



# Country Overview

January 2011

# EGYPT



**The Equal Rights Trust**

## EGYPT

### I. Facts and Comments

#### 1. Background

Egypt is the most populous Arab country with a total land area of 1,002,450 sq km and home to 76,699,427 people in 2006. Only 4% of the land is arable, the rest is desert; the population is concentrated heavily around the Nile delta, and the capital Cairo is the largest city in Africa and one of the largest in the world (estimated population 17.3 million people in 2008).<sup>1</sup> It is estimated that 99% of the country's population is from Eastern Hamitic origin (including Egyptians, Bedouins and Berbers) and the remaining 1% is made up of several minority ethnic groups (Nubians, Armenians, Greeks and other Europeans).<sup>2</sup> The religion of 91% of the population is Islam; the other 9% are mostly Coptic Christians, with Jews and others together accounting for less than 1%. Recently, the Coptic Christians have been targeted by Islamic extremists: on 1 January 2011, at the end of the New Year mass in a Coptic Church in Alexandria, a suicide bomb attack left 21 persons dead and dozens injured. The International Organization for Migration estimates that there were approximately 2.7 million Egyptians living and working in diaspora, primarily within the Middle East.<sup>3</sup> The number of refugees and asylum seekers is disputed, with most originating from the Sudan and Palestine. The UNHCR estimates that there were 107,914 refugees and asylum seekers in 2010 but the actual number is likely to be much higher (estimates vary widely between 500,000 and 3 million).<sup>4</sup>

Egypt gained independence from the United Kingdom in 1953. Executive power is in theory distributed evenly between the President and the Prime Minister, but in reality the directly elected President yields the greatest influence in Egyptian politics. The current President, Hosni Mubarak, has been in power continuously since 1981. Egyptians have been living under emergency laws ever since 1967 (with the exception of an 18-month break in 1980-1), which place severe restrictions on political activity. The emergency laws were renewed again in 2010, despite earlier promises that they would be abolished.<sup>5</sup>

Legislative power lies with a bi-cameral parliament elected by universal suffrage every 5 years. The latest round of parliamentary elections was held in November-December 2010 and won by the National Democratic Party, which has effectively ruled the country since independence (under the name Arab Socialist Union until 1978). The Muslim Brotherhood, the largest opposition group, lost most of the 88 seats it held, amid

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<sup>1</sup> United Nations World Urbanization Prospects Report (2009 revision), available at: <http://esa.un.org/wup2009/unup/index.asp?panel=2>.

<sup>2</sup> Encyclopedia of the Nations, entry "Egypt", available at: <http://www.nationsencyclopedia.com/Africa/Egypt.html>.

<sup>3</sup> International Organization for Migration, *A Study on the Dynamics of the Egyptian Diaspora: Strengthening Development Linkages*, July 2010, available at: <http://www.eip.gov.eg/Upload/Publications/study.pdf>.

<sup>4</sup> UNHCR Statistical Snapshot (January 2010), available at: <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486356#>.

<sup>5</sup> Slackman, M., "Egyptian Emergency Law Is Extended for 2 Years", *The New York Times*, 11 May 2010, available at: <http://www.nytimes.com/2010/05/12/world/middleeast/12egypt.html>.

allegations of widespread vote rigging and fraud.<sup>6</sup> The party's candidates run as independents, as there is a ban on parties based on religion. The next round of presidential elections is to be held in 2011.

Egypt's Human Development Index (HDI) is 0.620, placing it in the lower middle of the world's development distribution (101<sup>st</sup>). GDP per capita (2008 PPP) is estimated at \$5,840 in 2010, which is very low for the region. Egyptians are generally poorer, less educated (adult literacy is 71.4%) and live less than other people in the Arab world.<sup>7</sup> This is partly due to a lack of natural resources and dependency on agriculture, combined with large-scale urbanisation that has led to urban unemployment and poverty. In 2007 child mortality stood at 35 per 1000 live births, down from 235 per 1000 in 1967.<sup>8</sup>

## 2. Disadvantaged Groups

**Dissidents and human rights activists** experience regular discrimination on the basis of opinion and belief. Protests organised by civil society organisations have been brutally suppressed and the latest round of elections in November-December 2010 saw another crackdown on political opponents, as well as clashes between political parties that left several people dead and dozens injured.<sup>9</sup> **Members of the banned Muslim Brotherhood** are frequently held under the emergency laws for years without being charged or tried. They are vulnerable to being tried before military and special courts, frequently on terrorism-related charges, as was the case of 25 members of the movement who were tried by the Haikstep military court in April 2008 and sentenced to up to 10 years imprisonment.<sup>10</sup> Amnesty International has documented widespread torture and ill-treatment of political detainees, with many also having been subjected to harassment and false allegations.<sup>11</sup>

Egypt has a very poor record of compliance with the prohibition of torture in international law. According to the UN Committee against Torture, **prisoners and criminal suspects** face persistent torture and ill-treatment by law enforcement officials and there are numerous cases of deaths in custody.<sup>12</sup> The death penalty is still applied in for a range of offences. Minors are vulnerable, especially if they are kept in detention with adult detainees; female detainees are at risk of sexual abuse. A number of deaths in custody have also been reported.<sup>13</sup>

Religious legal norms enshrined in personal status laws still play a large role in the lives of individuals, and discriminate against **women**. Women are subject to discriminatory

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<sup>6</sup> "Egypt's Farcical Election", *IkhwanWeb: The Muslim Brotherhood's Official English web site*, 29 November 2010, available at: <http://www.ikhwanweb.com/article.php?id=27350>.

<sup>7</sup> The HDI is a common measure of development used by the United Nations to rank countries. It incorporates measures of GDP per capita, life expectancy at birth and educational attainment. For the latest Human Development Report from 2010, see <http://hdr.undp.org/en/reports/global/hdr2010/>.

<sup>8</sup> World Health Organization, World Health Statistics 2008, available at: <http://www.who.int/countries/egy/en/>.

<sup>9</sup> Amnesty International, "Egypt: Human Rights in the Arab Republic of Egypt", 2009 Report, available at: <http://amnesty.org/en/region/egypt/report-2009>.

<sup>10</sup> Human Rights Watch, "Egypt: Military Court Convicts Opposition Leaders", 15 April 2008, available at: <http://www.hrw.org/en/news/2008/04/15/egypt-military-court-convicts-opposition-leaders>.

<sup>11</sup> See, for example, above, note 9.

<sup>12</sup> United Nations, *Conclusions and Recommendations of the Committee against Torture: Egypt*, adopted at the twenty-ninth session on 23 December 2002, CAT/C/CR/29/4, available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CAT.C.CR.29.4.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CAT.C.CR.29.4.En?Opendocument).

<sup>13</sup> See above, note 9.

treatment sanctioned by *shari'a* family law in respect to marriage, divorce, child custody and inheritance. Unmarried women under the age of 21 cannot obtain passports without permission from their fathers or other male guardians; a female heir receives only half the amount of a male heir's inheritance. Some provisions in the Penal Code discriminate against women directly, including articles 17 and 60 which appear to condone violence against women by limiting punishment for perpetrators in various circumstances (e.g. so-called 'honour killings').<sup>14</sup> The Penal Code (sections 260-264) also bans abortion in all circumstances except when a woman's life is in danger, and recently (March 2010) draft law to lift the ban has been rejected by Al-Azhar University, the leading institution on Islamic law, on the basis of contravening the *shari'a*.<sup>15</sup> Gender discrimination in employment is evident both in the public and private sector, with women primarily occupying lower-level jobs in the informal economy.<sup>16</sup> The literacy rate of Egyptian women is 73% of that of males for the period 2003-07,<sup>17</sup> with a high prevalence of illiteracy among rural women. Women are subject to discrimination also in their homes, with domestic violence a common occurrence and marital rape not explicitly criminalised. Domestic workers are not covered by the Labour Code, which leaves them vulnerable to discrimination and ill-treatment. The previously existing provisions prohibiting a woman from transferring her nationality to her children have been removed, but the Committee on the Elimination of Discrimination against Women (CEDAW) notes that there are still discriminatory provisions against a woman passing her citizenship to her foreign husband, as well as continuing obstacles facing nationals from certain countries. The Committee also notes the prevalence of multiple discrimination against vulnerable groups of women, including those with disabilities, older women, refugees and homeless women. On a positive note, changes in the Child Law adopted in June 2008 allowed women to register children under their family name and banned marriage for under-18s. Previously, the legal age of marriage had been 16 for women and 18 for men (according to the 1923 Law on Marriage Age). The same changes also criminalise female genital mutilation (FGM), although the practice is still disturbingly common. Another positive development is the introduction of a quota of 64 reserved seats for women in the People's Assembly (the lower house of Parliament).<sup>18</sup>

**Children** are another group that is disadvantaged, partly due to poverty: many poor children are subject to exploitation by employers or are deprived of their right to education. The UN Committee on the Rights of the Child has expressed concern about the continued use of child labour and the unusually low age – seven – at which a child becomes criminally liable. The Committee referred to a number of provisions in the personal status laws (e.g. No. 25/1920, No. 25/1929, No. 260/1960, No. 100/1985, No. 77/1943) which discriminate against girls and children born out of wedlock. Girls in rural areas are particularly at risk of early and forced marriages, as well as early withdrawal from school.<sup>19</sup> In its most recent observations, CEDAW expressed concern that enrolment rates for both boys and girls have declined in rural areas, as well as

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<sup>14</sup> United Nations, *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Egypt*, adopted at the forty-fifth session on 5 February 2010, available at: <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-EGY-CO-7.pdf>.

<sup>15</sup> Suleiman, M. "Muslim scholars say abortion against Islamic law: Azhar scholars reject Egypt abortion draft law", Al Arabiya News Channel, 22 March 2010, available at: <http://www.alarabiya.net/articles/2010/03/22/103775.html>.

<sup>16</sup> See above, note 14.

<sup>17</sup> UNICEF, *The State of the World's Children: Special Edition on Children's Rights*, Statistics: Egypt, November 2009, available at: <http://www.unicef.org/rightsite/sowc/>.

<sup>18</sup> See above, note 14.

<sup>19</sup> United Nations, *Concluding Observations of the Committee on the Rights of the Child: Egypt*, adopted at the twenty-sixth session on 21 February 2001, CRC/C/15/Add.145, available at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CRC.C.15.Add.145.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CRC.C.15.Add.145.En?Opendocument).

about the “sharp decline of in the enrolment of girls between the primary and secondary levels”.<sup>20</sup>

**Journalists** are vulnerable to censorship and there have been cases of prosecution for defamation and other offences. The new press law introduced in 2006 abolished the imposition of prison sentences for libel but has placed various restrictions on freedom of expression, including by increasing fines that can be imposed on journalists and allowing prison sentences for offenses other than libel. In recent years, there has been intensification in interference and harassment of web-based reporters by the authorities, and several cases of detention of bloggers and Internet journalists have been reported.<sup>21</sup> Reporters Without Borders have reported an increase in the targeting of journalists prior and during the two rounds of elections that took place in November-December 2010.<sup>22</sup>

**LGBTI persons** are victims of persistent and officially endorsed discrimination and prejudice. Even though there are no laws which directly criminalize homosexual behaviour, there is no mention of sexual orientation or gender identity as protected characteristics in anti-discrimination provisions. In practice, there is widespread persecution of LGBT persons, especially since the so-called “Queen Boat” case in 2002, when 50 men were tried in Cairo on account of their sexual orientation and allegedly tortured while in detention. The charges included “habitual debauchery”, prohibited by Law 10 of 1961 on 'Combating of prostitution, incitement and its encouragement' (Article 9), which does not define the term, leaving it to judges to interpret it as broadly as they wish.<sup>23</sup> The Egyptian judiciary very often interprets this provision to cover consensual same sex relations. In 2007, 24 men were arrested and charged with “habitual debauchery” in Cairo and Alexandria, and subsequently tortured and forced to undergo anal examinations and HIV/AIDS testing. 20 of them received prison sentences of varying lengths.<sup>24</sup> Apart from “habitual debauchery”, charges against homosexuals have in the past included “offences against public morals and sensitivities” and “violating the teachings of religion and propagating depraved ideas and moral depravity”. The Ministry of Interior maintains a special “moral police” force, the Vice Squad, who hunt out homosexuals by raiding private apartments, answering personal ads published on Internet and wiretapping telephones. This is one of the most prevailing and socially accepted forms of discrimination in Egypt. However, the situation is comparatively better to the rest of the Arab world – there are no actual sodomy laws and transgender operations were officially allowed by a new *fatwa* (religious decree) from the Al-Azhar University, the highest Sunni Islam authority in Egypt.<sup>25</sup>

**HIV-positive persons** suffer from discrimination and stigmatisation on the basis of their HIV status. Even though the incidence of HIV is low, more than 80% of registered cases are men, the reason being that women are much less likely to come forward for testing because the social stigma associated with the virus is much stronger for women than for men. Human rights organisations have protested against the targeting of HIV-

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<sup>20</sup> See above, note 14.

<sup>21</sup> Freedom House, *Freedom in the World 2010: Country Report Egypt*, available at: <http://www.freedomhouse.org/template.cfm?page=22&year=2010&country=7816>.

<sup>22</sup> Reporters Without Borders, “Grim day of violent attacks on the media in second round of polling”, 9 December 2010, available at: <http://en.rsf.org/egypt-grim-day-of-violent-attacks-on-the-09-12-2010,38994.html>.

<sup>23</sup> Human Rights Watch, “In a Time of Torture: The Assault on Justice In Egypt's Crackdown on Homosexual Conduct”, 2004, available at: [http://www.hrw.org/sites/default/files/reports/egypt0304\\_0.pdf](http://www.hrw.org/sites/default/files/reports/egypt0304_0.pdf).

<sup>24</sup> See above, note 9.

<sup>25</sup> See above, note 23.

positive gay men by the authorities through arrests, imprisonment and torture, including in the form of forcible anal examinations.<sup>26</sup> The law also obligates those applying for a long-term work permit to undergo testing for HIV, and a positive test result means that a work permit would not be granted.

**Refugees, asylum seekers, migrants and stateless persons** have been subjected to detention and trials, and refused the right to access UNHCR representation. There are reports of lethal use of force by the security forces against migrants from Eritrea and Sudan who try to cross the border with Israel. Migrants and asylum seekers have also been forcibly returned to Eritrea and Sudan, where there is a known risk of torture and ill-treatment.<sup>27</sup> The UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families has expressed concern about the continued practice of detaining migrants and reports that they are subjected to torture and ill-treatment, as well as about persistent problems with access to education and provision of full documentation to the children of migrants. It also notes the absence of legal protection for the increasing numbers of foreign domestic workers.<sup>28</sup>

Since Sunni Islam is the official state religion and the Supreme Court has outlawed all religions except Islam, Christianity and Judaism, there is an attitude of intolerance towards **members of certain Islamic sects or other religions**, who are routinely and legally discriminated against in Egypt. *Imams* are appointed by the government and the content of sermons is monitored. In 2005, a Muslim preacher and 11 of his followers were given prison sentences for deviant sermon content.

The Coptic Christian community regularly complains of assaults and hate crimes, as well as under-representation in state institutions. On 1 January 2011, at the end of the New Year mass in a Coptic Church in Alexandria, a suicide bomb attack left 21 persons dead and many were injured. Clashes between police and members of the Coptic communities demonstrating in protest occurred over the following few days. Violence against Copts in Egypt is not new: according to Amnesty International, eight people have died in clashes between Coptic Christians and Muslims in 2008.<sup>29</sup> Freedom House reports of regular employment discrimination against Christians, especially in the public sector, including in particular the security/military forces.<sup>30</sup> Building and repairing Christian churches requires a special permission, which is often denied. In a positive development, a Supreme Administrative Court ruling in February 2008 overturned the ban on Coptic Christians converting back to Christianity after having converted to Islam. A month earlier, the same court ruled that members of the Baha'i faith can obtain identification documents without having to state their faith.<sup>31</sup> The Baha'i faith is not officially recognised as a religion and its members have in the past been denied a range of identification documents, including birth certificates and passports, unless they register themselves as Muslims, Christians or Jews. There are small numbers of **atheists** and people of no religion, who risk persecution on the grounds of apostasy if they express their views openly. In 2000, the openly atheist writer Salaheddin Mohsen was

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<sup>26</sup> See, for example, a letter written to the President of Egypt by 117 human rights organisations from 41 countries on 6 April 2008, available at: <http://www.hrw.org/en/news/2008/04/06/letter-regarding-arrests-and-prosecutions-people-living-hiv-aids>.

<sup>27</sup> See above, note 9.

<sup>28</sup> United Nations, *Concluding observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families: Egypt*, adopted at the 57<sup>th</sup> meeting on 27 April 2007, available at: [http://www2.ohchr.org/english/bodies/cmw/docs/cmw\\_c\\_egy\\_col1.doc](http://www2.ohchr.org/english/bodies/cmw/docs/cmw_c_egy_col1.doc).

<sup>29</sup> See above, note 9.

<sup>30</sup> See above, note 21.

<sup>31</sup> *Ibid.*

tried under blasphemy laws on charges of insulting Islam in his books and sentenced to a six-month suspended jail term.<sup>32</sup>

**Disabled persons** are not legally protected against disability-based discrimination, although the 1979 Law on Rehabilitation of Disabled Persons (No. 39) provides for enhanced access to employment through quotas for large employers and public sector institutions. Societal discrimination is widespread and services accessible to disabled persons are limited, which has led to protests on the part of disabled persons and human rights groups, who claim that the 5% quota for disabled persons is not met.<sup>33</sup>

## II. Law

### 1. International Law

Egypt has ratified or acceded to the following UN Conventions: International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), International Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Convention on the Rights of the Child (CRC), Convention on the Rights of Persons with Disabilities (CRPD), and International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW). However, it has made reservations to some of these treaties and none of their optional protocols have been ratified or acceded to, with the exception of the two Optional Protocols to the CRC. Egypt has made the same general declaration to the ICCPR and ICESCR: “... *Taking into consideration the provisions of the Islamic Sharia and the fact that they do not conflict with the text annexed to the instrument, we accept, support and ratify it...*” In its 2002 concluding observations, the UN Human Rights Committee has criticised the declaration’s ambiguity and recommended that it be either clarified or withdrawn.<sup>34</sup> Egypt has also made lengthy reservations to articles 2 and 16 of CEDAW, through which it affirms that *shari’a* family norms take precedence over the Convention, and which have been criticised by the Committee on the Elimination of Discrimination against Women as “incompatible with the object and purpose of the Convention”.<sup>35</sup> On a positive note, Egypt is currently considering withdrawing the reservation to article 2, and has already (in 2008) withdrawn its previous reservation to article 9, paragraph 2 (regarding equal rights for women in women passing their nationality to their children) after domestic law was amended. Also, Egypt’s previous reservations to articles 20 and 21 of the CRC (on compliance with *shari’a* norms) were withdrawn in 2003.

There has been no action on the Convention for the Protection of All Persons from Enforced Disappearance.

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<sup>32</sup> BBC News, “Suspended sentence for Egyptian 'blasphemer'”, 8 July 2000, available at: [http://news.bbc.co.uk/1/hi/world/middle\\_east/825306.stm](http://news.bbc.co.uk/1/hi/world/middle_east/825306.stm).

<sup>33</sup> Hassan, A., “Egypt: The disabled protest for more rights, better jobs”, *Los Angeles Times*, 6 April 2010, available at: <http://latimesblogs.latimes.com/babylonbeyond/2010/04/egypt-disabled-rights-protest.html>.

<sup>34</sup> United Nations, *Concluding observations of the Human Rights Committee: Egypt*, adopted at the seventy-sixth session on 28 November 2002, CCPR/CO/76/EGY, available at:

[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.CO.76.EGY.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CCPR.CO.76.EGY.En?Opendocument).

<sup>35</sup> See above, note 14.

Egypt is also a party to the 1954 Convention relating to the Status of Refugees and its 1967 Protocol, but not to the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness. It has also ratified 64 of the International Labour Organisation's conventions, including C111 Discrimination (Employment and Occupation) Convention of 1958.

## **2. Regional Agreements**

The headquarters of the Arab League are located in Cairo and the Secretary General is traditionally Egyptian, which means that the country influences and is influenced by the organisation to a large degree. The country is signatory to the League's Arab Charter on Human Rights, which came into effect in 2008 after a protracted adoption process. Egypt is also a member of the Organisation of the Islamic Conference and signatory to the Cairo Declaration on Human Rights in Islam adopted by it.

Egypt is also a member of the African Union, and a signatory to the African Charter on Human and People's Rights (ACHPR), which came into effect in 1986. Compliance with the Charter is monitored by the African Commission on Human and People's Rights and enforced by the African Court on Human and People's Rights. Article 2 of the Charter reads: "Every individual shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or any status."<sup>36</sup> This is a strong anti-discrimination provision legally binding the Egyptian government. Article 18, parts 3 and 4 of the Charter contain provisions relating to women, children, the elderly and the disabled, requiring States to ensure the removal of all forms of discrimination against these groups, "as stipulated in international declarations and conventions." Egypt is also a party to the to the Organization of African Unity's (the African Union's predecessor) African Charter on the Rights and Welfare of the Child (1990), and the Convention Governing the Specific Aspects of Refugee Problems in Africa (1969), which also have important anti-discrimination provisions (article 3 and article 4 respectively).

## **3. Constitution**

Article 2 of the Constitution of Egypt<sup>37</sup> proclaims Islam the state religion and identifies Islamic *shari'a* jurisprudence as the principal source of legislation. Article 8 provides: "The State shall guarantee equality of opportunity to all Egyptians." The main article prohibiting discrimination, Article 40, reads: "All citizens are equal before the law. They have equal public rights and duties without discrimination due to sex, ethnic origin, language, religion or creed." Article 11 requires that: "The State shall guarantee coordination between woman's duties towards her family and her work in the society, considering her equal to man in the political, social, cultural and economic spheres without detriment to the rules of Islamic jurisprudence (Sharia)." Article 17 provides that: "The State shall guarantee social and health insurance services. All citizens shall have the right to pensions in cases of incapacity, unemployment, and old-age in accordance with the law." Article 46 stipulates that "the State shall guarantee the freedom of belief and the freedom of practicing religious rites".

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<sup>36</sup> The text of the Charter is available on the website of the African Commission on Human and Peoples' Rights: [http://www.achpr.org/english/info/charter\\_en.html](http://www.achpr.org/english/info/charter_en.html).

<sup>37</sup> The full text of the Constitution, which was adopted in September 1971 and amended in 1980, 2005 and 2007, is available on Egypt's Government Services Portal: <http://www.egypt.gov.eg/english/laws/constitution/default.aspx>



In respect of the applicability of international law in Egypt, article 151 of the Constitution states: "The President of the Republic shall conclude treaties and communicate them to the People's Assembly, accompanied with suitable clarification. They shall have the force of law after their conclusion, ratification and publication according to the established procedure. However, peace treaties, alliance pacts, commercial and maritime treaties and all other treaties involving modifications in the territory of the State or having connection with the rights of sovereignty, or which lay upon the treasury of the State certain charges not included in the budget, must acquire the approval of the People's Assembly." This has been interpreted as requiring international law treaties to be approved by the People's Assembly before becoming part of national law. Some have argued that additional enabling legislation is required to enforce the treaties. Thus the status on international law is not clear at present, although a decision of the High Court appears to give precedence to the Constitution over international treaties.<sup>38</sup> However, the Supreme Constitutional Court in Case No. 22 of 1992 ruled that the interpretation of human rights clauses in the Constitution has to be in accordance with democratic norms and international standards. It also ruled that international treaties, which have been ratified, are a limitation on the legislature, because any laws must comply with the principles set out in these treaties.<sup>39</sup>

A referendum was held in March 2007 over 34 proposed constitutional amendments, which despite the very low turnout (25% according to official figures, 5% according to international monitors) were passed. Opposition parties and leaders, including the Muslim Brotherhood, boycotted the vote, claiming that the new amendments aim to further suppress democratic practice by prohibiting political parties based on religion, gender and ethnic origin, as well as making judicial monitoring of elections. However, the new amendments also explicitly allow citizens to form political parties without approval by the state, as had previously been the case.<sup>40</sup>

#### **4. Domestic Law and Policy**

The Egyptian judicial system is based on European (mainly French) models and is seen as one of the most independent and professional in the Arab world. The application of family and personal status laws is determined by the religion of the claimant, which has resulted in three branches of family law – Islamic, Christian and secular (based on the French family law).

There are several domestic laws that contain anti-discrimination provisions. Article 35 of the Labour Law prohibits discrimination in wages on account of sex, origin, language, religion or creed.<sup>41</sup> Article 11 of the law on Non-Governmental Organisations prohibits the formation of any organisation that advocates discrimination against citizens on the basis of gender, origin, colour, language, religion or creed.<sup>42</sup> The latter is in the process of being amended, which became known through a leaked text of the Draft Law published by the Egyptian newspaper *Al Dustour* in March 2010. The draft has been

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<sup>38</sup> REDRESS, *Reparation for Torture: A Survey of Law and Practice in Thirty Selected Countries. Egypt*, May 2003, available at: <http://www.redress.org/downloads/country-reports/Egypt.pdf>.

<sup>39</sup> Saleh, Y., "Law, the Rule of Law, and Religious Minorities in Egypt", *Middle East Review of International Affairs*, Vol. 8, No. 4 (December 2004), available at: <http://meria.idc.ac.il/journal/2004/issue4/saleh.pdf>.

<sup>40</sup> See above, note 21.

<sup>41</sup> The full text of the Labor Law (No. 12 of 2003) is available on Egypt's Government Services Portal: <http://www.egypt.gov.eg/english/laws/labour/default.aspx>.

<sup>42</sup> The full text of the Law on Non-Governmental Organizations (Associations and Non-Governmental Institutions) (No. 84 of 2002) is available on Egypt's Government Services Portal: <http://www.egypt.gov.eg/english/laws/labour/default.aspx>.

criticised for placing a range of new restrictions on the operation of civil society organisations.<sup>43</sup> Article 4 of the law on political parties provides that parties “shall not be founded on a religious, class, sectarian, categorical, or geographical basis, or on the exploitation of religious feelings, or discrimination because of race, origin, or creed.”<sup>44</sup>

There are several laws intended to eliminate child labour and protect children and young people, including Decrees No. 118 of 2003 and No. 365 of 2004 among others. They establish the requirements for employers hiring juveniles and list the industries in which it is prohibited to hire them. Decree No. 155 of 2003 lists several trades in which it is prohibited to employ women. There is also a law on Rehabilitation of Disabled Persons (Law No. 39 of 1975, amended in 1982), which sets a 5% quota for persons with disabilities that applies to companies and organisations employing more than 50 people. Discrimination on the grounds of disability is not expressly prohibited, although Article 14 grants disabled persons employed in the public sector the same rights and privileges as those available to other employees.<sup>45</sup>

There is a national monitoring body, set up by the government, the National Council for Human Rights, established by Law No. 94 of 2003, which is chaired by former UN Secretary General Dr. Boutros Boutros Ghali and has several independent activists on its board.<sup>46</sup> There is also an Egyptian Ombudsman Office for Gender Equality, as well as a National Council for Women headed by the First Lady, Suzanne Mubarak, which reports to the President. The aim of the Ombudsman is to receive, process and address complaints and concerns from Egyptian women, as well as provide legal advice.

### **III. The Road to Equality**

Currently, Egypt’s political system is ill-suited for the promotion of human rights and equality, as reflected in the ‘Not Free’ rating the country received in the 2010 Freedom House report. According to the report, political and civil rights, such as freedom of expression and association, are frequently violated by the government and corruption remains a serious problem.<sup>47</sup> Suppression of dissident activity and human rights activists by the State is one of the chief obstacles to justice and equality. The removal of the suppressive emergency laws is necessary for the implementation of existing anti-discrimination legislation and the strengthening of the legal and policy framework in relation to equality.

In 2002, Egypt adopted a new law governing associations (Law 84 of 2002), which compromises the right to freedom of association by giving the government unwarranted

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<sup>43</sup> The International Center for Not-for-Profit Law (ICNL), *News & Information: Egypt Breaking News*, 7 March 2010, available at: [http://www.icnl.org/knowledge/news/2010/03-07\\_special.htm](http://www.icnl.org/knowledge/news/2010/03-07_special.htm).

<sup>44</sup> An unofficial translation of Law No. 40 of 1977 (Concerning the Political Parties System, amended as per Law no. 177 of 2005) is available on The World Law Guide website: <http://www.lexadin.nl/wlg/legis/nofr/oeur/lxweegy.htm>.

<sup>45</sup> International Disability Rights Monitor (IDRM), “Egypt: 2003 IDRM Compendium Report”, available at: <http://www.ideanet.org/content.cfm?id=5354>.

<sup>46</sup> Human Rights Watch, “Essential Background: Overview of human rights issues in Egypt”, *World Report 2005*, published in January 2005, available at: <http://hrw.org/english/docs/2005/01/13/egypt9802.htm>.

<sup>47</sup> See above, note 21. Egypt ranked 111<sup>th</sup> out of 180 countries surveyed in Transparency International’s 2009 Corruption Perceptions Index.

control over the governance and operations of NGOs. The law, which took effect in June 2003, provides criminal penalties for “unauthorized” activities, including “engaging in political or union activities reserved for political parties and syndicates” (Article 11). Observers have found Egyptian civil society to be comparatively small and underdeveloped. More than half of the NGOs registered in Egypt exist only on paper and do not have any activity. Participation of citizens in NGOs is limited, as is civil society’s impact on government policy.<sup>48</sup> Nevertheless, there are indications that Egyptian civil society is in a process of revival and, particularly in the area of development, has a number of strengths and the potential to effect social change.<sup>49</sup> Since the existence of vibrant and influential civil society organisations is necessary for the promotion of human rights and equality, efforts must be made to remove the obstacles and restrictions that are currently in place.

Egypt should take steps to fulfil its duty to respect, protect, promote and fulfil the right to equality for all persons present within its territory or subject to its jurisdiction. Non-state actors, including transnational corporations and other non-national legal entities, should respect the right to equality in all areas of activity regulated by law. In particular, the government of Egypt must

- (a) Adopt all appropriate constitutional, legislative, administrative and other measures for the implementation of the right to equality;
- (b) Take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that conflict or are incompatible with the right to equality;
- (c) Promote equality in all relevant policies and programmes;
- (d) Review all proposed legislation for its compatibility with the right to equality;
- (e) Refrain from adopting any policies or engaging in any act or practice that is inconsistent with the right to equality;
- (f) Take all appropriate measures to ensure that all public authorities and institutions act in conformity with the right to equality;
- (g) Take all appropriate measures to eliminate all forms of discrimination by any person, or any public or private sector organisation.<sup>50</sup>

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<sup>48</sup> CIVICUS, *An Overview of Civil Society in Egypt: Civil Society Index Report, Executive Summary*, 2005, available at: [http://www.civicus.org/media/CSI\\_Egypt\\_Executive\\_Summary.pdf](http://www.civicus.org/media/CSI_Egypt_Executive_Summary.pdf).

<sup>49</sup> United Nations Development Programme and the Institute of National Planning, Egypt, *Egypt Human Development Report 2008, Egypt’s Social Contract: The Role of Civil Society*, 2008, available at: [http://hdr.undp.org/en/reports/nationalreports/arabstates/egypt/2008\\_Egypt\\_nhdr\\_en.pdf](http://hdr.undp.org/en/reports/nationalreports/arabstates/egypt/2008_Egypt_nhdr_en.pdf).

<sup>50</sup> See The Equal Rights Trust, *Declaration of Principles on Equality*, London 2008, p. 9-10.