات المادة إذا كان الطفل قد جاوزت سنه السابعة ولم تجاوز الثانية عشرة سنة ميلادية كاملة وصدرت منه واقعة تشكل جناية أو جنحة، إخضاعه من قبل محكمة الطفل -دون غيرها- لأحد التدابير المنصوص عليها بالقانون، وتشمل التوبيخ، والتسليم، الإلحاق بالتدريب والتأهيل، الإلزام بواجبات

معينة، الاختبار القضائي، الإيداع في إحدى المستشفيات المتخصصة، الإيداع في إحدى مؤسسات الرعاية الاجتماعية، أو العمل للمنفعة العامة بما لا يضر بصحة الطفل أو نفسيته، حيث تحدد اللائحة التنفيذية لهذا القانون أنواع هذا العمل وضوابطه. وقد تم تناول هذه الجوانب بالتفصيل في تقرير مصر إلى لجنة حقوق الطفل.

([23]) تمنح المادة 15 من قانون تنظيم السجون المحبوسين احتياطياً الحق في ارتداء ملابسهم الخاصة. وتجيز المادة 16 استحضار ما يُلزمهم من الغذاء من خارج السجن أو شراءه من داخل السجن. وتحظر المادة 24 تشغيلهم إلا إذا رغبوا في ذلك. وتُلزم المادة 55 بخصم مدة الحبس الاحتياطي من مدة العقوبة إذا كان المحكوم عليه بعقوبة مقيّدة للحرية قد قضى مدة في الحبس الاحتياطي. كما تحظر المادة 79 على رجال السلطة الاتصال بالمحبوس احتياطياً داخل السجن إلا بإذن كتابي من النيابة العامة، وعلى مأمور السجن أن يدوّن في دفتر يومية السجن اسم الشخص الذي سمح له بذلك، ووقت المقابلة وتاريخ الإذن ومضمونه.

([24]) بموجب القانون رقم 94 لسنة 2003.

([25]) تنص المادة 2 من هذا القانون على أن "يشكل المجلس من رئيس ونائب للرئيس وخمسة وعشرين عضواً، يتم اختيارهم من بين الشخصيات العامة المشهود لها بالخبرة والاهتمام بمسائل حقوق الإنسان أو من ذوى العطاء المتميز فى مجال حقوق الإنسان، على أن يكون من بينهم أحد أساتذة القانون الدستورى بالجامعات المصرية، وذلك لدورة مدتها أربع سنوات، ولا يجوز تعيين أى منهم بالمجلس لأكثر من دورتين متتاليتين." ونصت المادة 2 مكرر على أن "يشترط فى رئيس المجلس ونائبه والأعضاء ما يأتي: 1) أن يكون مصريا متمتعا بحقوقه المدنية والسياسية؛ 2) أن يكون قد أدى الخدمة العسكرية أو أعفى من أدائها قانونا؛ 3) ألا يكون قد صدر ضده حكم قضائى نهائى فى جناية أو جريمة مخلة بالشرف أو الأمانة، ما لم يكن قد رد إليه اعتباره، أو بعقوبة تأديبية بالفصل ما لم يكن قد تم إلغاء هذه العقوبة؛ 4) ألا يكون عضواً بأى من السلطة التنفيذية أو السلطة التشريعية أو الجهات أو الهيئات القضائية." وتنص المادة 2 مكرر-أ على أن "يبدأ مجلس النواب فى إجراءات تشكيل المجلس قبل انتهاء مدته بستين يوماً على الأقل، وذلك فى ضوء ترشيحات المجالس القومية والمجلس الأعلى للجامعات والمجلس الأعلى للثقافة والنقابات المهنية، وغيرها من الجهات. وتسمي اللجنة العامة لمجلس النواب المرشحين لعضوية المجلس مع مراعاة التمثيل الملائم لفئات المجتمع، ويختار مجلس النواب رئيس المجلس ونائبه والأعضاء بموافقة أغلبية أعضائه. ويصدر رئيس الجمهورية قرار تشكيل المجلس، وينشر فى الجريدة الرسمية."

([26]) من أمثلتها ما يلى:

أ. القانون 152 لسنة 2001 (دخل حيز النفاذ في 2002/1/11) بتعديل بعض أحكام قانون تنظيم السجون، ويتضمن إلغاء توقيع عقوبة الجلد.

ب. القانون رقم 95 لسنة 2003، والذي تضمن إلغاء عقوبة الأشغال الشاقة، أينما وردت، في قانون العقوبات أو في أي قانون أو نص عقابي آخر، ويستعاض عنها بعقوبة السجن المؤبد إذا كانت مؤبدة، وبعقوبة السجن المشدد إذا كانت مؤقتة.

ج. القانون 74 لسنة 2007 بتعديل بعض أحكام قانون الإجراءات الجنائية، وتضمن تنظيم إصدار الأوامر الجنائية كبديل للمحاكمة الجنائية التي قد تنتهي بعقوبات سالبة للحرية، والاستعاضة عنها بنظام عدالة تصالحية يتضمن إقرار التصالح عن بعض أنواع الجرائم مقابل أداء مالي يتقدم به الجاني، والإقرار بتحمل الخزانة العامة قيمة أتعاب المحاماة التي تقرر للمحامين الذين تندبهم جهات التحقيقات للمتهمين في الأحوال التي لا يكون لهم فيها محامين مختارين.

د. القانون 6 لسنة 2009 بتعديل بعض أحكام قانون تنظيم السجون، ويتضمن ضرورة معاملة المسجونة الحامل معاملة طبية خاصة من حيث الغذاء والتشغيل والنوم منذ ثبوت حملها بتقرير طبي، وإلى أن تضع مولودها وتمضي 30 يوماً على الوضع.

ه. القانون رقم 71 لسنة 2009 بشأن رعاية المريض النفسي وتنظيم الإجراءات الجنائية التي قد تتخذ في مواجهة المتهمين الذين يعانوا من أمراض عقلية ونفسية بما يضمن الحيلولة دون وقوع أي شكل من أشكال التعذيب العقلي أو النفسي عليهم.

و. القانون 94 لسنة 2014 المعدل لبعض أحكام قانون تنظيم السجون والمتضمن أحقية كل محكوم عليه بالحبس البسيط لمدة لا تتجاوز ستة أشهر أن يطلب بدلاً من تنفيذ عقوبة الحبس عليه تشغيله خارج السجن طبقاً للقيود المقررة بقانون الإجراءات الجنائية، إلا إذا نص الحكم على حرمانه من هذا الخيار.

ز. القانون 106 لسنة 2015 بتعديل بعض أحكام قانون تنظيم السجون، ويتضمن منح المسجونة حق إبقاء طفلها بصحبتها حتى سن 4 سنوات، على أن تلازمه خلال العامين الأولين.

ح. القانون 6 لسنة 2018 المعدل لبعض أحكام قانون تنظيم السجون، ويتضمن جواز الإفراج تحت شرط عن كل محكوم عليه نهائيا بعقوبة مقيدة للحرية إذا أمضى في السجن نصف مدة العقوبة وكان سلوكه أثناء وجوده في السجن يدعو إلى الثقة بتقويم نفسه.

([27]) الفرع الأول من الفصل الثاني من الباب الثالث المعنون "الدعاوى واجبة التحقيق" - المواد 122-145.

([28]) من أمثلة ذلك:

أ. استخدام رئيس الجمهورية حقه المقرر بمقتضى المادة 155 من الدستور في العفو عن بعض العقوبات السالبة للحرية المقضي بها على المساجين في المناسبات والأعياد القومية.

ب. تعديل قواعد الإفراج المنصوص عليها في قانون تنظيم السجون، بموجب القانون رقم 6 لسنة 2018، حيث تجيز المادة 52 منه الإفراج عن المسجون تحت شرط إذا أمضى في السجن نصف مدة العقوبة، بدلًا من اشتراط قضاء

ثلاثة أرباع مدة العقوبة، على ألا تقل المدة التي تقضى في السجن عن 6 أشهر. وإذا كانت العقوبة السجن المؤبد، فلا يجوز الإفراج تحت شرط، إلا إذا قضى المحكوم عليه 20 سنة على الأقل.

ج. الإفراج عن المساجين وفقًا لقواعد الإفراج الصحي المقرر بموجب المادة 36 من قانون تنظيم السجون التي تجيز لطبيب السجن إذا تبين أن المحكوم عليه مصاب بمرض يهدد حياته أو يعجزه عجزاً كلياً أن يعرض أمره على مدير إدارة الخدمات الطبية للسجون لفحصه بالاشتراك مع الطبيب الشرعي للنظر في الإفراج عنه.

د. استحداث بدائل الحبس الاحتياطي بموجب المادة 201 من قانون الإجراءات الجنائية المعدلة بالقانون رقم 145 لسنة 2006 عبر الإجازة لجهات التحقيق بدلاً من أن تأمر بحبس المتهم احتياطياً أن تصدر أمراً بأحد التدابير الآتية: إلزام المتهم بعدم مبارحة مسكنه أو موطنه، إلزام المتهم بأن يقدم نفسه لمقر الشرطة في أوقات محددة، حظر ارتياد المتهم أماكن محددة.

ه. إطلاق مبادرة "سجون بلا غارمين" بالتعاون بين وزارة الداخلية ومنظمات المجتمع المدني لسداد المبالغ المالية المستحقة على محدودي الدخل من المساجين في أنواع من الجرائم الجنائية البسيطة، والإفراج عنهم.

([29]) القضية رقم 35 لسنة 30 قضائية دستورية بجلسة 2014/6/1، والقضية رقم 127 لسنة 30 قضائية دستورية بجلسة 2014/4/6، والقضية رقم 22 لسنة 29 قضائية دستورية بجلسة 2015/5/9، والقضية 116 لسنة 29 قضائية دستورية بجلسة 2015/7/25.

([30]) تنص المادة 95 من الدستور على أن "العقوبة شخصية، ولا جريمة ولا عقوبة إلا بناء على قانون، ولا توقع عقوبة إلا بحكم قضائي، ولا عقاب إلا على الأفعال اللاحقة لتاريخ نفاذ القانون".

([31]) تنص المادة 98 من الدستور على أن "حق الدفاع أصالة أو بالوكالة مكفول. واستقلال المحاماة وحماية حقوقها ضمان لكفالة حق الدفاع. ويضمن القانون لغير القادرين مالياً وسائل الالتجاء إلى القضاء، والدفاع عن حقوقهم."

([32]) استقرت محكمة النقض في العديد من أحكامها على أن الإخلال بحق الدفاع يرتب بطلان الحكم. من ذلك ما قضت به في الطعن رقم 8322 لسنة 75 قضائية بجلسة 2006/5/16 من أن "في مصادرة حق الطاعن في الدفاع عن نفسه وهو حق أصيل كفله له الدستور والقانون ما يعيب الحكم بعيب الإخلال بحق الدفاع الذي يستوجب نقضه."

([33]) الصادر بالقانون 17 لسنة 1983.

([34]) قانون حالات وإجراءات الطعن أمام محكمة النقض 57 لسنة 1959.

([35]) تنص المادة 5 من قانون العقوبات على أن "يعاقب على الجرائم بمقتضى القانون المعمول به وقت ارتكابها. ومع هذا إذا صدر بعد وقوع الفعل وقبل الحكم فيه نهائياً قانون أصلح للمتهم، فهو الذى يتبع دون غيره. وإذا صدر قانون بعد حكم نهائى يجعل الفعل الذى حكم على المجرم من أجله غير معاقب عليه، يوقف تنفيذ الحكم وتنتهى آثاره الجنائية. غير أنه فى حالة قيام إجراءات الدعوى أو صدور حكم بالإدانة فيها، وكان ذلك عن فعل وقع مخالفاً لقانون ينهى عن ارتكابه فى فترة محددة، فإن انتهاء هذه الفترة لا يحول دون السير فى الدعوى أو تنفيذ العقوبات المحكوم بها." ونصت المادة 127 من ذات القانون على أن "يعاقب بالسجن كل موظف عام وكل شخص مكلف بخدمة عامة أمر بعقاب المحكوم عليه أو عاقبه بنفسه بأشد من العقوبة المحكوم بها عليه قانونا، أو بعقوبة لم يحكم بها عليه."

([36]) قضت المحكمة الدستورية العليا في القضية رقم 207 لسنة 32 قضائية دستورية بجلسة 2018/12/1، في معرض إعمال رقابتها على دستورية المادتين 95 و206 من قانون الإجراءات الجنائية، بأن القانون "قد أخضع تقرير المراقبة أو التسجيل وتحديد مدتها لمجموعة من الضوابط الحاكمة لها، التي تضمن جديتها وفاعليتها في صون الحقوق والحريات التي كفلها الدستور، فاشترط أن يصدر بها أمر مسبب من قاضي التحقيق - أو عضو النيابة العامة الذي لا تقل درجته عن رئيس نيابة- بناء على ما تكشف له من التحريات والتحقيقات من دلائل على جدية الاتهام الموجه للمتهم، والذي يصلح ويكفي سبباً لإصدار الأمر، للمدة التي يقدرها، والتي لا تزيد على ثلاثين يوماً. وإن أجاز تجديدها لمدة أو مدد أخرى مماثلة، إلا أنه أحاط تحديد تلك المدة وتجديدها بضمانات تكفل عدم تأبيدها، وعدم مساسها بالحرية الشخصية أو تجاوزها تخوم الحياة الخاصة، والتي كفلها الدستور في المادتين 54 و57 منه، إلا لضرورة تقتضيها مصلحة التحقيق باعتبارها أحد أوجه المصلحة العامة، وغايتها إظهار الحقيقة في جناية أو جنحة معاقب عليها بالحبس لمدة لا تزيد على ثلاثة أشهر، وفي الحدود التي يستوجبها ذلك، حتى لا تتخذ هذه الإجراءات مع خطورتها سبيلاً للتغول على حقوق الأفراد وحرياتهم، وفي جرائم قليلة الأهمية. وتحديداً لنطاق هذا الحكم تطلب المشرع أن تكون هذه الإجراءات ذات فائدة في إظهار الحقيقة، كما عين موضوعها في مراقبة المحادثات السلكية أو اللاسلكية، أو إجراء تسجيلات لأحاديث جرت في مكان خاص، منظوراً في ذلك إلى أن ضبط الأحاديث الشخصية عن طريق تسجيلها يعتبر -كما أبانت المذكرة الإيضاحية للقانون 37 لسنة 1972 المشار إليه - نوعاً من التفتيش، ومن ثم فإنه يجب أن يخضع لأحكام التفتيش، هذا فضلاً عن خضوع الأمر بالمراقبة أو التسجيل لسلطة محكمة الموضوع، ليبقى دائماً ضمان عدم تأبيد مدتها أو تجاوزها الحدود المعقولة التي تقتضيها ضرورات التحقيق وإظهار الحقيقة، شرطاً لمشروعيتها وتوافقها مع أحكام الدستور، ومصدره نص الدستور ذاته في المادة 57 منه، واشتراطه أن يكون فرض الرقابة لمدة محددة، والمادة 95 من قانون الإجراءات الجنائية المشار إليها، والتي اشترطت أن تكون المراقبة والتسجيل ذات فائدة في ظهور الحقيقة، والذي يعد قيداً على السلطة مصدرة الأمر، وخاضعاً في الوقت ذاته لرقابة محكمة الموضوع، وتقديرها للدليل الناشئ عنه، في إطار حريتها في تكوين عقيدتها مما تطمئن إليه من أدلة وعناصر الدعوى التي تطرح عليها، لتقول هي وحدها كلمتها فيها، ليكون مرد الأمر دائماً إلى ما استخلصته هي من وقائع الدعوى، وحصلته من أوراقها، غير مقيدة في ذلك بوجهة نظر النيابة العامة أو الدفاع أو أي جهة أخرى بشأنها، إضافة إلى حق المتهم في تفنيد هذا الدليل ودحضه، بما كفله له نص المادة 98 من الدستور، من الحق في الدفاع أصالة أو بالوكالة، باعتباره أحد ضمانات المحاكمة المنصفة العادلة التي كفلها الدستور للمتهم بمقتضى نص المادة

96 منه، ليضحي التنظيم الذي أتى به النص المطعون فيه في حدود النطاق المتقدم غير مصادم لنصوص المواد 54 و57 و98 من الدستور.”

(37) قضت في الطعن رقم 3040 لسنة 63 قضائية بتاريخ 2001/11/17 بعدم جواز أن يمتد التفتيش إلى أجزاء من جسد الإنسان تعتبر عورة، لما ينطوي عليه هذا الفعل من جريمة هتك عرض. ومن ثم، يعتبر باطلاً لمخالفته للآداب العامة التي تعتبر مكوناً من مكونات النظام العام. ولكن أجاز القضاء مع ذلك الالتجاء للطبيب لإجراء التفتيش اللازم في هذا الجزء من الجسد بوصفه خبيراً يحق له بحكم عمله الاطلاع على مثل هذه الأجزاء من جسد الإنسان.

(38) قضت في الطعن رقم 30508 لسنة 72 قضائية بجلسة 2003/11/12 ببطلان إجراءات أخذ عينة بول من السائقين المشتبه في قيادتهم لسياراتهم تحت تأثير مواد مخدرة أو مسكرة دون رضائهم وتحليلها. واعتبرت ذلك إجراءاً غير صحيح ليس له ما يبرره ولا سند له من القانون، مشوباً بالانحراف في استعمال السلطة ووليد عمل تعسفي. وقد استندت في قضائها إلى ما نصت عليه المادة 12 من الإعلان العالمي لحقوق الإنسان من أن “لا يعرض أحد لتدخل تعسفي في حياته الخاصة أو أسرته أو مسكنه أو مراسلاته أو لحملات على شرفه وسمعته، ولكل شخص الحق في حماية القانون من مثل هذا التدخل أو تلك الحملات”، وما نصت عليه المادة 41 من الدستور السابق من أن “الحرية الشخصية حق طبيعي وهي مصونة لا تمس...”

(39) أبانت محكمة النقض في أكثر من حكم لها أن ما يشترطه القانون من تفتيش الأنثى بمعرفة أنثى مثلها أن يكون مكان التفتيش من المواضع الجسمانية التي لا يجوز لرجل الضبط القضائي الاطلاع عليها أو مشاهدتها باعتبارها من عورات المرأة التي تخدش حياءها إذا مُست. وقضت ببطلان تفتيش مثل تلك الأماكن إذا جرى بمعرفة أحد الرجال من مأموري الضبط القضائي.

(40) تقوم فلسفة مشروع القانون على ضمان حماية قانونية وتقنية للبيانات الشخصية المعالجة إلكترونياً ووضع آليات كفيلة بالتصدي للأخطار الناجمة عن استخدام البيانات الشخصية ومكافحة انتهاك الخصوصية، وذلك من خلال تنظيم عمليات المعالجة الإلكترونية للبيانات الشخصية. ويتضمن تنظيم إطار إجرائي متكامل لعمليات نقل البيانات عبر الحدود وضمان حماية بيانات المواطنين وعدم نقلها أو مشاركتها مع دول لا تتمتع فيها البيانات بالحماية. ويفرض عقوبات صارمة في حالة جمع البيانات الشخصية بطرق غير مشروعة أو بدون موافقة أصحابها، أو معالجاتها بالتدليس أو بطرق غير مطابقة للأغراض المصرح بها من قبل صاحب البيانات.

(41) حل محله قانون الخدمة المدنية 81 لسنة 2016.

(42) حكم المحكمة الدستورية العليا في الطعن رقم 153 لسنة 32 قضائية دستورية بتاريخ 2017/2/4.

(43) منها مشروع تعزيز التعليم وحماية الأطفال من المخاطر، والذي يتم تنفيذه بالتعاون مع اليونيسيف وبرنامج الأمم المتحدة الإنمائي في مصر بهدف إدماج مفاهيم حقوق الإنسان في مناهج التعليم.

(44) حكم المحكمة الدستورية العليا في القضية رقم 160 لسنة 36 قضائية دستورية بتاريخ 2016/12/3.

(45) القانون 70 لسنة 2017 بإصدار قانون تنظيم عمل الجمعيات وغيرها من المؤسسات العاملة فى مجال العمل الأهلى.

(46) تم إدراج المادة بموجب القانون 126 لسنة 2008.

(47) القانون 6 لسنة 2015.

(48) القانون 7 لسنة 2015.

(49) حكم المحكمة الدستورية العليا في الطعن رقم 15 لسنة 37 قضائية دستورية بتاريخ 2015/3/1.

(50) حكم المحكمة الدستورية العليا في الطعن رقم 60 لسنة 37 قضائية دستورية بجلسة 2018/2/3، وحكمها في الطعن رقم 55 لسنة 31 قضائية دستورية بجلسة 2019/1/5.

(51) انظر الفقرات 37-45 من هذا التقرير.