

ARAB REPUBLIC OF EGYPT
MINISTRY OF JUSTICE
GENERAL DEPARTMENT FOR INTERNATIONAL
COOPERATIONS AND CULTURAL

THE FIRST REPORT
OF EGYPT PRESENTED TO THE AFRICAN COMMITTEE
OF HUMAN RIGHTS HELD AT NIGERIA
DURING 28/2/1991 to 13/3/1991

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THE FIRST REPORT OF EGYPT
WHICH IS PRESENTED TO THE AFRICAN
COMMITTEE FOR HUMAN RIGHTS AND
WILL BE HELD IN NIGERIA IN
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PREFACE

There is no doubt that the international society's interest in the human rights is one of the most important human achievements by which the world ends the remaining period of the twentieth century. It is considered a happy and for what the human journey faced during the previous ages and the last years of the latest and current centuries such as the events which occurred and now they are considered as extreme violations to the human rights starting with torturing and persecution on the individual and collective levels and ending with the countries colonise each others.

The Universal declaration of the human rights which is issued by the United Nations' Organization is 10/12/1948 as a result of the international efforts which resulted in the United Nation's Charter and as a natural result of continuation of these efforts in assuring and stabilizing this new charter. In the same time, this declaration was a definite reflection of the international latest developments which imposed themselves on the international field after the two world wars in which all the countries in the world fought each other in a very short time and left behind them all the kinds of destruction, wreckage, and terror. This urged all the world's people - in the light of their previous suffering - to put the mutual subjective basis and understanding which guarantee peace, safety, and abundance for all the people on earth. The declaration expressed truly this human attempt in its prelude which it started with that to confers that all members of the human family must have firm, equal rights and true dignity, this will establish the basis of liberty, justice, and peace in the world and that ignoring the human rights and disgusting them, resulted in the deeds which its barbarity stirred the human conscience and it became essential and important that the human rights must be guarded by judicial system and that all the countries must cooperate to support the respectness of the mutual understanding of these rights and liberties to guarantee its complete ful-

fillment.

The international society's awareness of the human rights' importance and respecting these rights and presenting all the guarantees for applying these rights and presenting all the guarantees for applying it to every body on earth this awareness developed quickly and deeply. The international society succeeded in a very short period since the date in which the international declaration of the United Nations was issued in 10/12/1984 until now - in codifying a lot of matters concerning with the human rights in many fields through international agreements and charters. Countries joined them in order to follow the human procession's firmed steps and to assure the respectness of these rights.

In the light of this international awareness of the importance of the role which the human rights play as a corner stone for the development and the welfare of the mankind, the countries which did not join these international charters and agreement became inconsiderableness and isolated from the international society. But these countries either sooner or later will join these charters either according to their current systems or according to the wish of their people who will dismiss any system different from this international, civilized procession and will not linger in joining it.

All the international declaration, agreements, and charters which the General Assembly of The United Nations which represents The International Society and the organizations which follow it to assure the human rights and widen their extent, fields and kinds, all of them express deeply and truly how much importance the human rights have on the international level and reflect to what extent all the countries in the world feel that the human rights play an essential and important role to assure best future for all the humanity.

This report is the first one which Egypt presents to the African committee for human rights. So, this preface includes historical and specific review of the agreements and the declarations which the United Nations' Organization issued in this field in order to facilitate through this review to throw light upon the legislative efforts made by the Egyptian Legislator in the local field and to what extent Egypt participates in the agreements and declarations issued in this field. These agreements and declarations are reviewed specifically as the following:-

First:

The International Legislation of Human Rights:

1-

The Universal Declaration of Human Rights.

The General Assembly of The United Nations decree in 10/12/1948

2-The Diplomatic Woman's Rights Agreement

The General Assembly of The United Nations decree on. 20/12/1952

(came into force in 7/7/1954)

3- The International Agreement for the civil, Political Rights and the Attached Optional Protocole.

The General Assembly of The United Nations

Organization's Decision in 16/12/1966.

(Came Into Force in 23/3/1976) .

4- The International Agreement Concerning With the Economic, Social, and Cultural Rights.

The General Assembly of The United Nations

Organization's Decision in 16/12/1966

(Came into Force in 3/1/1976).

Second:

Self Determination Right:

1- The colonized countries and people

Independency Declaration

The general Assembly of The United Nations' organization is in

Decesion 14/12/1960

2- The Lasting Domination on The Natural resources.

The General Assembly of The United Nations' Organization's Decision

in 14/12/1962

Third:

The Discrimination Prevention:

1- The United Nations' Declaration of putting an end to all kinds of racial Discrimination.

The General Assembly of The United Nations' Organization's in Deci-
sion 20/11/1963

2- The International Agreement of putting an end to all kinds of Racial

Discrimination.

The General Assembly of The United Nations' Organization's Decision in 21/12/1965

(came into force in 4/1/1969)

- 3- The International Agreement of Deterring The Crime of Racial Discrimination and putting the punishment for it.

The General Assembly of The United Nations' Organization's Decision in 30/11/1973

(came into force on 18/7/1976)

- 4- The Agreement of Deterring The Discrimination in the field of Employment and Jobs.

The General conference of the International Labour Organization's Decision in 25/6/1958

(came into force in 15/6/1960)

- 5- The Agreement of Deterring Discrimination in The Field of Education.

The Decision of The General Conference of The United Nations' Organization for Education and Sciences in 14/12/1960

(came into force in 22/5/1962)

- 6- The Protocole of Establishing The conciliation and commendable efforts committee for Resolving the disagreements between the countries involved in the agreement of deterring the discrimination in the field of Education.

The Decision of The General Conference of The United Nations' Organization for scientific Education in 10/12/1962

(came into force in 24/10/1968)

- 7- The Agreement of The Equality in Salaries.

The Decision of The General Conference of The International Labour Organization in 29/6/1951

(came into force in 23/5/1953)

- 8- The Declaration of Deterring The Discrimination against women.

The General Assembly of The United Nations' Organization's Decision in 7/11/1967 and The Agreement concerning this declaration had been approved according to the general assembly's decision in

18/12/1979

(came into force in 2/9/1981)

- 9- The United Nations' Declaration of putting an end to all kinds of Discrimination and Fanaticism which based on religious basis.

The General Assembly of The United Nations' Organization's Decision in 25/10/1981

10- The Declaration Concerning with the main principles of role of the mass medias in supporting peace , International Understanding Human Rights and Deterring Discrimination and war.

The Decision of The Unisco General Conference in 28/11/1978

11- The Declaration concerning with the Race and Racial Discrimination.

The Decision of The Unisco Conference in 27/11/1978.

Forth:

The Genocide war Crimes:

1- The Agreement of Deterring the crime of Cenocide and putting THE punishment for it.

The General Assembly of The United Nations' Organization's Decision in 9/12/1948

(came into force in 12/1/1901

2- The Agreement of preventing the prescription of war crimes and the crimes committed against humanity.

The General Assembly of The United Nations' Organization's decision in 26/11/1968

(came into force in 11/11/1970)

3- The Principles of The International Cooperation in chasing, arresting and delivering those who are accused of committing war crimes or crimes against humanity.

The General Assembly of The United Nations' Organization's decision in 3/12/1973

Fifth:

Slavery and Forced Labour

1- The Agreement concerned with slavery and the modifying protocole (Geneve 25/9/1962 and New York United Nations in 7/12/1953)
(came into force in 7/7/1958)

2- The Complementary agreement for preventing slavery and slaves trade.

The Decision of The Economic, Social council of The United Nations in 30/4/1956

(came into force in 30/4/1957)

3- The Forced Labour's Agreement

The Decision of The International Labour Organization's Conference
in 28/6/1930

(came into force in 1/5/1935)

4- The forced Labor prohibition agreement.

The Decision of The International Labour Organization's conference
in 25/6/1957

(came into force in 17/1/1951)

5- The Agreement of The Prohibition of people's exploitation and pros-
titution.

The General assembly of The United Nations' Organization's decision
in 2/12/1949

(came into force in 25/7/1951)

Sixth:

protecting The Prisoners:

1- The Lowest standard rules of the prisoners treatment.

The decision of the general conference of The United Nations for
preventing crime, the economic, social council in 31/7/1957

2- Person's protection from being tortured and illtreated.

The General Embassy of The United Nations' organization's decision
in 9/12/1975

3- The Agreement of resisting torture and illtreatment.

The General Assembly of The United Nations' decision in 10/12/1984

4- TO codify the behaviour the employees who carry out the laws.

The General Assembly of The United Nations' decision in 17/12/1979

5- Principels of medical profession related to the role of medical employees
in protected the prisoners as General Assembly of United Nations decree
issued on 18/12/82.

Seventh: The Nationality and The statelessness and The refuge:

1- The married woman's nationality agreement

The General Assembly of The United Nations' decision in 29/1/1957

(came into force in 11/8/1958)

2- The reduction of the statelessness cases agreement

The General Assembly of the United Nations' decision in 4/12/1954

(came into force in 13/12/1975)

3- The possession of The Stateless agreement

The Conference of the economic, social council of The United Nations
in 26/4/1954)

(came into force in 6/6/1960)

- 4- The Agreement concerning with the refugee situation
The decision of the fefugee and the stateless conference of the United States in 14/12/1950
(came into force in 22/4/1954)
- 5- The protocole concerning with The refugee situation
The decision of the social and economic council of the United Nations in 16/12/1966
(came into force in 4/10/1967)
- 6- The Declaratopm pf the regional refugee
The General Assembly of the United Nations' se~~S~~ssion in 14/12/1967

Eighth:

The syndicalism Liberty;

- 1- The syndicalism liberty agreement and the right of the syndicalism orgainzation
The decision of the general conference of the international labour organization in 7/9/1948
(came into force in 4/7/1950)
- 2- The agreement of the syndicalism organization and collective negotiation rights
The decision of the genersl conference of the international labour organization in 1/7/1949
(came into force in 18/7/1951)
- 3- The agreement concerning with the laborers' representatives
The decision of the general conference of the international labour organization in 23/6/1971
(came into force in 30/6/1973)
- 4- The agreement of the work relationships in the public service
The decision of the general conference of the international labour organization in 27/6/1978
- 5- The policy of employment agreement
The decision of the general conference of the international labour organization in 9/9/1964
(came into force in 15/7/1966)

Nineth:

Marriage, family, childhood and youth:

- 1- The Agreement of acceptance and the minimum age and contracts registration in marriage
The general assembly of the United Nations' decision in 7/11/1962
(came into force in 9/12/1964)
- 2- Declaration of thr child's rights.
The general assembly of the United Nations' decision in 20/11/1959'
- 3- A declaration concerning with women's and children's protection in emergencies.
The general assembly of The United Nations' decision in 14/12/1974
- ~~4~~ The declaration of educating youth
The rules of peace, mutual respectness and understanding between peoples
The General assembly of the united Nations decision in 7/12/1965

Tenth:

Welfare, progress and development in the social field;

- 1- A declaration about progress and development in the social field
The General assembly of the United Nations' decision in 11/12/1969
- 2- The international declaration of putting an end to starvation and ill-feeding.
The general assembly of The United Nations' decision in 17/12/1974
- 3- The International declaration of using the scientific developement in the fields of peace and the benfit of Humanity.
The general assembly of The United Nations' decision in 10/11/1975
- 4- The declaration concerning with the retardates
The general assembly of the United Nations' decision in 20/2/1971
- 5- The declaration concerning with the rights of the handicappeels.
The general assembly of the United Nations' decision in 9/12/1975

Eleventh:

The culture, developement and cooperation international rights:

The declaration of the priciples of international, cultural cooperation.

The decision of the Unesco Conference in 4/11/1966

Twelveth:

The procedurs against the Human rights violation:

The declaration of the procedures against the Human Rights viol-
ation .

The decision of the economic, social council in 27/5/1990

(4)

As much as the United Nations Organization - being the International Organization which represents all of the world of countries - evaluates the human rights and expresses its complete interest in these human rights by practical and executive ways through many specific declarations and agreements which have been issued and previously mentioned in this field- new charters of the human rights which have the same importance have been issued and gathered all the countries which have the same problems and interests to get benefit of these circumstances to create mutual and wide spreaded understanding which appoints the human rights more specifically and make them lawful to be effective and in order to guarantee protecting and respecting these human rights.

In this respect, The European Countries proceeded to issue the human rights European agreement in Rome in the year 1950 (4/11/1950) including - according to the agreement- that it came to achieve more firm Union between its members and to realize the aim of the internationality and effective acceptance of the human rights.

In 22/11/1969 , The American Agreement of Human Rights had been issued including more criterions for economic, social and educational rights and included all the international new achievements of the human rights movement during the previous period.

Our continent , Africa, did not fall behind this international movements but its history was full of many kinds of colonization and racial discrimination which resulted in the cases of retardation because of the Unfair International economic system which made our continent realize how much it was important to defend the people and human rights as a corner stone to achieve peace development and to recognize the national and the international unity politically, economically or socially.

So, the African charter for human rights was issued in Nuruby, Kinia in 1981 by The African Unity Organization expressing the organization's awareness of being responsible for protecting and advancing people's and human rights and liberty taking into consideration the importance of these rights and liberty for Africa. The charter included also that there must be special interest in right of development and there must be no separation between the political and civil rights, and the economic , social and cultural rights. And to review the aim of putting an end to the colonization and the racial discrimination and to achieve the complete liberation of all The African Countries.

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These regional charters shared in the concerted carrying out of some rights which were included in the international declaration of human rights because these charters resulted in establishing some systems by which these rights can be rooted and codified in order to be protected by law and not to be violated. So, The European committee for human rights and The European Court have been emanated from The European charter. And The American committee and court for human rights have been emanated from the American charter. Both committees specialized in receiving and examining complaints from violating the human rights where as the courts issued the penalties for these violations as mentioned in the charters. And the African committee for human rights has been emanated from the African charter.

In the light of this preface which presented historical and specific results of of the international efforts in the field of the human rights through the United Nations Organization or the other regional organizations, The Arab Republic of Egypt puts its report containing the following three points:

- 1- The human rights and the Egyptian constitution.
- 2- The legal legislations and the human rights.
- 3- Egypt's international contribution in the field of human rights.

First Part

The Egyptian Constitution and the Human Rights

The Egyptian Constitution issued in 1971 took ^{Care} of Human Rights when it put its stipulation and provisions and cared for codifying them in all their political, economical, and social sides. Its instrument of ratification expressed all of that as it mentioned that this constitution put :

- ___ An obligation to every body without any limitations or restrictions to do every body's best to achieve peace for our world which is based on nothing but justice.
- ___ A belief that the political and social development for all the countries can not be achieved except with having liberty for all the peoples of these countries and having their own free will and that any civilization can not be called so without being free of all kinds of the exploitative system.
- ___ A conviction that all the national and the international experiences are considered as integration to the extent that it can be considered as the complete unity between the internationality of the human struggle for Man's liberty politically, economically, culturally, and intellectually, and the war against all forces and deposits of retardation, domination, and exploitation.
- ___ An awareness of that Man's humanity and superurity are the main means for the great development of the Mankind towards the supreme idol.
- ___ An awareness of that the individual's dignity is a reflection of the nation's dignity.
- ___ The supremacy of Law is not only the guarantee for the individual's liberty but also the only basis of the legality of the authority.

So the Egyptian Constitution illustrates its tendencies corresponding with the historical movement which is contemporary of all variables and latest developments in the international area in the field of human rights due to the fact that the Egyptian Constitution took alot of care with the human rights and put them in the greatest grade which they are worthy of. All Its chapters and many of Its stipulations contained the principles upon which all the mondial society agreed and It expressed all these principles in charters and declarations and international agreements issued for the purpose of these principles which we are going to mention in detail as the same devison and order stated in the constetution:-

First : The Principles Which Are Contained In the First and Second Chapters Of the Constitution :-

- 1- The principle of that people are the source of the authority and that the authority of the government depend on the people's will.
article No. (3)

- 2- The principle of preventing exploitation , and distributing charges and public requirements equally.
article No. (4).
- 3- The principle of the political liberty and the multiplicity of the political parties.
article No. (5).
- 4- The principle of opportunities equality.
article No. (81).
- 5- The principle of protecting family, motherhood, childhood, youth, and the new generation.
articles No. (9 , 10).
- 6- The principle of the equality between women and men in the political, social and economical fields.
article No. (11).
- 7- The right of work and the prevention of the forced labour.
article No. (13).
- 8- The right of holding public employments.
article No. (14).
- 9- The right of having free education in all different stages of education.
articles No. (18 , 20).
- 10- The right of providing the cultural, social, health, and social insurance services and pension for disability, decrepitude, and unemployment.
articles No. (16 , 17).
- 11- The principle of the equality in the distribution of the national income and the guarantee of having minimum charge for the labourers and their participation in the ~~man~~agement and profits.
articles No. (23 , 24 , 25 , 26 , 27).
- 12- The principle of the protection of the private ownership and the prevention of having any receivership except by a judicial sentence and no one is able to expropriate it except for the public benefit and there must be an equitable compensation according to law.
article No. (34).

Second: The Principles of The Human Rights Which Wfere Contained In The Third Chapter of the Constitution :

1- The Constitution aimed in this chapter to show liberties, rights, and public duties. It also contained many principles which were stated by the international agreements issued in the field of the human rights. These principles are the following :-

- 1- The principle of the equality and the prevention of discrimination because of the sex, origin, language, religion, or belief.
article No. (40).

2- The principles of freedom and rights. They are the personal freedom, the freedom of private life, habitation, means of communication, and the freedom and the right of transportation, emigration, religion, opinion and election, nomination, journalism, scientific research, meeting and forming assemblies and unions, and asylum. These freedoms and rights are contained in the articles No. (41, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 62).

3- The principle of the dismissal of an evidence which was derived as a result of force or duress.
article No. (42).

The principle of not allowing the nonsuit of a criminal suit or a civil suit which resulted from the violation of the public rights and freedoms which the law and the constitution guarantee.
article No. (57).

Third : The Principles of the Human Rights Which Are Contained in the Fourth Chapter of the Constitution :

- 1- Both the Constitution and those who are interested in the supremacy of law cared for some principled of the human rights which we will mention in details in the following statements :-
 - 1- The principle of the judiciary immunity and the right to legitimate, to complain, and to appeal. And to forbid the immunity of any action or decision from being supervised by the judicial authorities.
articles No. (65 , 68).
 - 2- The principle which states that the penalty must be subjective and there are no crime or penalty without a provision, and that a penalty must not be executed except after the coming into force of the law, and that a criminal suit is not to be prosecuted except by an order from a judicial authority.
articles No. (66 , 70).
 - 3- The principle of the pleading right and the warrant for those who are not able to pay for it.
articles No. (67, 70).
 - 4- The principle of the immediate notification of the arresting causes, and the right of communicating with whom will be asked for their help, and the right to appeal to the judicial authorities from the procedure of imprisonment during a particular period of time.
article No. (71).

According to the previous illustration of the Egyptian Constitution's statements it is shown clearly that all the principles of the Human Rights declaration such as the principles of Man's liberties and rights are actually stated in the

the constitution by clear and direct provisions. The constitution did not just call for these principles by words and statements but ~~made~~ it, as a matter of fact, succeeded in doing all what can guarantee the actual application and respect of these principles. It also protected them by the laws that ~~is~~ issued from any violations. So that, the constitution established the Constitutional Court which is an independent judicial authority (article No. 74 of the constitution), it is the only authority - according to the constitution - which has the constitutional supervision on the laws and the explanation of the legislative provisions (article No. 75 of the constitution). The constitution stated also that the members of the constitutional court are not able to be deposed (article No. 77 of the constitution) and that its sentences which are connected with the constitutional suits and with the explanation of the legislative provisions are to be published in the official paper to enable every body to get informed about them (article No. 178 of the constitution). And that its sentences in the constitutional suit and its explaining decisions are obligatory for all ~~state's~~ authorities and for all the people (article No. 49/1 of the High Constitutional Court's law No.48/1979).

Since the Egyptian Constitution has been issued in 1971 and its amendments in 1980 and during the previous period of its coming into force, there were many jurisprudences and explanations in the legal field based on the practical application and the actual execution of the constitution's sentences. The obvious end of these jurisprudences was the High Constitutional Court as the ~~main~~ authority which issued many judgements-in this particular field-which established by its constitutional judgement the virtuous and straight values which are contained in the constitutional provisions of the Principles of the Human Rights and Liberties- so that it issued its judgement which said that the legislative provisions which violate or disagree with these Rights are not constitutional. We will mention some of the principles for which the High Constitutional Court issued its judgements in this field in the following points :-

1- The Principle of Not Permitting Any Confiscations except by a Judiciary Judgement

The Court issued its judgement in which it ~~says~~ that the legislative provisions which permit the administrative confiscation of properties are ~~un~~ constitutional because they disagree with the article No. 36 of the constitution which provides for not permitting the confiscation of the private properties except by a judiciary judgement.

2- The Principle Which Provides That the Penalty Must Be Subjective, and There Is No Crime Or Penalty Without Law.

The Court issued its judgement which provides ~~for~~ that the legislative provisions which ~~permit~~ ^{State} putting under supervision of the police without a judiciary judgement are ~~un~~ constitutional because they disagree with the article No. 66 of the constitution which provides that there is no crime or penalty except with a law and there is no penalty without a judiciary judgement.

3- The Principle of Protecting the Private Property :

A- The Court issued its judgement which provides^{for} that the legislative provisions which permit the devolution of the properties of the ordinary persons-and which are put under receivership according to the emergencies law- to the state because they disagree with the article No. 34 of the constitution and because they violate the private ownership which the constitution protects.

B- The Court issued also its judgement which provides^{for} that the legislative provisions which put a maximum to the compensations which are to be given back to the persons as a remedy for their properties are ~~un~~ constitutional because they disagree with the article No. 36 of the constitution.

4- The Principle of the Political Freedom and the Right of Forming and Participating in Political Parties:

The Court issued its judgement which provides^{for} that the legislative provisions connected with the deprivation of people from the right of election and nomination are ~~un~~ constitutional because it disagrees with the article No. 62 of the constitution which provides^{for} that the rights of election and nomination and referendum are for every citizen and also a national duty that every body has to fulfill.

5- The Principle of the Right of Litigation and Complaining and Appealing :

The Court issued its judgement which provides^{for} that the legislative provisions which protect any action or decision from being appealed against or complained from are ~~un~~ constitutional because they disagree with the article No. 68 of the constitution which prevents the protection of any action or decision from being appealed against.

6- The Principle of the Right of Education and Equality and Equal opportunities:

The Court issued its judgement which provides^{for} that the exceptional treatment in the acceptance to the high education which are contained in the legislative provisions which accept the excepted groups instead of the other groups who preceded them according to the stated objective conditions for acceptance is ~~un~~ constitutional because it disagrees with the articles No. 28/1 , 40 of the constitution and it violates the principles of equality and equal opportunities.

7- The Principle of the Right of Forming Unions and Associations on Democratic Basis :

The Court issued its judgement which provides for that the legislative provisions which end the period of the membership of the elected members before the actual end of their period not by the electing organization which is represented in the general assembly of the union are ~~un~~ constitutional because they disagree with the article No. 56 of the constitution.

SECOND PART

THE LEGAL LEGISLATIONS AND THE HUMAN RIGHTS IN EGYPT

Introduction:

In this chapter we are going to deal with the Egyptian legislator's situation towards the Human Rights and liberties in Egypt and to what extent it corresponds with the Universal charters which had been issued in this field. Naturally the Egyptian legislator corresponds with these charters. On the basis of his respectness to the Egyptian constitution's rules which came in the previously mentioned order in chapter one and which completely correspond with the universal charters which organize these rights and liberties. In addition to this, the Egyptian legislation takes care of having the Islamic shariaa as a main source for it according to the second article of the constitution.

The honorable Islamic Shariaa came with values, Principles, and rules which form a complete integrated system which guarantees for every body - what ever his doctrine is- his rights and liberties in all the political, social and economical fields and these are the rights and liberties which were mentioned in The Book of God (The Holy Koran) and The Honorable Sunnah since the appearance of the Islam one hundred and forty centuries ago before the world knew an intellectual order which organizes these rights and liberties according to what all the humanity look forward to now.

In this chapter we are going to illustrate the situation of some laws which are passed on in Egypt towards the Human Rights and liberties and connecting the judgements which came in their divisions with the other divisions which are divided in the universal charters. We are going to discuss in details some of the main laws in the Egyptian legal system, the penal law and some special criminal laws in the 1st chapter then the criminal procedures law and some connected legislatures in 2nd chapter. The Juvenile law in the 3rd chapter, then in the 4th and 5th chapters we are going to deal with the Emergency Law and the Law of Judiciary Authority.

CHAPTER ONE

The Egyptian Penal Law other Special Criminal Laws concerned with Human Rights

At the beginning, we are going to point in this field that the penal law either the general law or the private laws form a general frame for all the forbidden deeds according to their judgements. These forbidden deeds are divided into only two parts, the first one is connected with the normal persons and contains all the deeds related to the human rights, liberties and properties and that committing these deeds is considered a violation against these rights. The second part is connected with the society as a whole and it contains all the deeds and that committing these deeds is considered a violation against the society's rights and benefits which the law protects and organizes.

Accordingly , any body commits crimes against the human rights and liberties ~~has~~ to be punished by the judgement of the Egyptian penal law according to the universal charters. The crimes of homicide, striking, abduction, indecent assault, slander, torture, ill-use of the authority and trespass the persone's private life's secrecy are crimes which violate the human rights physically and spiritually. Where as the crimes of theft, arson burning, fraud, willful destruction and damage are crimes which violate the human's properties. The crimes of abuse of confidence, forgary, bribery, falsification, counterfeit, willful abuse of the country and the means of transportation and the distruction of its institutions and other similar crimes which are codified for the society's benefit in order to guarantee its stability and security and to organize the benefits and trust in treatment between people. All the Universal charters decided these rights. (Article NO.28 of the universal declaration of the human rightl)

In this chapter we are going to present specially some general rules which controle the phylosophy ~~and~~ of incrimination and penalty. WE are going to present also ~~some~~ offences which are devided for in the penal law and connected with the human rights and liberties .

First;

The general rules of incrimination:

- 1 - In its first article, the law devided for that its judgements ~~have~~ to be passed on the one who commits in Egypt one of the offences which it reffered to in its division. In both articles NO.2and3 the law devided for the conditions in which its judgements ~~have~~ to be passed on those who commit any affences out Side the country either according to the quality of the offence or according to the nationality of the offender. The law did not contain, by any means, any discrimination between those who are sentenced. This corresponds with the judgement of article No. 40 of the Egyptian constitution and articles No. 2,7 of the universal declaration of the Human Rights and the article NO. 2 of the universal compact of the civil and political rights and the agreements of putting an end to the racial discrimination.
- 2 - In its fifth article, the law devided for ^{that} the penalties for offences ~~have~~ to be decided according to the law which had been passed on in the time during which the offences were committed, in spite of that, if after the offence had been committed and before the declaration of the final judgement, a law which is for the offend's benefit was issued, this law ~~has~~ to be followed, not any other law. This agrees with the article No.66 of the Egyptian constitution and article NO.11 of Human Rights declaration and article No.15of the universal compact of the civil and political rights.

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- 3 - The article No.54,76 of the law decided for the complete forgiveness and the forgiveness for penalty and the previously mentioned articles organized the effects which accrue either the consequent penalties or the rights of the others. This agrees with the article No. 6 of the universal compact of the civil and political rights.

Second: The deeds which are incriminated according to the law and which are connected with the principles of the Human Rights.

- 1 - preventing the execution of a judgement or an order issued by a court or any specialized organization, if it is done by a public officer by using the authority of his possession or purposely did not execute it if it is included in the specialization field of the officer and the law decided the penalty of imprisonment and dismissal for the one who committed this action (article No.123 of the penal law) (and the execution of article No.2 of the universal compact of the civil and political rights)
- 2 - Torturing an accused person to force him to confess either by a public officer or by an order from him. They decided the penalty of servitude for life or the penalty of detention for a term from 3 to 10 years for the one who commits this offence. If the accused person died as a result of this torture, the Public officer is to be penalized as having committed the offence of premeditated murder. (article No.126 of the penal law)
- 3 - If the accused is a public officer, he is to be punished by a harder penalty than the penalty which the law decided or to be punished by a penalty which was not decided. The law decided the penalty of imprisonment for that. (article No. 127 of the penal law)
- 4- If a public officer uses severity depending on his possession in an unhonourable manner or causes any physical hurts, ^{he} has to be punished by detention or by fine (article No.129 of the penal law). The deeds mentioned in the items No.2,3,4 and which are considered offences according to the Egyptian penal law these items agree with the judgements of article No.42 of the Egyptian constitution and with the article No.14/G of the International compact of the civil and political rights and with the article No.1,4 of the Nonaggression Pact.
- 5- If a public officer, depending on his possession and not in the conditions appointed by law and without obeying its rules, enters some one's house without some one's acceptance, ^{he} has to be punished by detention or fine (article No.128 of the penal law)
- 6- If a public officer, depending on his possession, buys by force an immovable or a movable property for himself or for any other one has to be punished by detention and dismissal and giving back the extorted opportunity or its price.
- 7- The one who trespasses people's private life by means of eavesdropping or photographing or any other way without the injured's acceptance and not in the condition appointed by law or using what has been got by these illegal ways is to be punished by detention and the confiscation of the used devices and rubbing out the recorded subjects or depriving them (articles NO.309 bis and 309/1 bis).

- 8- If some one black mails to reveal the subjects gained by one of the previously mentioned ways to force another one to do or not do certain action, has to be punished by imprisonment and by the confiscation of the used devices and rubbing out the recorded subjects or depriving them (article 309 sib B/2,3,4). The deeds mentioned in items No.5,6,7,8 ~~will~~ if any body commits any of them has to be punished according to the judgements of the Egyptian penal law, ^{This} agrees with the articles No.44,45,47 of the Egyptian constitution and the judgement of article No.17 of the international compact of the civil and political rights.
- 9- The one who arrests any body or restrains or detains him without an order from any of the specialized judges and not in the conditions which the law decided, has to be punished by detention or fine (article No.280 of the penal law)
- 10- The one who- without being entitled - arrests some body wearing a governmental uniform or having false capacity for himself or referring a false order to the outhorities, has to be punished by imprisonment. If the arresting is associated with the threting of murder or tartutre, the punishment must be the penal servitude for a term(article NO.282 of the penal law). Describing the deeds mentioned in items No. 9,10 as being offences, agrees with the article No.41 of the Egyptian constitution and the article No. 9 of the international compact of the civil and political rights.
- 11- If a public officer used labourers to do unpaid labor in any public authority or organization or which its properties are considered public propertirs, or restrains- without any reasons- all or part of the fees of these labourers, he has to be punished by penal servitude for a term and if the offender is not a public officer he has to be punished by detention (article No.117 of the penal law)
- 12- If a public offecer forces persones to work not in the condition which the law permits or using persones ^{to} do other work than the work for which they had been gatered according to the law, he has to be punished by detention and dismission and to pay the due fees for those who had been misused,(article No.131 of the penal law). Considering the deeds mentioned in items No.11,12 agrees with the judgement of article No.13 of the Egyptian constitution and article No.8 of the international compact of the civil and political rights, and article No. 25 of the forced labor prohibition pact.
- 13- If a governmental offecer or a mailofficer ^{hides} or opens or not delivers mails or telegraphs or facilitates these actions to be doen by any other persones, he has to be punished by detention or fine and dismission(article No.154 of the penal law). Considering these deeds as being offences, agrees with the judgement of arricle No. 54 of the Egyptian constitution and article No. 12 of the universal declaration of the human rithts and article No.17 of international compact of the civil and political rights .

- 14- To damage the buildings which are built and prepared for the religious ceremonies or the symbols or the other things which have sacredness for some peoples and those who believe in certain sect.
- 15- To prevent any religious ceremony of certain sect by force or to violate the sanctity of graves and tombs.
- 16- To press or publish a Holy Book of any religion including falsification in the meanings.
- 17- To make a religious ceremony with the aim of mocking at it in a public places.

The one who commits the deeds which are mentioned in items No.14,15,16,17 is punished by detention or fine according to the articles No.160,161 of the Egyptian penal law -and considering them as being offences agrees with the judgement of article No.46 of the constitution of the Human Rights and article No.18 of the international compact of the civil and political rights.

- 18- To trespass by force or by threatening the other's rights to work, or to employ someone or not to employ him, or to take part in a certain assembly or not to take part in it, either this trespassing is against the person himself or against his wife and sons, The one who commits any of these offences has to be punished by detention or fine (article No.375 of the penal law)

Considering these deeds as being offences agrees with the judgement of the articles No.13,57 of the Egyptian constitution and the articles No.20/2 and 23/1 of the Universal Declaration of the Human Rights and article No.6/1 of the international compact of the Economic and social Rights.

Third :

The actions which are considered as crimes, according to some special penal codes and which are concerned with the Human Rights :

- 1- The prisons regulation Law N° 396/1957 :

If a public officer put the one whose freedom is restricted not in the prisons or the places specially established for this purpose, has to be punished by detention (article N° 9/bis of the law).

Considering this action as a crime agrees with the judgement of article 42 of the Egyptian Constitution and article N° 10 of the International Compact of the Civil and Political Rights and the rules of regulating the behaviour of the employees who are charged with the execution of the laws which are attached with the rules of the prisoners' treatment.

2- The Juvenile Law N° 31 / 1974 :

- a. The one who hides a juvenile who is sentenced to be delivered to a certain personne or authority, or urges him to escape or even helps him to do so, has to be punished by detention or fine or one of them. The parents or the grand-parants or the husband is not asked about this action (art. N°22 of the juvenile law).
- b. The one who exposes a juvenile or helps or urges him to delinquency, has to be punished by detention. If this crime is committed by the juvenile's ancestors or those who are responsible for pringing him up or observing him or by the one to whom the juvenile is delivered legaly, and if the offender used the force or the threat, he has to be punished by detention for a period not less than 3 months (article N° 23 of the juvenile law).

Considering these actions as crimes agrees with the judgement of article N° 10 of the Egyptian Constitution and the principles of the Child's Rights.

3- The Law of preventing debauchery N° 10/1961 :

- a. To urge, help, facilitate the commission of debauchery, the law decided the punishment of detention for a period not less than one year and does not exceed three years and fine.

The maximum of the two punishments of detention and fine can be extended if the one against whom the crime is committed has not reached 21 years or if the crime is committed by means of force or threat, (articles N° 1, 2 of the Laws).

- b. To urge or use, or facilitate or accompany to leave or enter the country to practice debauchery, the law decided the punishment of detention for a period not less than one year and does not exceed five years and fine. The maximum of the punishment of detention can be extended to seven years if the crime is committed against two or more personnes or if it is committed by using means of force or threat (articles N° 3, 5 of the law).

c. If the one against whom any crime of the previously mentioned crimes in items a, b, has not yet reached six years or if the crime has been committed by his ancestors or by any of those who are responsible for bringing him up and observing him or by any of those who have an authority over him, the punishment has to be the detention for a period from 3 - 7 years, (article N^o 4 of the law).

d. To make use of some one's prostitution or whoredom or to help a female to practice the debauchery, the legislator decided the punishment of detention for a period from six months to three years for this crime. If the crime is accompanied with the aggravating circumstances which are mentioned in item c the detention has to be for a period from one year to five years (article N^o 6 of the law).

e. To manage a brothel for debauchery or to rent or present a place for practicing it or to get used to practicing it, the law decided the punishment of detention for a period from three months to, three years and fine or one of them and to close the place for the one who commits these crimes, (articles N^o 8, 9, 10, of the law).

Considering these actions as crimes agrees with the judgements of the agreement of preventing the traffic in persons and the exploitation of the others debauchery.

END :

By this brief presentation of some actions which are considered as crimes according to the Egyptian penal law and some other special penal laws, it is clear to what extent these laws are connected with the universal charters which are concerned with the Human Rights and Liberties. Also It is clear that the Egyptian Penal legislator has an active role to guarantee the legal protection for the Human Rights and Liberties by preventing any violations against them and to decide the suitable penalties against these violations.

CHAPTER II

The Egyptian Criminal Procedures Law, Some Other
Laws Connected With And Principles Of Human Rights.

After we had tackled in chapter I from this part about the rules of the Egyptian penal law and how it is engaged with the rules and the regulations of the international conventions of Human Rights and Human liberties considering that this law is an important and essential one by virtue of the criminal acts and their punishments had set out.

In this chapter we talk about the law of the criminal procedures, it is considered as the most important one in the field of the Human Rights and personal liberties because it is the law which regulates the main obstacles which faces the individual liberty and security by any means of limitation or restriction.

This law determines the state in which any person may be deprived from his liberty by arresting or seizing and also the states in which any person may be subject to the right of frisk or right of inspected his home.

This law is also the law which defines when the criminal action may be brought or not, the causes of termination and the steps of the criminal sentences and principles of the criminal procedures. The rules of the criminal evidences and how it can be accepted. What are the aspects to appeal against suit or to renew the sentence and how the punishments comes into force, and in effects.

In fact the international conventions of Human Rights and liberties deal with all these matters in its principles articles: 8,9,10,11,12.

In the Universal Declaration of the Human Rights articles 9,10,14 from the international conventions of civil and political rights and The Ideal Simple Basic Rule to treat the prisoners .

According to the above mentioned conventions and the rules stipulated it comes easy to distinguish between three stages:

- 1- The stage of Human Rights and security before trial.
- 2- " " " " " " " " during trial.
- 3- " " " " " " " " after trial.

We will submit in this chapter the situation of the Egyptian legislator according to the above mentioned division, at first generally, then stage by stage separately at last, the rules and guaranteed stipulated for carrying out a death penalty particularly.

All of these are connected with the state of the Egyptian legislator and the international conventions relates to the same situations.

At first: The general rules of the Egyptian criminal procedures code relating to the Human Rights:

- 1- The criminal procedures law did not include in all its text any implementation or permission for discrimination or distinction between those who are subject to its rules in all their rights. According to all parties of the criminal sentence such as the accused person and the victim. Who is responsible for the civil rights or of those who are responsible for the investigations accusation, pleading, litigation and implementations of the judgements .

According to article 40 from the Egyptian constitutions and 2 from the International Convention for Civil and Political Rights in article 14.

- 2- Article 15 from the Egyptian criminal procedures law cited that the public case does not finished by prescription in some crimes according to article 15 from the Egyptian constitution which includes that some international conventions for Human Rights as follows:

- A- Crime of utilize the unpaid labour (corré) for the benefit of a government organisation or subsidiary organisation, to size some or all wages or salaries of a public employee or other, this act is prohibited according to article 117 - penalties.
- B- A crime of torture to take confession or to use severe punished more than the punishment sentenced upon him, these two crimes are prohibited according to article (126 - 127 penalties)

- C- The crime of arresting any body wears a governmental suit or falsifies any personality of properies any documents shall be punished according to article (282 penalties)
- D- The crime committed against the private life of any citizen by eavesdropped the telephone calls or by taking photogtaph secrecy, The crime of publicise these informantions verbally by any means, without taking the indorsement of the victim, or under any means of suppression or threaten, or crimes shall be punished according to the article (309 sib and 309 sib(a) penalties).

The Egyptian legislator maintained in article 15 from the law of criminal procedurs. The same pattern mentioned before is convenient for article 1 from the converstion of non-prescription of crimes of wars or crimes committed against Humanities.

Second: The Law of Criminal procedurs and The Principal of Human rights in the stage of Human Rights and security befor trial:

- 1- To obligat the police supervision to accept all notification or complains concerning crimes committed and he must send them emediately to the public prosecution .
Every person pretends that he has been harm from a crime committted upon him has the rights to claim and complain according to article (24-26) criminal procedures.
- 2- It is proibited to seize or detainee any person without a warrent from the competent authority according to the law.
Every person should be treat according to the Human dignity and he should not be physically or marally harmed according to article (40) general procedures.
- 3- It is proibeted to detainee any person in any place except in suitable person . Any police supervision has not the right to accept any person in the prison without a warrent ratified from the competent outhorities and he should exceed the period of detaintion limited in the warrent (according to article 41 criminal procedures).
- 4- The personer has the right to complain before the police supervision either verbally or written, The police supervision must accept this complain and to offerit immediately to the public prosecution after recorded in the record. (article 43 criminal procedures).

- 5- The prisons visits should be done by the public prosecutions. The presidents of first instance and the appeal court existing in their circuits should be sure that there is not any one subjected to illegal prison, And also to examine the records of prisons and warrants of arresting or detention besides visiting the prisoners to listen to their complaints (article 42 General procedures)
- 6- Any person arrested or detained according to provisional detentions shall be informed of the reasons of his arrest or his detention. He shall have the right to communicate with whoever he sees fit and inform them of what has taken place and to ask for a lower help. (according to article 139 general procedures).
- 7- In the case of flagrant delicto in crimes or misdemeanors punished by detention for a period doesn't exceed 3 months. The police supervision has the right to arrest the present accused person then he must listen immediately for his statements but if he can not innocent himself, he should send him, to the competent public prosecution which must interrogate the accused person without delay before he has arrested or released (article 34 - 36 criminal procedures)
- 8- In the case of flagrant delicto the police supervision has the right to frisk any person or search his house to find any documents or important things aids him to prove the evidences according to real significants, that, if the crime shall be punished by detention for a period not less than 3 months (article 46-47 criminal procedures)
- 9- The warrants of detention issued from the public prosecution shall be effective for a period of 4 days after the period of arresting the accused person. If the public prosecution suggested to extend the periodical detention all the statements of the accused person should be showed to the competent Judge who has the right to issue the suitable warrant as a result of listening the investigations of public prosecutions and the accused person for a period doesn't exceed 45 days if the investigations didn't finish during this period, the periodical detention shall be extend by the misdemeanour courts which shall be held in an investigations of the public prosecutions and the accused person it also has the right to extend the time of detention if it is necessary for a period of 45 days and maximum 6 months or it should be released the accused person.

if he had not declared by the competent court before the period ends. In all these cases the public prosecutions, the competent Judge and the latest court has the right to release the accused person. In any time either with a bail or not (according to article 201,202,203,204,205 criminal procedures).

OBLIGATORY REMARK:

The public prosecutor is a Judicial organization in the Judicial Egyptian system. The members of public prosecution are not submitted to any exclusive according to the rules of Judicial authority law No.46/1972

- 10- It is prohibited to frisk any person except the accused person himself or to inspect home except the home of the accused person himself and also it is prohibited to find out any letters or telegraphs or sens or ship of the telephone calls or record meetings except in the case if it is necessary to prove the evidence in the crime should be punished for a period doesn't exceed the 3 monthes for detainment that must be done according a causal Judicial warrant for limited period (article 206 criminal procedures)
- 11- Homes should not be inspected by a causal judicial warrant according to an accusation directed to a person resident in this home who had committed a criminal act or misdemeanours or participate in this act or if he had any thing related to this offence because the inspected of houses is an act of investigations according to article 91 general procedures.
- 12- Except in the flagrante delicto or the speed as a result of fears of loosing the evidences , the investigators has not the right according to the articles of penal law to questionnaire the accused person or facing him before calling his lawyer to present if he has one. He also should permit the lawyer to see the investigation in the day before the day day of questionnaire or facing unless the Judge didn't issue a decision against
It is prohibited in all cases to separate between the accused person and his lawyer present with him during the investigation (articles 124 - 125 criminal procedures).

The above mentioned rules are related to the rules of article 41,42,44, 45,71 from the constitution and articles 8,9,12,from the universal declaration of The Human rights and article 9 from international convention of political and civil rights.

Third :

Law of the Criminal Procedures and the Principles of the Human Rights in the Stage of Trial:

- 1- The trial sessions must be open unless the court orders to listen to all or some of them in a close session taking into account the general system or morals (article 268 of the law of the criminal procedures)
- 2- The accused and the other litigants must attend one day before the session is held in the matters of contraventions, and three days before the session is held in the matters of misdemeanors and eight days before the session is held in the criminal matters in addition to the period of transportation. The accused person must be declared himself according to the ways mentioned in the civil procedures law or at his domicile (article NO.233,234,374 of the criminal procedures law).
- 3- The accused person and all the other litigants must be acquainted with the suit's documents as soon as they are declared that the trial date is fixed (article 236 of the criminal procedures law).
- 4- The accused person himself must attend the session in the matters of misdemeanors for which he has to be punished with detention, whereas the other misdemeanors and contraventions can be attended by his attorney to present his defence without distributing the right of the court to order him to attend the session himself (article No.237 of the criminal procedures law).
- 5- The trial has to be done by facing the accused person with the crime that he has accused with and then to listen to the prosecution witnesses and the defence witnesses and the experts if they are there. The accused and the other litigants have the right to interrogate the witnesses or to ask for listening to the defence witnesses again or to present other defence witnesses, and then listen to the defence of the litigants. The accused has to be the last one who talks (article No.371, 272,273,274,275,293 of the criminal procedures law).

- 6- The judge passes his judgement in the lawsuit freely and according to his faith. He can not build his judgement on an evidence which had not been presented to him in the session . He has to pronounce the Judgement in an open session even if the case had been examined in a closed session (article No.302,303 of the criminal procedures law)
- 7- To invalidate any statement which the judge becomes aware that it was derived from the accused or from the witnesses by means of threatening and by force. The relatives of the accused or his ancestries, decevd-ants, sons -in-law and brothers -in- law to the second grade and his wife -even if they are separated - may refuse to give an evidence against the accused unless one of them is the victim or the informer (article No. 285,302 of the criminal procedures law).
- 8- In crimes an advocate must attend with the accused either this advocate is charged by the judge, by the general prosecution or by the presedent of the court or he is charged by the accused.
The advocate who does not attend without any excuse and does not sent a delegator instead of him has to be punished by fine without violating the disciplinary trial (article 357 of the criminal procedures law)
- 9- The charged advocate can make a demand for deciding his fees which the body of the court estimates for him. If the accused is poor, the gover-ment treasury is charged to pay these fees. The charged advocate must have the volidity to plead in front of the court of appeal and the courts of first instance (article No.376,377 of the criminal procedures law).
- 10- The Arabic Language is the language of the courts. The litigants or the witnesses who do not know Arabic, the court can listen to other statments through the translators after they swear . The translators are considered assistants to the Judicial authorities and there must be enough of them in the court of cassation, the courts of appeal and the courts of first instance. These translators are those who got specializ-ed educational degrrrs in any foreign languages and before they practice their work faithfully and justfully(article No.46/1972 of the Judicial Authority).

- 11- To appeal against the default judgements which are issued in misdemeanors and contraverts matters, then lawsuit can be examined again in front of the same court which previously issued. The accused must not be hurted because of his appeal (article No. 398,401 of the Criminal Procedures Law).
- 12- To appeal against the judgements which are delivered in the presence of the parties in the matters of misdemeanors. This appeal is examined by competent circuit in the court of first instance. The appeal has to be examined as soon as possible if the accused is imprisoned (article No.402,410 of the criminal procedures law).
- 13- The accused must not be hurted because of his appeal and the court has not the right to exceed the penalty or to invalidate the innocence judgement if the general prosecution appealed against this judgement unless all the members agree upon this opinion (article No.417 of the criminal procedures law).
- 14- The criminal judgement which is issued in crimes is invalidated if the accused presented or arrested and the case must be examined again in front of the court (article No.395 of the criminal procedures law)
- 15- To have the right to appeal to the court of cassation against the final judgements which are issued in crimes or misdemeanors according to the fixed reasons and the ways put by the law No.57/1969 which concerns with the condition and procedures of appeal in front of the court of cassation.
- 16- To have the right to ask for reexamining the final judgements which are issued in crimes and misdemeanors for the reasons which the law mentioned and according to the law (article No. 441,442 of the criminal procedures law).

This rules and judgements agree with the judgement of the article NO. 64,65,67,68,69,70 of the Egyptian constitution, and article No. 14 of the International compact of the Civil and Political Rights.

Forth:

The Criminal Procedures Law and the Principles of the Human Rights in the Stage of After Trial (execution):

- 1- It is not permitted to renew the criminal law suit after the final judgement and it is not permitted to reexamine it except by the appeal against the issued judgements according to the ways decided by the law (article No.454,455 of the criminal procedures law)
- 2- It is not permitted to execute the penalties which are decided by the law for any crime unless there is a judgement issued by a competent court (article No.459 of the criminal procedures law).
- 3- The judgements must not be executed unless they become final except there is a deviation in the law contravenes that (article No.460 of the criminal procedures law).
- 4- To execute the penalties of restricting the freedom in the prison which are prepared for that and according to an order made by the general prosecution (article No. 478 of the criminal procedures law).
- 5- It is permitted to ask for making work outside the prison instead of executing the punishment if it does not exceed three months of detention (article No.479 of the criminal procedures law)
- 6- The period of provisional detention and the period of arresting have to be extracted from the penalty of restricting the freedom (article No.482 of the criminal procedures law).
- 7- The penalty of restricting the freedom of a pregnant woman in the sixth month can be delayed until two months after she gives birth (article No. 485 of the criminal procedures law).
- 8- The penalty of restricting the freedom of an ill person can be delayed if his illness is dangerous for his life or if this penalty may cause his death if it is executed during his illness (article No.487 of the criminal procedures law)

- 9- If a man and his wife are sentenced to detention for no more than one year - and were not imprisoned before - the execution of the punishment can be delayed for one of them until the other is released if they are bringing up a child who is less than fifteen years old (article No.489 of the criminal procedures law).

- 10- The prisons have to be divided according to penalties. There are prisons for the men who are sentenced for the penal servitude (penitentiary), and for the men who are sentenced to imprisonment and for the woman who are sentenced to penal servitude (general prisons) and for those who are transported from penitentiary because of becoming 60 years old or because of their illness or because of having spent half of the period of their penalty or for their good manners. And for those who are sentenced to a punishment restricts the freedom for more than three months. And those who are sentenced to other punishments which restrict the freedom spend the period of their punishment in the central prisons. (articles No.1,2,3,4 of the prisons regulation law).

- 11- Those who are sentenced to provisional detention have to stay in places not attached to the other prisoners and they have the right to wear their own clothes and they can bring the food that they may need (article No. 14,15,16 of the prison regulation law).

- 12- The prisoners are divided into three levels each one of them has system of living and treatment. These prisoners are transported from a level to another according to fixed rules, this is in addition to a transitional period before getting released for those who are imprisoned for more than four years during this period there is degradation in decreasing the restrictions and offering them advantage (article No.13,18 of the prisons regulation law)

- 13- Those who were sentenced to the punishment which restricts the freedom have to do paid work and have a weekly day off in addition to the official holidays. Those who are under provisional detention and those who are sentenced to simple detention are not subjects to this paid work except they want to do it (article No.21,22,23,24,25,26,27 of the prisons regulation law)

- 14- To educate and to culture the prisoners and to allow them to study and attend their deucational examinations and to allow them to buy news - papers and books on their own expense (articles from No.28 to No.32 of the prisons regulation law).
- 15- To observe the prisoners health periodically and there must be a raiser doctor in each prison. The prisoners have the right to be visited by their families periodically and to send and recive letters from them (articles from No.38 to No. 42 of the prisons regulation law)
- 16- Any prisoner can be released under condition after having spent 3/4 of the punishment period because of his good manners (articles from No.52 to No.64 of the prisons regulations law)

All these judgements and rules which are concerned with the execution of the penalty and which are mentioned in the Egyptian criminal eprocedures law or the prisons regulation law agrir with th ejudgement of article No.42 of the Egyptian constitution and with the judgements of the rules for the treatments of the prisoners which were issued by the Economical and social council in the United Nations in 31/7/1957 and 13/5/1977 and with the article No.10,14 of the International compact of the civil and political rights.

Fifth:

The Egyptian Criminal Procedures Law and the Guarantees Procedures which are concerned with the judgement of capital punishment.

- 1- The criminal court (which its members consists of the counsillors of the high court of appeal) can not issur a judgement of putting any ont to death unless all the members of the court agree upon this judgement and after they take the government's Moftey's opinion. This judgement can be appealed against before the court of cassation and to ask for re-examining it (articles No.581,441 of the criminal procedures law).
- 2- The public prosecution must bring the judgement of execution before the court of cassation to make sure of the validity of applying the law even if the one who was sentenced to death did not appeal against the judgement before it (article No.46 of the law No.57/1959 concerncing with the condi-tions and procedures of appeal before the court of cassation).

- 3- The documents of the case in which a final judgement of execution had been issued must be submitted by the Minister of Justice to the President of the Republic to use his right to issue a judgement of forgiveness or to commute the punishment if he found it required (article No.470 of the criminal procedures law).

- 4- If a pregnant woman is sentenced to death, the execution must be delayed two months after she gives birth (article No.476 of the criminal procedures law).

These mentioned judgements and rules and judgements agree with the judgement of the article No.149 of the amended constitution and the sixth article of the International compact of the Civil and political rights. They also agree with judgements and the guarantees which are issued by the Economical and Social council in the United Nations on 25/5/1984 to protect the rights of those who are sentenced to death.

THIRD CHAPTER

THE EGYPTIAN JUVENILE LAW AND THE
PRINCIPLES OF THE HUMAN RIGHTS

The Egyptian legislator made a separate law for the juveniles which is the law No.31/1974 included the rules which are concerned with the juveniles and which are previously mentioned in both the penal law and the criminal procedures law in order to gather the rules concerned with their being asked about their criminal actions and being punished in one specific law to make it easy for those who are responsible for the juveniles to do their work and fulfill their responsibility correctly and effectively in order to achieve the aims of the law.

The Egyptian legislator followed the rules and the principles which are issued by the international society which are concerned with the juveniles and were mentioned in the charters of the Human Rights and Liberties, and they are the principles which were mentioned in articles No. 6,10 of the International compact of the civil and political rights and the standard rules of managing the juveniles affairs which are issued by the General Assembly of the United Nations on 29/11/1985.

In this chapter we are going to state in details the rules which were decided by the previously mentioned law and to what extent they are connected with the mentioned international charters as the following order:

First:

To prevent any distinction in the Execution of the Judgements:

The law did not include in any of its article any reference to the distinction between the juveniles because of the race, the color, the sex, the language, the religion or any other reasons.

This agrees with the rules of the United Nations for managing the juveniles affairs.

Second:

The juveniles are not subject to be punished by the capital punishment:

The law devided in its fifteenth articles for that if a juvenile whose age is more than fifteen years and does not exceed eighteen years committed a crime which the punishment for having committed it is the execution or the peanl servitude for life, the juvenile has to be punished by imprisonment only.

This agrees with the judgement of article No.6 of the International compact of the civil and political rights.

Third:

The measurements and the penalties which are concernced with the juveniles:

The seventh article of the law devided for the measurements and the penalties by which the juvenile whose age does not exceed fifteen years when he committed the crime is punished.

These measurements are:

To scold him, and to deliver him to the technical training, and to oblige him to do certain duties, and the judicial observation, and to put him in any of the specialized hospitals or any of the social observation institutions.

Article fifteen divided also for the punishments by which a juvenile, whose age is more than fifteen years and does not exceed eighteen years, in punished as the following:

The imprisonment for a period not less than ten years for the crimes which their punishment is the execution or the penal servitude for life.

The imprisonment for the crimes which their punishment is the penal servitude.

The detention for a period not less than six months for the crimes which their punishment is the imprisonment .

In all the cases, the court may judge to put him in the social institution.

In the rest of the crimes which their punishment is detention, the court may judge to put him in any of the social institutions or to put him under the judicial observation.

Forth.

The Juveniles ' court and their procedures:

The law established courts for the juveniles . These courts consist of one judge aided by two specialised experts, one of them at least is a woman. The presidence of these experts is obligatory and they have to present a research's report about the juvenile's state before the court issues the judgement - the law permitted the appeal against the court's judgement before a competent cercuit in these cases in the court of first instance and to follow before the court the procedures of the misdemeanors matters. The trial is not attende except by the juvenile's relatives, the witnesses, and the advocate. An advocate must be charged by the Court if the juvenile does not have one in the criminal matters.

The competent judge in the juvenile matters in concerned with observing and the supervision and to make the decision in all the disputes which are connected with the excution of the judgements. (article NO.28,29,33,34,40 of the Juvenile Law).

Fifth:

The execution of the judgements which are issued against the juveniles:

The law prevented the physical hurt to the juvenile to execute the financial penalties and not to oblige them to pay any costs or expenditures. The punishments of restricting the freedom of the juveniles are executed in the special punishable institution with the permission of training them in the projects of construction and reformation (article No.47,48,49, of the Juvenile Law)

The judgements and the rules mentioned in items No.3,4,5 agree completely with th eprinciples of the United Nations which are concerned with the manngement of the juveniles affairs.

CHAPTER IV

THE EGYPTIAN EMERGENCY LAW AND
PRINCIPLES OF HUMAN RIGHTS

The Egyptian constitution regulates the emergency cases which the state is facing according to article 148 which stipulated that the president of the Republic shall proclaim a state of emergency .

Such proclamation must be submitted to the peoples Assembly within the subsequent fifteen days to take a decision upon it.

The state of emergency in all cases shall be for a limited period, which may not be extended unless by approval of the Assembly.

Article 4 from the International convention of political and civil rights in this concern has stipulated that in the exemption emergency cases which threaten the security of the state which will be declared officially.

Article 4 permits to carry out measures free from the above mentioned obligations without prejudice to these principles (articles 6,7,8,11,15,16,18) These articles concern with the rights of life and guarantee the application of the death penalty. Corporal punishment, slavery, exploitation for slavery, detention all these acts shall be prohibited, the above mentioned articles concern also with crime, punishment , recognition of legal personalities, freedom of idea, ethics and religion.

The Egyptian legislator sets up the legislation which has preceded the law of emergency issued in 1958 under No.162 amendments by rules 37 in 1972, 164 in 1981, 50 in 1982 includes the regulations and rules concerning the state of emergency case.

Proclaiming the state of emergency is prescribed by the law, it shall determine the competent authority which has the rights to proclaim, how it

may be extended, measures under taken during this period, cases of complain against emergency courts their procedures and effects appears when the state of emergency comes to an end.

We will clear all these rules in the following items:

First:

Causes of Emergency state Proclamation:

Proclamation a state of emergency is prescribed by law such as:

If any danger threaten the security of safety of National Unity either in case of war or in case of any threaten disturbances inside the country and also in the case of disaster or epidemic (article 1)

Second:

The competent authority which has the rights to proclaim the state of emergency:

The President of the Republic shall proclaim or terminate a state of emergency by decree including the cause of this proclamation, the area, the effective date of coming into force the limit period.

It is necessary to submit the decree on the people Assembly within subsequent 15 days to take a decision upon it.

If the law did not submit to people's Assembly or refuse by it, the state of emergency shall be determined (article 2 , amendement 37 in 1972)

Third:

The extension of state of emergency :

It is prohibited to extend the state of emergency than the limit period of issuing its decree except the approval of people's Assembly.

The state of Emergency determined if this approval be refused before the period settled. (article 2, amendement 37 in 1972)

Fourth:

Measures Under Taken During the State of Emergency:

The President of The Republic has the right to under take suitable measures to face the danger which threatnes the nation, maintains security and regulates the disciplinary in the state of emergency .

He has the right to restrict the liberty of people in holding meetings, transport, residence and transit.

He also has the right to seize the suspect person, those who threaten the security and to inspect them.

Letters, news papers shall be controlled. Times of opening the public shops shall be restricted.

The President of The Republic in the state of Emergency has the right to issue any necessary decision as requisition buildings, properties without prejudice to the regulation of disciplinary or compensation stipulated by the law.

He also has the right to withdraw licences of weapons and explosives.

He has the right to emptying or isolating some area.

The state of Emergency in all cases shall be for a limited period unless by approval of the people's Assembly. (article 3)

Fifth:

Cases of Complaint against measurements of state of Emergency and the rights of those injured:

- 1- Any person arrested or detained shall be informed forthwith the reasons for his arrest or his detention.
He shall have the right to communicate with whoever he sees fit and inform them of what has taken place and to ask for help from a lawyer.
He must be notified, as soon as possible, with the charges directed against him.
- 2- Any arrested people have the right to be in protective custody.
- 3- Any person has the right to complaint to the supreme court of security against any measures taken to restrict his personal freedom.
The law shall regulate the right of complaint in a manner ensuring a decision regarding it within thirty days after the date of his restriction without release.
- 4- Any person has the right to submit his complaint by a court decision issued from the court within 15 days after the date of complaint or else release shall be imperative.
- 5- Any person has the right to renew his complaint for periods not less than 30 days.

6- The Minister of Interior has the right to appeal against the decisions of released issued by the court in order to hear before another circuit within 15 days after the date of appeal, in this case the decision of the court shall be enforceable.

(article 3 bis- 60 in 1968, amendement by law 37/72,164/81 , 50/1982)

Six:

The competent court which is responsible to hear the detention warrant complaint:

The law of state of emergency composed courts of security (Emergency) concerned with felonies and crimes committed against the discis: issued as a result of the state of Emergency and crimes against public law.

The President of The Republic gives the permission to hear these sentences before the above mentioned court as follows:

- 1- Department of state commissioners summary formed in a circuit in every 1 st instance courtm it is composed from a judge from the mentioned court hears the cased shall be panishable by detaince and fine, or any one of them. The President of The Republic has the right to add two officers as members to the court. (by decision)
- 2- Supreme security court of state formed in circuits in courts of appeals, it is composed from three counsellors to try cases of felonies and other crimes as the estimation of president of The Republic .
The President of the Republic has the right to add two officers as members to the court. (bv decision)
- 3- The appeal shall brought before the above mentioned court.
The members of public prosecution have the same power of judges.
- 4- These courts shall apply all legal procedures relating to law either in cognizance or applied sentence or excute punishments.
- 5- All sentences issued from state secutity courts shall ratified by the President of Republic . These sentences shall not be final before ratification- If an innocence judgement issued after rehear a case according to the demand of The President of The Republic ,the satification of innocence

judgement be necessary.

- 6- Before submitted the sentences to President of The Republic to satisfy them all legislations procedures must be done at first by a counsellor from appeal court to discuss the complains and to study the hearing or a public attorney appointed for this object in order to proof that all the procedures are valid, then he shall writhe his own opinion in every felony in a explanation memoranda.
- 7- President of The Republic has the right to keep the hear before trial or change th efinal punishment by another punishment of less period or cancel the punishment or ceased the inforcement of all or some puninshment wheather they are original or compawatory or consequwntial either before or after satification. (article No.7,9,10,14,16)

Seventh :

Effects appears when the state of emergency comes to an end:

Article 19,20 from the law showed the effects which appears when the state of Emergencycomes to an end which reflects on cased had submitted befor state security courts. (Emergency)

These articles settled that the courts shall continue cognizance those cases but the cases which had not submitted yet it shall cognizance befor the competant ordinary court, the rules of ratifying the sentences shall be continued. In other hand, the sentences had issued before the state of emergency come to an end it shall be continued,or according to the sentence s which had issued in cases which will be cognizance before the security court of state according to the above mentioned.

The rules and regulations stipulated on the state emergency law has agreed with article 4 from the International convenants for civil and political rights, If these rules and regulations did not include any contradictions against the rules impermissible according to the last article, it shall not be enforce within include the state of emergency according to the law.

CHAPTER V

THE EGYPTIAN JUDICIARY AUTHORITY
AND THE PRINCIPLES OF HUMAN RIGHTS

The Egyptian constitution stipulated that the judiciary Authority shall be independent.
It shall be exercised by courts of justice of different sorts and competences. They shall issue their judgements in accordance with law.
Judge shall be independent, subject to no other authority except the law.
The law shall determine the judiciary organization and their competences, and shall organize the way of their formation and prescribe the conditions and measures for the appointment and transfer of their members.
The status of judges shall be irrevocable. The law shall regulate the disciplinary actions with regard to them (articles 165,166,167,168)

The International covenants of Human Rights included the declaration of the basic principles concerning the independence of the judiciary authority issued by United Nations General Assembly resolutions on 29/11/1965 13/12/1965
This declaration contains the principles related to the independence of judiciary authority which means the judiciary immunity, conditions of appointment, qualification, it is regulating the period to be in service, the disciplinary actions and also the cases of dismissal.

The law of judiciary authority No.46 issued in 1972 the amendments 17 in 1976, 96 in 1976, 35 in 1984 concluded these principles stipulated in the Egyptian constitution and in the United Nations declaration concerning the independent of judiciary authority as follows:

- 1- The courts have specific jurisdiction according to the law, it shall take decisions in all disputes and penalties any exceptions shall be subject by virtue of the law (article 1-15)

- 2- It is prohibited to transfer, second or change the place of judges except in special cases prescribed by law (article 52)
- 3- Status of judges and public prosecutors shall be irrevocable except their assistances of prosecution (article 67)
- 4- The general assemblies sets on every court composed all members has the right to distribute and supervise the work, regulate the circuits and sessions. It also has the right to second members to work at the criminal courts (article 30)
- 5- The supreme council is the competent authority it shall supervise the affairs of the judiciary organization for the appointment, transfer, second the judges and the public prosecutors according to the law.
The supreme council composed from the president of cassation court, the president of Appeal court and the public prosecution and two vice presidents from court of cassation and two presidents from court of appeal (article 77 bis a 77 bis 2)
- 6- The appeals offer from the judges, public prosecution to cancel the final administration decisions concerned to their affairs shall be submitted only to the civil circuits in the cassation court these circuits shall be the competent authority to take decisions in the appeal of compositions disputes concerned, salaries, pensions, remunerations (according to article 83)
- 7- The disciplinary of the judge shall be before a competent session consists of president of cassation court, three presidents from appeals court and three counsellors from cassation court.
The meetings of this session must be held secretly. The decision of dismissal shall be issued by the president in the official newspaper (article 98, 106, 108, 110)
- 8- If it is prohibited to seize any judge or detained except in case of flagrante delicto a permission from the session must be taken.
In case of flagrante delicto the matter shall be submitted to the competent session within 24 hours, this session has only the right to continue his seizing or to release him.

It is prohibited to under take any measurs of investigations in criminal procedurrs before taking the permission of the above mentioned session.

Punishment of judges for freedom restriction shall come into force in special places (article 96)

The principels concerned with independent of judiciary authority be in agreement with the articles of th eEgyptian constitution and the principels of United Nations General Assembly for that matter.

After we have dealing with the situation of the Egyptian legislator from the principels of Human Roghts determined with international covenants in some important legislations as above mentioned in these chapters.

In part III we will expose the international contribution of Egypt on the international covenants of Human Rights.

EGYPTIAN INTERNATIONAL PARTICIPATION
ON INTERNATIONAL CONVENIENTS
FOR HUMAN RIGHTS

Egypt along the ancient history and according to its geographical situation moderated the three continents, it was an active member between the nations.

Egypt affects and reflects in all events, it is also participating and contributing with all powers and capacities to maintain the values of rights, justice, promotion, advancing the people all over the world to maintain freedom and self determination.

The heritages of the Egyptian civilization and the historical experiences through ages are the strong stimulation behind this active motion in this concern.

It is naturally place Egypt at the head of states participating with the international states as a whole in its great efforts to confirm the principles of Human Rights and to ensure that all peoples of the world be entitled to these principles and rights.

According to the Egyptian participation to the international conventions and the accomplishment constitutional procedures these conventions shall be effective as any law adopted in the country .
The Egyptian constitution stipulated in article No. 151 that the agreements shall be adopted by the president of the Republic then it shall be informed to the general assembly with explanations. It shall be enforced after adoption, ratification and publishing according to certain cases.

International conventions relating to Human Rights Egypt participated are:

- 1- International convention on economic social and cultural rights.
- 2- International convention on civil and political rights.
- 3- International convention on the elimination of all forms of racial discrimination.

- 4- International convention on the suppression and punishment of the crime of Apartheid.
- 5- International convention against apartheid in sports.
- 6- Convention on the elimination of all forms of discrimination against women.
- 7- Convention on the prevention and punishment of the crime of Genocide.
- 8- Slavery convention.
- 9- Protocol amending the slavery convention signed at Geneva on 25 September 1926 in 1953
- 10- Slavery convention in 1926 as amended by the protocol in 1950
- 11- Supplementary convention on the Abolition of slavery, the slave trade, and institutions and practices similar to slavery .
- 12- Convention for the suppression of the traffic in persons and of the exploitation of the prostitution of others.
- 13- Convention against torture and other cruel, inhuman or degrading treatment or punishment.
- 14- Convention relating to the state of refugees.
- 15- Protocol relating to the status of refugees.
- 16- Convention on the political rights of women.
- 17- Convention on the non applicability of statutory limitations to war.

The above mentioned conventions has appeared the role of Egypt in contribution on international covenants for Human Rights assuring that Egypt is interested to realise the legislation of these rights by codified the principles of the international covenants clearly and obviously , these principles shall be protected by promoting and respecting these rights.

End

According to this brief and fast producing to the situation of the Egyptian Constitution and some Egyptian Legislations relating to the principles of Human Rights and liberties, we have clarified that the intimate connection between Constitution, The Egyptian Legislator and rules stipulated in the International covenants in this concern.

We can emphasize the following facts :

- First : All principles of Human Rights and liberties take its place and importance either by the Egyptian Constitution or by Egyptian legislations issued by the Egyptian Legislator.
- Second : These principles and rights shall be protected by virtue of the law to safeguard against transgression according to the judicial supervision upon the constitution ally of laws represented in the Supreme Constitution Court and the independent of the judicial authorities which are assigned to render a judgement in compains related to the transgressions of these rights.
- Third : The Contribution of Egypt in the International covenants concerned with Human Rights make these covenants similar to the laws stipulated in the country and it shall obligated all powers and authorities and executing sentences.
- Forth : The Important role under takes by the High Constitution Court in realizes the Human Rights and liberties which was stipulated Constitutionally purifying the recent legislations from any texts be against

This role reflects the great and the significant interest of Egypt for the importance of Human Rights and liberties it is also assure its need to pave the way for the future with all guarantees to maintain protection for these rights.

At last Egypt offers this decree to the honourable African Committee for Human Rights and it clears the constitutional and legislative great efforts in the field of Human Rights and liberties, hoping to realize the necessary reaction among the African States - connected with a participant history and participant suffering from long national struggle against imperialism and retardation - which will lead to real approach, well understanding for the benefits of African Human Rights to maintain good results according to the charter of Human Rights and by virtue of law.