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## **REFUGEE ENTITLEMENTS IN EGYPT**

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## REFUGEE ENTITLEMENTS IN EGYPT ANNEXES TO THE REPORT

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# ANNEX A

## ASYLUM AND REFUGEE STATUS

### 1. International Legal Instruments

#### Convention Relating to the Status of Refugees<sup>1</sup>

##### Article 1

A. For the purposes of the present Convention, the term “refugee” shall apply to any person who:

*(2) As a result of events occurring before 1 January 1951 and owing to wellfounded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.*

*In the case of a person who has more than one nationality, the term “the country of his nationality” shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.*

D. This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.

*When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Convention.*

F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

*(a) He has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;*

*(b) He has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;*

*(c) He has been guilty of acts contrary to the purposes and principles of the United Nations.*

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<sup>1</sup> Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137 (entered into force Apr. 22, 1954). [Hereinafter, Refugee Convention]. Egypt acceded to the Convention and its Protocol on 22 May 1981.

#### Article 5

*Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.*

#### Article 33

*1) No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.*

*2) The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country*

#### Article 42

*1) At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1, 3, 4, 16(1), 33, 36-46 inclusive.*

### **Protocol Relating to the Status of Refugees<sup>2</sup>**

#### Article 1

*1) The States Parties to the present Protocol undertake to apply articles 2 to 34 inclusive of the Convention to refugees as hereinafter defined.*

*2) For the purpose of the present Protocol, the term " refugee " shall, except as regards the application of paragraph 3 of this article, mean any person within the definition of article 1 of the Convention as if the words "As a result of events occurring before 1 January 1951 and..." and the words "... as a result of such events ", in article 1 A (2) were omitted.*

*3) The present Protocol shall be applied by the States Parties hereto without any geographic limitation, save that existing declarations made by States already Parties to the Convention in accordance with article 1 B (1) (a) of the Convention, shall, unless extended under article 1 B (2) thereof, apply also under the present Protocol*

### **International Covenant on Civil and Political Rights<sup>3</sup>**

#### Article 12

*1) Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.*

*2) Everyone shall be free to leave any country, including his own.*

*3) The above-mentioned rights shall not be subject to any restrictions except those*

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2 Protocol Relating to the Status of Refugees, (adopted on 16 December 1966, entered into force 4 October 1967) 189 U.N.T.S. 137 [hereinafter, 1967 Protocol]. Egypt acceded to the Convention and its Protocol on 22 May 1981

*which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.*

*4) No one shall be arbitrarily deprived of the right to enter his own country.*

#### Article 13

*An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.*

### **Convention on the Rights of the Child<sup>4</sup>**

#### Article 9

*(1) States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.*

#### Article 10

*1) In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.*

*2) A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.*

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<sup>3</sup> International Covenant on Civil and Political Rights, Dec. 19, 1966, 999 U.N.T.S. 171 (entered into force March 23, 1976). [Hereinafter, ICCPR]. Egypt ratified the Covenant on 14 January 1982 with the following declaration: "Taking into consideration the provisions of the Islamic Sharia and the fact that they do not conflict with the text annexed to the instrument, we accept, support and ratify it."

<sup>4</sup> Convention on the Rights of the Child, 20 Nov. 1989, 1577 U.N.T.S. 3 (entered into force Sept. 2, 1990). [Hereinafter, CRC]. Egypt ratified the Convention on 6 July 1990.



## Article 22

1) States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

## **Convention on the Elimination of All Forms of Discrimination against Women<sup>5</sup>**

### Article 15

4) States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

## **International Convention on the Elimination of All Forms of Racial Discrimination<sup>6</sup>**

### Article 5

*In compliance with the fundamental obligations laid down in Article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:*

(d) *Other civil rights, in particular:*

(ii) *The right to leave any country, including one's own, and to return to one's country;*

## **Convention on the Rights of Persons with Disabilities<sup>7</sup>**

### Article 18

1) *States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities:*

(c) *Are free to leave any country, including their own;*

(d) *Are not deprived, arbitrarily or on the basis of disability, of the right to enter their own country.*

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<sup>5</sup> Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1248 U.N.T.S. 13 (entered into force 3 September 1981). [Hereinafter, CEDAW]. Egypt ratified the Convention on 18 September 1981.

<sup>6</sup> International Convention on the Elimination of All Forms of Racial Discrimination, adopted Dec. 21, 1965, 660 U.N.T.S. 195 (entered into force Jan. 4, 1969). [Hereinafter, ICERD]. Egypt ratified the Convention on 1 May 1967.

<sup>7</sup> Convention on the Rights of Persons with Disabilities, Jan. 24, 2007, 2515 U.N.T.S. 3 (entered into force May 3, 2008). [Hereinafter, CRPD]. Egypt ratified the Convention on 14 April 2008.

## **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families<sup>8</sup>**

### Article 3

*The present Convention shall not apply to:*

*(d) Refugees and stateless persons, unless such application is provided for in the relevant national legislation of, or international instruments in force for, the State Party concerned;*

### Article 8

*1) Migrant workers and members of their families shall be free to leave any State, including their State of origin. This right shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present part of the Convention.*

## **Convention against Torture and Other Forms of Cruel Inhuman, or Degrading Treatment or Punishment<sup>9</sup>**

### Article 3

*1) No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.*

*2) For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.*

## **2. Regional Legal Instruments**

## **Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa<sup>10</sup>**

### Article 1

*1) For the purposes of this Convention, the term "refugee" shall mean every person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.*

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<sup>9</sup> Convention against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment, Dec. 19, 1984, 1465 U.N.T.S. 85 (entered into force 26 June 1987). [Hereinafter, CAT]. Egypt ratified the Convention on 25 June 1986.

<sup>10</sup> Convention Governing the Specific Aspects of Refugee Problems in Africa, Sept. 10, 1969, 1001 U.N.T.S. 45 (entered into force 20 June 1974). [Hereinafter, OAU Refugee Convention]. Egypt ratified the Convention on 17 November 1980.

2) The term “refugee” shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.

#### Article 11

1) Member States of the OAU shall use their best endeavours consistent with their respective legislations to receive refugees and to secure the settlement of those refugees who, for well-founded reasons, are unable or unwilling to return to their country of origin or nationality.

2) The grant of asylum to refugees is a peaceful and humanitarian act and shall not be regarded as an unfriendly act by any Member State.

3) No person shall be subjected by a Member State to measures such as rejection at the frontier, return or expulsion, which would compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened for the reasons set out in Article I, paragraphs 1 and 2.[...]

5) Where a refugee has not received the right to reside in any country of asylum, he may be granted temporary residence in any country of asylum in which he first presented himself as a refugee pending arrangement for his resettlement in accordance with the preceding paragraph.

### **African Charter on Human and People’s Rights<sup>11</sup>**

#### Article 12

2) Every individual shall have the right to leave any country including his own, and to return to his country.

*This right may only be subject to restrictions, provided for by law for the protection of national security, law and order, public health or morality.*

3) Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with the law of those countries and international conventions.

### **African Charter on the Rights and Welfare of the Child<sup>12</sup>**

#### Article 23

1) State Parties to the present Charter shall take all appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law shall, whether unaccompanied or accompanied by parents, legal guardians or close relatives, receive appropriate protection and humanitarian assistance in the enjoyment of the rights set out in this Charter and other international human rights and humanitarian instruments to which the States are Parties.

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<sup>11</sup> African Charter on Human and Peoples’ Rights, June 1, 1981, 21 I.L.M. 58 (entered into force Oct. 21, 1986). [Hereinafter, African Charter]. Egypt ratified the Charter on 20 March 1984.

<sup>12</sup> African Charter on the Rights and Welfare of the Child, July 1, 1990, CAB/LEG24.9/49 (entered into force Nov. 29, 1999). [Hereinafter, ACRWC]. Egypt ratified the Charter on 9 May 2001.

## **African Youth Charter<sup>13</sup>**

### Article 3

*Every young person has the right to leave any country, including his/her own, and to return to his/her country.*

## **3. Bilateral Legal Instruments**

### **Agreement between the Egyptian Government and the United Nations High Commissioner for Refugees<sup>14</sup>**

#### **PREAMBLE**

*CONSIDERING that the Egyptian Government is desirous to continue the international co-operation within the United Nations in favour of refugees who are within the mandate of the United Nations High Commissioner for Refugees;*

*CONSIDERING the large number of these refugees in Egypt;*

*The Egyptian Government and the High Commissioner agree on the following:*

### Article 1

*Without prejudice to Egyptian legislation and, in general, of all sovereign prerogatives of the Egyptian Government, the High Commissioner for Refugees is authorized to establish a Branch Office in Cairo in view of assuring, in the interest of the refugees within his mandate, and in agreement with the Egyptian authorities, the closest possible cooperation with such authorities for the implementation of the tasks mentioned in article 2 below.*

### Article 2

*The tasks entrusted to the High Commissioner Delegation in Egypt will be in particular, the following:*

- a) Cooperate with the governmental authorities in view of undertaking the census of and identifying the refugees eligible under the mandate of the High Commissioner;*
- b) Facilitate the voluntary repatriation of refugees;*
- c) Encourage, in cooperation with the Egyptian Government, and the international organizations competent in immigration matters, the initiative leading to resettle, in every possible measure, in the countries of immigration, the refugees residing in Egypt;*
- d) Help, within the limits of the funds received to this effect, the most destitute refugees within his mandate residing in Egypt;*
- e) Insure the coordination of the activities undertaken in Egypt in favour of refugees under his mandate, by welfare societies duly authorized by the Government.*

### Article 3

*The contacts between the Branch Office of the UN High Commissioner in Egypt, the Government and the Egyptian administrations will be ensured, in a general way, by the intermediary of the Ministry of Interior.*

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<sup>13</sup> African Youth Charter, July 2, 2006 (entered into force 8 August 2009). [Hereinafter, AYC]. Egypt ratified the Charter on 1 April 2015.

<sup>14</sup> Translation retrieved from Tarek Badawy, The Memorandum of Understanding between Egypt and the Office of the United Nations High Commissioner for Refugees: Problems and Recommendations, CARIM AS 2010/07, 4 (2010). [Hereinafter, MoU Egypt UNHCR]

#### Article 4

*The nomination of the Representative of the High Commissioner will be submitted to the agreement of the Egyptian Government. The High Commissioner will consult the Egyptian Government concerning the nomination of the other eventual members of his Office.*

#### Article 5

*The Egyptian Government undertakes to give to the delegation of the High Commissioner all facilities necessary to the exercise of its functions. The Egyptian Government will give to the Delegate of the High Commissioner the same favourable treatments as those given to other United Nations Missions and Specialized Agencies. The list of the staff members of the Delegation of the High Commissioner in Cairo called to benefit from the same treatment given to staff member of the other Delegations of the United [sic] Nations and Specialized Agencies in Cairo will be established by common agreement between the Government and the High Commissioner.*

#### Article 6

*The Egyptian Government will grant to “bona fide” refugees, residing in Egypt, who fall within the High Commissioner’s mandate, residence permits according to the regulations in force.*

#### Article 7

*The Egyptian Government will grant to the said refugees, when they will have to travel abroad, travel documents with a return visa, of a limited, but sufficient, duration, except if reasons of public security prevent it.*

#### Article 8

*The present agreement will enter in force as soon as the Egyptian Government notifies the United Nations High Commissioner for Refugees of his approval of the agreement, in conformity to its constitutional procedure.*

*In witness whereof the Representative of both Contracting parties have signed the present Agreement.*

### **4. Domestic Legal Instruments**

#### **Constitution of the Arab Republic of Egypt 2014<sup>15</sup>**

#### Article 91

*The state shall grant political asylum to any foreigner who has been persecuted for defending the interests of peoples, human rights, peace or justice.  
Extradition of political refugees is forbidden. All of the above is according to the law.*

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<sup>15</sup> Constitution of the Arab Republic of Egypt, 18 January 2014. [Hereinafter, Egyptian Constitution].

## **ANNEX B**

### **FAMILY UNITY AND REUNIFICATION**

#### **1. International Legal Instruments**

*1951 Convention Relating to the Status of Refugees (Refugee Convention)*<sup>16</sup>

##### Article 5

*Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.*

##### Article 12

*2. Rights previously acquired by a refugee and dependent on personal status, more particularly rights attaching to marriage, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the law of that State, provided that the right in question is one which would have been recognized by the law of that State had he not become a refugee.*

##### Article 25

*1. When the exercise of a right by a refugee would normally require the assistance of authorities of a foreign country to whom he cannot have recourse, the Contracting States in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by an international authority.*

*2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to refugees such documents or certifications as would normally be delivered to aliens by or through their national authorities.*

*3. Documents or certifications so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities, and shall be given credence in the absence of proof to the contrary.*

*4. Subject to such exceptional treatment as maybe granted to indigent persons, fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.*

##### Article 32

*1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.*

*2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.*

*3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.*

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<sup>16</sup> Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137 (entered into force Apr. 22, 1954). [Hereinafter, Refugee Convention]. Egypt acceded to the Convention and its Protocol on 22 May 1981.

### Article 33

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

## **International Covenant on Civil and Political Rights (ICCPR)<sup>17</sup>**

### Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

### Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

### Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

### Article 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

### Article 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.

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<sup>17</sup> International Covenant on Civil and Political Rights, Dec. 19, 1966, 999 U.N.T.S. 171 (entered into force March 23, 1976). [Hereinafter, ICCPR]. Egypt ratified the Covenant on 14 January 1982 with the following reservation: "Taking into consideration the provisions of the Islamic Sharia and the fact that they do not conflict with the text annexed to the instrument, we accept, support and ratify it."

## Article 26

*All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*

## **International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>18</sup>**

### Article 2

- 1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.*
- 2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*
- 3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non- nationals.*

### Article 10

*The States Parties to the present Covenant recognize that:*

- 1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.*

## **Convention on the Rights of the Child (CRC)<sup>19</sup>**

### Article 2

- 1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.*
- 2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.*

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<sup>18</sup> International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3, (entered into force Jan. 3, 1976). [Hereinafter, ICESCR] Egypt ratified the Covenant on Jan. 14, 1982 with the following declaration: "Taking into consideration the provisions of the Islamic Sharia and the fact that they do not conflict with the text annexed to the instrument, we accept, support and ratify it."

<sup>19</sup> Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3, (entered into force Sep. 2, 1990). [Hereinafter, CRC] Egypt ratified the Convention on July 6, 1990.



### Article 3

- 1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*
- 2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.*
- 3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.*

### Article 7


- 1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents.*
- 2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.*

### Article 8

- 1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.*
- 2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.*

### Article 9

- 1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.*
- 2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.*
- 3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.*
- 4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate,*



another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

#### Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

#### Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

#### Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honor and reputation.

2. The child has the right to the protection of the law against such interference or attacks.

#### Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

#### Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his

or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

### **Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT)<sup>20</sup>**

#### Article 3

1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

### **International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)<sup>21</sup>**

#### Article 2

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;

(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;

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20 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Feb. 4, 1985, 1465 U.N.T.S. 85, (entered into force June 26, 1987). [Hereinafter, CAT] Egypt acceded on June 25, 1986.

21 International Convention on the Elimination of All Forms of Racial Discrimination, Mar. 7, 1966, 660 U.N.T.S. 195, (entered into force Jan. 4, 1969). [Hereinafter, ICERD] Egypt ratified the Convention on May 1, 1967.

(e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

## **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)<sup>22</sup>**

### Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

### Article 5

#### **States Parties shall take all appropriate measures:**

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

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<sup>22</sup> Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1248 U.N.T.S. 13, (entered into force Sept. 3, 1981). [Hereinafter, CEDAW] Egypt ratified the Convention on Oct. 18, 1981.

#### Article 15

*1. States Parties shall accord to women equality with men before the law.*

*(...)*

*4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.*

#### Article 16

*1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:*

*(a) The same right to enter into marriage;*

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

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

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

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

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

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

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

*2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.*

### **Convention on the Rights of Persons with Disabilities (CRPD)<sup>23</sup>**

#### Article 4

*1. States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:*

*(a) To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;*

*(b) To take all appropriate measures, including legislation, to modify or abolish existing*

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<sup>23</sup> Convention on the Rights of Persons with Disabilities, Dec. 13, 2006, 2515 U.N.T.S. 3, (entered into force May 3, 2008). [Hereinafter, CRPD] Egypt acceded to the Convention on Sept. 18, 1981.

laws, regulations, customs and practices that constitute discrimination against persons with disabilities;

(c) To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;

(d) To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;

(e) To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;

(f) To undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in article 2 of the present Convention, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines;

(g) To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost;

(h) To provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities;

(i) To promote the training of professionals and staff working with persons with disabilities in the rights recognized in the present Convention so as to better provide the assistance and services guaranteed by those rights.

2. With regard to economic, social and cultural rights, each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights, without prejudice to those obligations contained in the present Convention that are immediately applicable according to international law.

3. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.

4. Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of persons with disabilities and which may be contained in the law of a State Party or international law in force for that State. There shall be no restriction upon or derogation from any of the


human rights and fundamental freedoms recognized or existing in any State Party to the present Convention pursuant to law, conventions, regulation or custom on the pretext that the present Convention does not recognize such rights or freedoms or that it recognizes them to a lesser extent.

5. The provisions of the present Convention shall extend to all parts of federal States without any limitations or exceptions.

#### Article 5

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.

2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.

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3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.
  4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

#### Article 7

##### *Children with disabilities*

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.
2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.
3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

#### Article 22

1. No person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation. Persons with disabilities have the right to the protection of the law against such interference or attacks.
2. States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.

#### Article 23

1. States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:
  - (a) The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;
  - (b) The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;
  - (c) Persons with disabilities, including children, retain their fertility on an equal basis with others.
2. States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.
3. States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to

children with disabilities and their families.

4. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.

5. States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.

## **The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)<sup>24</sup>**

### Article 2

For the purposes of the present Convention:

1. The term "migrant worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.  
[...]

### Article 3

The present Convention shall not apply to:

d) Refugees and stateless persons, unless such application is provided for in the relevant national legislation of, or international instruments in force for, the State Party concerned;

### Article 4

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

### Article 7


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

### Article 8

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

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<sup>24</sup> International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, Dec. 18, 1990, 2220 U.N.T.S. 3, (entered into force July 1, 2003). [Hereinafter, CMW] Egypt acceded to this Convention on Feb. 19, 1993.



provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present part of the Convention.

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

#### Article 14

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

**(Starting from Article 36 all provisions only apply to migrant workers and their families who are in a regular situation)**

#### Article 44

1. States Parties, recognizing that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, shall take appropriate measures to ensure the protection of the unity of the families of migrant workers.

2. States Parties shall take measures that they deem appropriate and that fall within their competence to facilitate the reunification of migrant workers with their spouses or persons who have with the migrant worker a relationship that, according to applicable law, produces effects equivalent to marriage, as well as with their minor dependent unmarried children.

3. States of employment, on humanitarian grounds, shall favourably consider granting equal treatment, as set forth in paragraph 2 of the present article, to other family members of migrant workers.

#### Article 50

1. In the case of death of a migrant worker or dissolution of marriage, the State of employment shall favourably consider granting family members of that migrant worker residing in that State on the basis of family reunion an authorization to stay; the State of employment shall take into account the length of time they have already resided in that State.

2. Members of the family to whom such authorization is not granted shall be allowed before departure a reasonable period of time in order to enable them to settle their affairs in the State of employment.

#### Article 56

1. Migrant workers and members of their families referred to in the present part of the Convention may not be expelled from a State of employment, except for reasons defined in the national legislation of that State, and subject to the safeguards established in part III.

2. Expulsion shall not be resorted to for the purpose of depriving a migrant worker or a member of his or her family of the rights arising out of the authorization of residence and the work permit.

3. In considering whether to expel a migrant worker or a member of his or her family, account should be taken of humanitarian considerations and of the length of time that the person concerned has already resided in the State of employment.

### **Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)<sup>25</sup>**

#### Article 2

*In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.*

*The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance. Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.*

#### Article 24

*The Parties to the conflict shall take the necessary measures to ensure that children under fifteen, who are orphaned or are separated from their families as a result of the war, are not left to their own resources, and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances. Their education shall, as far as possible, be entrusted to persons of a similar cultural tradition.*

*The Parties to the conflict shall facilitate the reception of such children in a neutral country for the duration of the conflict with the consent of the Protecting Power, if any, and under due safeguards for the observance of the principles stated in the first paragraph.*

*They shall, furthermore, endeavour to arrange for all children under twelve to be identified by the wearing of identity discs, or by some other means.*

#### Article 25

*All persons in the territory of a Party to the conflict, or in a territory occupied by it, shall be enabled to give news of a strictly personal nature to members of their families, wherever they may be, and to receive news from them. This correspondence shall be forwarded speedily and without undue delay.*

*If, as a result of circumstances, it becomes difficult or impossible to exchange family correspondence by the ordinary post, the Parties to the conflict concerned shall apply to a neutral intermediary, such as the Central Agency provided for in Article 140, and shall decide in consultation with it how to ensure the fulfilment of their obligations under the best possible conditions, in particular with the co-operation of the National Red Cross (Red Crescent, Red Lion and Sun) Societies.*

*If the Parties to the conflict deem it necessary to restrict family correspondence, such restrictions shall be confined to the compulsory use of standard forms containing twenty-five freely chosen words, and to the limitation of the number of these forms despatched*

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<sup>25</sup> Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 75 U.N.T.S. 287, (entered into force Oct. 21, 1950). [Hereinafter, Fourth Geneva Convention] Egypt ratified the Convention on Nov. 10, 1952.

to one each month.

#### Article 26

*Each Party to the conflict shall facilitate enquiries made by members of families dispersed owing to the war, with the object of renewing contact with one another and of meeting, if possible. It shall encourage, in particular, the work of organizations engaged on this task provided they are acceptable to it and conform to its security regulations*

#### SECTION II

##### ALIENS IN THE TERRITORY OF A PARTY TO THE CONFLICT

#### Article 35

*All protected persons who may desire to leave the territory at the outset of, or during a conflict, shall be entitled to do so, unless their departure is contrary to the national interests of the State. The applications of such persons to leave shall be decided in accordance with regularly established procedures and the decision shall be taken as rapidly as possible. Those persons permitted to leave may provide themselves with the necessary funds for their journey and take with them a reasonable amount of their effects and articles of personal use.*

*If any such person is refused permission to leave the territory, he shall be entitled to have such refusal reconsidered as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose.*

*Upon request, representatives of the Protecting Power shall, unless reasons of security prevent it, or the persons concerned object, be furnished with the reasons for refusal of any request for permission to leave the territory and be given, as expeditiously as possible, the names of all persons who have been denied permission to leave.*

#### SECTION III

##### OCCUPIED TERRITORIES


#### Article 49

*Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.*

*Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased.*

*The Occupying Power undertaking such transfers or evacuations shall ensure, to the greatest practicable extent, that proper accommodation is provided to receive the protected persons, that the removals are effected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated.*

*The Protecting Power shall be informed of any transfers and evacuations as soon as they have taken place.*



*The Occupying Power shall not detain protected persons in an area particularly exposed to the dangers of war unless the security of the population or imperative military reasons so demand.*

*The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.*

Article 50

*The Occupying Power shall, with the co-operation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children. The Occupying Power shall take all necessary steps to facilitate the identification of children and the registration of their parentage. It may not, in any case, change their personal status, nor enlist them in formations or organizations subordinate to it.*

*Should the local institutions be inadequate for the purpose, the Occupying Power shall make arrangements for the maintenance and education, if possible by persons of their own nationality, language and religion, of children who are orphaned or separated from their parents as a result of the war and who cannot be adequately cared for by a near relative or friend.*

*A special section of the Bureau set up in accordance with Article 136 shall be responsible for taking all necessary steps to identify children whose identity is in doubt. Particulars of their parents or other near relatives should always be recorded if available.*

*The Occupying Power shall not hinder the application of any preferential measures in regard to food, medical care and protection against the effects of war, which may have been adopted prior to the occupation in favour of children under fifteen years, expectant mothers, and mothers of children under seven years.*

Article 82

*The Detaining Power shall, as far as possible, accommodate the internees according to their nationality, language and customs. Internees who are nationals of the same country shall not be separated merely because they have different languages.*

*Throughout the duration of their internment, members of the same family, and in particular parents and children, shall be lodged together in the same place of internment, except when separation of a temporary nature is necessitated for reasons of employment or health or for the purposes of enforcement of the provisions of Chapter IX of the present Section. Internees may request that their children who are left at liberty without parental care shall be interned with them.*

*Wherever possible, interned members of the same family shall be housed in the same premises and given separate accommodation from other internees, together with facilities for leading a proper family life.*

Article 140

*A Central Information Agency for protected persons, in particular for internees, shall be created in a neutral country. The International Committee of the Red Cross shall, if it deems necessary, propose to the Powers concerned the organization of such an Agency, which may be the same as that provided for in Article 123 of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949.*

*The function of the Agency shall be to collect all information of the type set forth in*

Article 136 which it may obtain through official or private channels and to transmit it as rapidly as possible to the countries of origin or of residence of the persons concerned, except in cases where such transmissions might be detrimental to the persons whom the said information concerns, or to their relatives. It shall receive from the Parties to the conflict all reasonable facilities for effecting such transmissions.

The High Contracting Parties, and in particular those whose nationals benefit by the services of the Central Agency, are requested to give the said Agency the financial aid it may require. The foregoing provisions shall in no way be interpreted as restricting the humanitarian activities of the International Committee of the Red Cross and of the relief Societies described in Article 142.

### **Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I)<sup>26</sup>**

#### Article 74

The High Contracting Parties and the Parties to the conflict shall facilitate in every possible way the reunion of families dispersed as a result of armed conflicts and shall encourage in particular the work of the humanitarian organizations engaged in this task in accordance with the provisions of the Conventions and of this Protocol and in conformity with their respective security regulations.

#### Article 75

(5) Women whose liberty has been restricted for reasons related to the armed conflict shall be held in quarters separated from men's quarters. They shall be under the immediate supervision of women. Nevertheless, in cases where families are detained or interned, they shall, whenever possible, be held in the same place and accommodated as family units.

#### Article 78

1. No Party to the conflict shall arrange for the evacuation of children, other than its own nationals, to a foreign country except for a temporary evacuation where compelling reasons of the health or medical treatment of the children or, except in occupied territory, their safety, so require. Where the parents or legal guardians can be found, their written consent to such evacuation is required. If these persons cannot be found, the written consent to such evacuation of the persons who by law or custom are primarily responsible for the care of the children is required. Any such evacuation shall be supervised by the Protecting Power in agreement with the Parties concerned, namely, the Party arranging for the evacuation, the Party receiving the children and any Parties whose nationals are being evacuated. In each case, all Parties to the conflict shall take all feasible precautions to avoid endangering the evacuation.

2. Whenever an evacuation occurs pursuant to paragraph 1, each child's education, including his religious and moral education as his parents desire, shall be provided while he is away with the greatest possible continuity.

3. With a view to facilitating the return to their families and country of children evacuated pursuant to this Article, the authorities of the Party arranging for the evacuation and,

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<sup>26</sup> Protocol Additional to the Geneva Conventions of Aug. 12, 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), June 8, 1977, 1125 U.N.T.S. 3, (entered into force Dec. 7, 1978).  
[Hereinafter, Additional Protocol I] Egypt ratified the Protocol on Oct. 9, 1992.

as appropriate, the authorities of the receiving country shall establish for each child a card with photographs, which they shall send to the Central Tracing Agency of the International Committee of the Red Cross. Each card shall bear, whenever possible, and whenever it involves no risk of harm to the child, the following information:

- (a) Surname(s) of the child;
- (b) The child's first name(s);
- (c) The child's sex;
- (d) The place and date of birth (or, if that date is not known, the approximate age);
- (e) The father's full name;
- (f) The mother's full name and her maiden name;
- (g) The child's next-of-kin;
- (h) The child's nationality;
- (i) The child's native language, and any other languages he speaks; (j) The address of the child's family;
- (k) Any identification number for the child; (l) The child's state of health;
- (m) The child's blood group;
- (n) Any distinguishing features;
- (o) The date on which and the place where the child was found;
- (p) The date on which and the place from which the child left the country;
- (q) The child's religion, if any;
- (r) The child's present address in the receiving country;
- (s) Should the child die before his return, the date, place and circumstances of death and place of interment.

### **Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of non-international armed conflicts (Protocol II)<sup>27</sup>**

#### Article 4

3. Children shall be provided with the care and aid they require, and in particular:

- (...)
- (b) All appropriate steps shall be taken to facilitate the reunion of families temporarily separated...

### **Vienna Convention on the Law of Treaties (VCLT)<sup>28</sup>**

#### Article 31

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

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<sup>27</sup> Protocol Additional to the Geneva Conventions of Aug. 12, 1949 and relating to the protection of victims of non-international armed conflicts (Protocol II), June 8, 1977, 1125 U.N.T.S. 609, entered into force Dec. 7, 1978. [Hereinafter, Additional Protocol I] Egypt ratified the Protocol on Oct. 9, 1992.

<sup>28</sup> Vienna Convention on the Law of Treaties, May 23, 1969, 1155 U.N.T.S. 331, entered into force Jan. 27, 1980. Egypt's accession of the treaty occurred on Feb. 11, 1982.

## **2. Regional Legal Instruments**

### **The African Charter on Human and People's Rights<sup>29</sup>**

#### **Article 2**

*Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.*

#### **Article 12**

*5. The mass expulsion of non-nationals shall be prohibited. Mass expulsion shall be that which is aimed at national, racial, ethnic or religious groups.*

#### **Article 18**

- 1. The family shall be the natural unit and basis of society. It shall be protected by the State which shall take care of its physical health and moral.*
- 2. The State shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community.*
- 3. The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of women and the child as stipulated in international declarations and conventions.*
- 4. The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs.*

#### **Egypt's Reservation to Article 18**

*Having considered the African Charter on Human and Peoples' Rights, the Arab Republic of Egypt signed the said Charter on 16 November 1981 and attached hereto is the following instrument of ratification:*

*Having accepted all the provisions of the African Charter on Human and Peoples' Rights with the approval of the People's Assembly and with the reservation that article 8 and paragraph 3 of article 8 and paragraph 3 of article 18 be implemented in accordance with the Islamic Law and that, as far as the Arab Republic of Egypt is concerned, the provision of the first paragraph of article 9 should be [confined] to such information as could be obtained within the limits of the Egyptian laws and regulations;*

*We hereby declare acceptance and ratification of the said Charter.*


### **The African Charter on the Rights and Welfare of Child<sup>30</sup>**

#### **Article 2**

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<sup>29</sup> African Charter on Human and Peoples' Rights, 27 June 1981, 1520 U.N.T.S. 217 (entered into force Oct. 21, 1986). [Hereinafter, African Charter] Egypt ratified the Charter on 3 April 1984.

<sup>30</sup> African Charter on the Rights and Welfare of the Child, July 1, 1990, CAB/LEG24.9/49 (entered into force Nov. 29, 1999). [Hereinafter, ACRWC]. Egypt ratified the Charter on 9 May 2001.



*For the purposes of this Charter, a child means every human being below the age of 18 years.*

### Article 3

*Every child shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in this Charter irrespective of the child's or his/her parents' or legal guardians' race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status.*

### Article 4

- 1. In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration.*
- 2. In all judicial or administrative proceedings affecting a child who is capable of communicating his/her own views, an opportunity shall be provided for the views of the child to be heard either directly or through an impartial representative as a party to the proceedings, and those views shall be taken into consideration by the relevant authority in accordance with the provisions of appropriate law.*

### Article 19

- 1. Every child shall be entitled to the enjoyment of parental care and protection and shall, whenever possible, have the right to reside with his or her parents. No child shall be separated from his/her parents against his/her will, except when a judicial authority determines in accordance with the appropriate law, that such separation is in the best interest of the child.*
- 2. Every child who is separated from one or both parents shall have the right to maintain personal relations and direct contact with both parents on a regular basis.*
- 3. Where separation results from the action of a State Party, the State Party shall provide the child, or if appropriate, another member of the family with essential information concerning the whereabouts of the absent member or members of the family. State Parties shall also ensure that the submission of such a request shall not entail any adverse consequences for the person or persons in whose respect it is made.*
- 4. Where a child is apprehended by a State Party, his parents or guardians shall, as soon as possible, be notified of such apprehension by that State Party.*

### Article 23

- 2. State Parties shall undertake to cooperate with existing international organizations which protect and assist refugees in their efforts to protect and assist such a child and to trace the parents or other close relatives or an unaccompanied refugee child in order to obtain information necessary for reunification with the family.*

### Article 25

- 1. Any child who is permanently or temporarily deprived of his family environment for any reason shall be entitled to special protection and assistance;*

2. State Parties to the present Charter:

(a) shall ensure that a child who is parentless, or who is temporarily or permanently deprived of his or her family environment, or who in his or her best interest cannot be brought up or allowed to remain in that environment shall be provided with alternative family care, which could include, among others, foster placement, or placement in suitable institutions for the care of children;

(b) shall take all necessary measures to trace and re-unite children with parents or relatives where separation is caused by internal and external displacement arising from armed conflicts or natural disasters.

3. When considering alternative family care of the child and the best interests of the child, due regard shall be paid to the desirability of continuity in a child's up-bringing and to the child's ethnic, religious or linguistic background.

### **The African Youth Charter<sup>31</sup>**

#### Article 2

1. Every young person shall be entitled to the enjoyments of the rights and freedoms recognized and guaranteed in this Charter irrespective of their race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status.

2. States Parties shall take appropriate measures to ensure that youth are protected against all forms of discrimination on the basis of status, activities, expressed opinions or beliefs.

(a) shall ensure that a child who is parentless, or who is temporarily or permanently deprived of his or her family environment, or who in his or her best interest cannot be brought up or allowed to remain in that environment shall be provided with alternative family care, which could include, among others, foster placement, or placement in suitable institutions for the care of children;

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<sup>31</sup> African Youth Charter, July 2, 2006 (entered into force 8 August 2009). [Hereinafter, AYC]. Egypt ratified the Charter on 1 April 2015.

against all forms of discrimination on the basis of status, activities, expressed opinions or beliefs.

#### Article 8

1. The family, as the most basic social institution, shall enjoy the full protection and support of States Parties for its establishment and development noting that the structure and form of families varies in different social and cultural contexts.
2. Young men and women of full age who enter into marriage shall do so based on their free consent and shall enjoy equal rights and responsibilities.

### **Charter on the Rights of the Arab Child<sup>32</sup>**

#### Article 4

Family is the nucleus and foundation of society; its solidarity is through religion, ethics and citizenship. The state is responsible for protecting it from weakness and decomposition, providing care to its members and providing adequate basic services to develop and elevate its social and productive capabilities in the process of nation building and progress. Moreover, a state must give their children the care, warmth, tenderness, reassurance, stability and social security that lead to healthy growth and their desired impact on the future of these children.

#### Article 5

Supporting the family to fulfill its responsibility towards its children is the foundation for the development of children, their care, and the state must provide families with economic and social stability.

#### Article 6

The natural family is the first preferred environment for upbringing, and caring for children. An alternative family is the preferred option employed when upbringing within a natural family is obstructed, and is preferred to all other forms of care, including institutional care.

#### Article 8

[The state] asserts and guarantees the child's right to care and stability in familial upbringing and to feelings of compassion, warmth, and acceptance. The child has to have an appropriate status in the family to enable positive interaction in the familial setting. A child has to have enough attention to ensure that their biological, psychological, spiritual, and social needs are fulfilled, and to facilitate the building of an independent personality, whilst ensuring the child's freedom of thought and opinion

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32 Charter on the Rights of the Arab Child, 6 June 1983 (entered into force on Jan. 11, 1994). Egypt ratified the same day. [Hereinafter, Arab Child Charter] (Unofficial translation by the research team.)

*commiserate with the child's abilities, without discrimination between boys and girls.*

### **3. Bilateral Legal Instruments**

*No bilateral agreements concerning family unity and reunification could be found.*

### **4. Domestic Legal Instruments**

#### **Constitution of the Arab Republic of Egypt 2014 <sup>33</sup>**

##### Article 10

*Family is the basis of society and is based on religion, morality, and patriotism. The state protects its cohesion and stability, and the consolidation of its values.*

##### Article 80

*A child is considered to be anyone who has not reached 18 years of age. Children have the right to be named and possess identification papers, have access to free compulsory vaccinations, health and family care or an alternative, basic nutrition, safe shelter, religious education, and emotional and cognitive development.*

*The state guarantees the rights of children who have disabilities, and ensures their rehabilitation and incorporation into society.*

*The state shall care for children and protect them from all forms of violence, abuse, mistreatment and commercial and sexual exploitation.*

*Every child is entitled to early education in a childhood center until the age of six. It is prohibited to employ children before they reach the age of having completed their primary education, and it is prohibited to employ them in jobs that expose them to risk. The state shall establish a judicial system for child victims and witnesses. No child may be held criminally responsible or detained except in accordance with the law and the time frame specified therein. Legal aid shall be provided to children, and they shall be detained in appropriate locations separate from adult detention centers.*

*The state shall work to achieve children's best interest in all measures taken with regards to them.*

#### **Law Number 12 of the year 1996 promulgating the Child Law, as amended by Law Number 126 of the year 2008<sup>34</sup>**

##### Article 2

*For the purpose of this Law, the term "child" within the context of care and welfare, shall mean all individuals who have not reached the age of eighteen (18) complete calendar years. The age of the child shall be verified by means of a birth certificate, an identification card, or any other official document. In the absence of an official document, an authorized entity shall determine the age, by virtue of a decree issued*

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<sup>34</sup> Law No. 12 of 1996 (Child Law), Al-Jarida Al-Rasmiyya, 28 March 1996 (Egypt).

by the Minister of Justice in agreement with the Minister of Health.

### Article 3

*The present law shall particularly ensure the following principles and rights:*

*a) The right of the child to life, survival, and development in a supportive family environment, to enjoy various preventive measures, and to be protected from all forms of violence, or injury, or physical, mental or sexual abuse, or negligence, or negligent treatment, or any other forms of maltreatment or exploitation.*

*...*

*The best interests of the child and his protection shall be a primary consideration in all decisions and procedures whatever the department or authority issuing or undertaking them.*

### Article 4

*The child shall have the right to kinship with his legitimate parents and to be cared by them. The child shall have the right to establish his legitimate paternal and maternal lineage, using all lawful scientific means in order to establish such lineage.*

*Parents shall provide the child with necessary care and protection. The State shall provide the child deprived of family care with alternative care. Adoption is prohibited.*

### Article 99-bis (a)<sup>35</sup>

*The committees for childhood protection shall periodically monitor the procedures and results of implementing the measures undertaken concerning the child. The Committees for Childhood Protection shall recommend to the authorities, when necessary, to review those measures and replace or suspend them so as to keep as much as possible the child in his family environment and avoid depriving him from the family environment except as a measure of last resort and for the shortest appropriate period of time; in such a case, the child shall be taken back to his family environment as soon as possible.*

## **Executive Regulation for the Law of the Child Number 12 of the year 1996, issued by Prime Minister Decree Number 2075 of the year 2010<sup>36</sup>**

### Article 2

*The State guarantees the protection of childhood and motherhood, takes care of children and works to create the right conditions for their proper formation in all respects within a framework of freedom and human dignity. The State also guarantees, as a minimum, the rights of the child contained in the Convention on the Rights of the Child and other relevant international instruments in force in Egypt.*

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<sup>35</sup> Added by Law No. 126 of 2008.



Article 5:

*The child has the right to kinship with his legitimate parents and to enjoy their care, and he has the right to prove his legitimate relationship to them by all means of proof, including legitimate scientific means.*

*Parents must provide the child with the necessary care and protection, and the State must provide alternative care for every child deprived of the care of his or her family, and prohibits adoption.*

## ANNEX C

### EMPLOYMENT

#### 1. International Legal Instruments

##### **The 1951 Convention Relating to the Status of Refugees (Refugee Convention)<sup>37</sup>**

###### Article 3

*The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.*

###### Article 5

*Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.*

###### Article 6

*For the purposes of this Convention, the term “in the same circumstances” implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfil for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.*

###### Article 15

*As regards non-political and non-profit-making associations and trade unions the Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.*

###### Article 17


*1. The Contracting State shall accord to refugees lawfully staying in their territory the most favorable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage earning employment.*

*2. In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions:*

- (a) He has completed three years' residence in the country;*
- (b) He has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefits of this provision if he has abandoned his spouse;*
- (c) He has one or more children possessing the nationality of the country of residence.*

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<sup>37</sup> Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137 (entered into force Apr. 22, 1954). [Hereinafter, Refugee Convention]. Egypt acceded to the Convention and its Protocol on 22 May 1981.



3. The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular of those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.

#### Article 18

The Contracting States shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

#### Article 19

1. Each Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practicing a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

[...]

#### Article 24

1. The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters:

a. In so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities: remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, women's work and the work of young persons, and the enjoyment of the benefits of collective bargaining;

b. Social security (legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:

(i) There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;

(ii) National laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension

2. The right to compensation for the death of a refugee resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.

3. The Contracting States shall extend to refugees the benefits of agreements concluded between them, or which may be concluded between them in the future, concerning the maintenance of acquired rights and rights in the process of acquisition in regard to social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in question.

4. The Contracting States will give sympathetic consideration to extending to refugees

so far as possible the benefits of similar agreements which may at any time be in force between such Contracting States and non-contracting States.

### **Egypt's Reservation<sup>38</sup>**

Concerning articles 20, 22 (paragraph 1), 23 and 24 of the Convention of 1951, the competent Egyptian authorities had reservations because these articles consider the refugee as equal to the national.

We made this general reservation to avoid any obstacle which might affect the discretionary authority of Egypt in granting privileges to refugees on a case-by-case basis.

### **International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>39</sup>**

#### Article 2

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

#### Article 4

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

#### Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural

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<sup>38</sup> Refugee Convention, supra note 37, at Egypt's Reservation. Reservation retrieved from the United Nations Treaty Collection Website: [https://treaties.un.org/PAGES/ViewDetailsII.aspx?src=TREATY&mtdsg\\_no=V-2&chapter=5&Temp=mtdsg2&clang=en#EndDec](https://treaties.un.org/PAGES/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-2&chapter=5&Temp=mtdsg2&clang=en#EndDec).

<sup>39</sup> International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3 (entered into force January 3, 1976). [Hereinafter, ICESCR]. Egypt ratified the Covenant on 14 January 1982.

development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

#### Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favorable conditions of work which ensure, in particular:

- (a) Remuneration, which provides all workers, as a minimum, with:
  - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
  - (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;
- (b) Safe and healthy working conditions;
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

#### Article 8

1. The States Parties to the present Covenant undertake to ensure:

- (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
- (b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;
- (c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
- (d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

3. Nothing in this Article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

#### Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

## International Covenant on Civil and Political Rights (ICCPR)<sup>40</sup>

### Article 8

[...]

3. (a) No one shall be required to perform forced or compulsory labour;

(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;

(c) For the purpose of this paragraph the term "forced or compulsory labor" shall not include:

- (i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;
- (ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;
- (iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
- (iv) Any work or service which forms part of normal civil obligations.

### Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

3. Nothing in this Article shall authorize States Parties to the International Labor Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

### Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

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<sup>40</sup> International Covenant on Civil and Political Rights, Dec. 19, 1966, 999 U.N.T.S. 171 (entered into force March 23, 1976). [Hereinafter, ICCPR]. Egypt ratified the Covenant on 14 January 1982.

## **International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)** <sup>41</sup>

### Article 5

*In compliance with the fundamental obligations laid down in Article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: ...*

*(e) Economic, social and cultural rights, in particular:*

- (i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;*
- (ii) The right to form and join trade unions;*

## **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)** <sup>42</sup>

### Article 3

*States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.*

### Article 11

*1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:*

- (a) The right to work as an inalienable right of all human beings;*
- (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;*
- (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;*
- (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;*
- (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;*
- (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.*

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<sup>41</sup> International Convention on the Elimination of All Forms of Racial Discrimination, adopted Dec. 21, 1965, 660 U.N.T.S. 195 (entered into force Jan. 4, 1969). [Hereinafter, ICERD]. Egypt ratified the Convention on 1 May 1967.

<sup>42</sup> Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1248 U.N.T.S. 13 (entered into force 3 September 1981). [Hereinafter, CEDAW]. Egypt ratified the Convention on 18 September 1981.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

- (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
- (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
- (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;
- (d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this Article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

### **Convention on the Rights of Persons with Disabilities (CRPD)<sup>43</sup>**

#### Article 27

1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

- (a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;
- (b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;
- (c) Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;
- (d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;
- (e) Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;
- (f) Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;
- (g) Employ persons with disabilities in the public sector;

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<sup>43</sup> Convention on the Rights of Persons with Disabilities, Jan. 24, 2007, 2515 U.N.T.S. 3 (entered into force May 3, 2008). [Hereinafter, CRPD]. Egypt ratified the Convention on 14 April 2008.

- (h) Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;
- (i) Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;
- (j) Promote the acquisition by persons with disabilities of work experience in the open labour market;
- (k) Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.

2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

## **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)<sup>44</sup>**

### Article 2

1. The term "migrant worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national. [...]

### Article 3

The present Convention shall not apply to: [...]

d) Refugees and stateless persons, unless such application is provided for in the relevant national legislation of, or international instruments in force for, the State Party concerned;[...]

### Article 5

For the purposes of the present Convention, migrant workers and members of their families:

- (a) Are considered as documented or in a regular situation if they are authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party;
- (b) Are considered as non-documented or in an irregular situation if they do not comply with the conditions provided for in subparagraph (a) of the present article.

### Article 7

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

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<sup>44</sup> International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 18 Dec 1990, 2220 U.N.T.S. 3 (entered into force July 1, 2003). [Hereinafter, CMW]. Egypt's accession to the Convention occurred on 19 February 1993.



#### Article 11

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

#### Article 25

1. Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and:
  - (a) Other conditions of work, that is to say, overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship and any other conditions of work which, according to national law and practice, are covered by these terms;
  - (b) Other terms of employment, that is to say, minimum age of employment, restriction on home work and any other matters which, according to national law and practice, are considered a term of employment.
2. It shall not be lawful to derogate in private contracts of employment from the principle of equality of treatment referred to in paragraph 1 of the present article.
3. States Parties shall take all appropriate measures to ensure that migrant workers are not deprived of any rights derived from this principle by reason of any irregularity in their stay or employment. In particular, employers shall not be relieved of any legal or contractual obligations, nor shall their obligations be limited in any manner by reason of such irregularity.

#### Article 26

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



#### Article 27

1. With respect to social security, migrant workers and members of their families shall enjoy in the State of employment the same treatment granted to nationals in so far as they fulfil the requirements provided for by the applicable legislation of that State and the applicable bilateral and multilateral treaties. The competent authorities of the State of origin and the State of employment can at any time establish the necessary arrangements to determine the modalities of application of this norm.

2. Where the applicable legislation does not allow migrant workers and members of their families a benefit, the States concerned shall examine the possibility of reimbursing interested persons the amount of contributions made by them with respect to that benefit on the basis of the treatment granted to nationals who are in similar circumstances.

#### Article 32

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

**The following provisions are applicable to migrant workers and their families who are in a documented or regular situation:**

#### Article 40

1. Migrant workers and members of their families shall have the right to form associations and trade unions in the State of employment for the promotion and protection of their economic, social, cultural and other interests.

2. No restrictions may be placed on the exercise of this right other than those that are prescribed by law and are necessary in a democratic society in the interests of national security, public order (ordre public) or the protection of the rights and freedoms of others.

#### Article 47

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

2. States concerned shall take appropriate measures to facilitate such transfers.

#### Article 52

1. Migrant workers in the State of employment shall have the right freely to choose their remunerated activity, subject to the following restrictions or conditions.

2. For any migrant worker a State of employment may:

- (a) Restrict access to limited categories of employment, functions, services or activities where this is necessary in the interests of this State and provided for by national legislation;
- (b) Restrict free choice of remunerated activity in accordance with its legislation concerning recognition of occupational qualifications acquired outside its territory. However, States Parties concerned shall endeavour to provide for recognition of such qualifications.

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

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

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

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

#### Article 53

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

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

#### Article 54

1. Without prejudice to the terms of their authorization of residence or their permission to work and the rights provided for in articles 25 and 27 of the present Convention, migrant workers shall enjoy equality of treatment with nationals of the State of employment in respect of:

(a) Protection against dismissal;

(b) Unemployment benefits;

(c) Access to public work schemes intended to combat unemployment;

(d) Access to alternative employment in the event of loss of work or termination of other remunerated activity, subject to Article 52 of the present Convention.

2. If a migrant worker claims that the terms of his or her work contract have been violated by his or her employer, he or she shall have the right to address his or her case to the competent authorities of the State of employment, on terms provided for in Article 18, paragraph 1,<sup>45</sup> of the present Convention.

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45 CMW, supra note 44, Article 18(1): "Migrant workers and members of their families shall have the right to equality with nationals of the State concerned before the courts and tribunals. In the determination of any criminal charge against them or of their rights and obligations in a suit of law, they shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law."

#### Article 55

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

### **Convention on the Rights of the Child (CRC)<sup>46</sup>**

#### Article 32

*1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.*

*2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:*

- (a) Provide for a minimum age or minimum ages for admission to employment;*
- (b) Provide for appropriate regulation of the hours and conditions of employment;*
- (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.*

### **Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime<sup>47</sup>**

#### Article 2

*The purposes of this Protocol are:*

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children;*
- (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and*
- (c) To promote cooperation among States Parties in order to meet those objectives.*

#### Article 3

*For the purposes of this Protocol: "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.*

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<sup>46</sup> Convention on the Rights of the Child, 20 Nov. 1989, 1577 U.N.T.S. 3 (entered into force Sept. 2, 1990). [Hereinafter, CRC]. Egypt ratified the Convention on 6 July 1990.

<sup>47</sup> Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, Nov. 15, 2000, 2237 U.N.T.S. 319 (entered into force 25 December 2003). [Hereinafter, Trafficking Protocol]. Egypt ratified the Protocol on 5 March 2004.

## **Convention Concerning Forced or Compulsory Labour, 1930 (C029)<sup>48</sup>**

### Article 1

*1. Each Member of the International Labour Organization, which ratifies this Convention, undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period. [...]*

### Article 2

*1. For the purposes of this Convention the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.*

*2. Nevertheless, for the purposes of this Convention, the term forced or compulsory labour shall not include--*

*(a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;*

*(b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;*

*(c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;*

*(d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;*

*(e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.*

## **Convention Concerning the Abolition of Forced Labour, 1957 (C 105)<sup>49</sup>**

### Article 1

*Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labour--*

*(a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;*

*(b) as a method of mobilising and using labour for purposes of economic development;*

*(c) as a means of labour discipline;*

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<sup>48</sup> Convention Concerning Forced or Compulsory Labour, June 28, 1930, 39 U.N.T.S. 55 (entered into force May 1, 1932) [Hereinafter, C029]. Egypt ratified the Convention on 29 November 1955.

<sup>49</sup> Convention Concerning the Abolition of Forced Labour, Jan. 25, 1957, 320 U.N.T.S. 291 (entered into force Jan. 17, 1959). [Hereinafter, C105]. Egypt ratified the Convention on 23 October 1958.

- (d) as a punishment for having participated in strikes;  
(e) as a means of racial, social, national or religious discrimination.

#### *Article 2*

*Each Member of the International Labour Organisation which ratifies this Convention undertakes to take effective measures to secure the immediate and complete abolition of forced or compulsory labour as specified in Article 1 of this Convention.*

### **Convention Concerning Freedom of Association and Protection of the Right to Organise Convention, 1948 (C087)<sup>50</sup>**

#### *Article 2*

*Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.*

#### *Article 4*

*Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.*

#### *Article 11*

*Each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.*

### **Convention Concerning the Right to Organise and Collective Bargaining, 1949 (C098)<sup>51</sup>**

#### *Article 1*

*1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.*

*2. Such protection shall apply more particularly in respect of acts calculated to--*

- (a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;*
- (b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.*

#### *Article 4*

*Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary*

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50 Convention concerning Freedom of Association and Protection of the Right to Organise, July 9, 1948, 68 U.N.T.S. 17 (entered into force July 4, 1950). [Hereinafter, C087]. Egypt ratified the Convention on 6 November 1957.

51 Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, July 1, 1949, 96 U.N.T.S. 257 (entered into force July 18, 1951). [Hereinafter, C098]. Egypt ratified the Convention on 3 July 1954.

negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

### **Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, 1951 (No. 100)<sup>52</sup>**

#### Article 1

For the purpose of this Convention--

- (a) the term remuneration includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment;
- (b) the term equal remuneration for men and women workers for work of equal value refers to rates of remuneration established without discrimination based on sex.

#### Article 2

1. Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.
2. This principle may be applied by means of--
  - (a) national laws or regulations;
  - (b) legally established or recognised machinery for wage determination;
  - (c) collective agreements between employers and workers; or
  - (d) a combination of these various means.

### **Convention Concerning Discrimination in Respect of Employment and Occupation, 1958 (No. 111)<sup>53</sup>**

#### Article 1

1. For the purpose of this Convention the term **discrimination** includes--
  - (a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;
  - (b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies.
2. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.
3. For the purpose of this Convention the terms **employment** and **occupation** include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

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<sup>53</sup> Convention Concerning Discrimination in Respect of Employment and Occupation, June 25, 1958, 362 U.N.T.S. 31 (entered into force June 15, 1960) (1958). [Hereinafter, C111]. Egypt ratified the Convention on 10 May 1960.

## Article 2

*Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.*

## Article 3

*Each Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice--*

- (a) to seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of this policy;*
- (b) to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;*
- (c) to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;*
- (d) to pursue the policy in respect of employment under the direct control of a national authority;*
- (e) to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;*
- (f) to indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action.*

## **Convention Concerning Minimum Age, 1973 (C 138)<sup>54</sup>**

### Article 2

*1. Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to employment or work in any occupation.*

*3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.[...]*

### Article 3

*1. The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years.*

## **Convention Concerning the Worst Forms of Child Labour Convention, 1999 (No. 182)<sup>55</sup>**

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<sup>54</sup> Convention Concerning Minimum Age, June 26, 1973, 1015 U.N.T.S. 297 (entered into force June 19, 1976). [Hereinafter, C138] Egypt ratified the Convention on 9 June 1999.

<sup>55</sup> The Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, June 7, 1999 2133 U.N.T.S. (entered into force Nov. 19, 2000). [Hereinafter, C182]. Egypt ratified the Convention on 6 May 2002.

### Article 1

*Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.*

### Article 3

*For the purposes of this Convention, the term the worst forms of child labour comprises:*

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;*
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;*
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;*
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.*

## **Vienna Convention on the Law of Treaties (VCLT)<sup>56</sup>**

### Article 30

- 2. When a treaty specifies that it is subject to, or that it is not to be considered as incompatible with, an earlier or later treaty, the provisions of that other treaty prevail.*
- 3. When all the parties to the earlier treaty are parties also to the later treaty but the earlier treaty is not terminated or suspended in operation under Article 59, the earlier treaty applies only to the extent that its provisions are compatible with those of the later treaty.*

### Article 31

- 1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.*

## **2. Regional Legal Instruments**

### **African Charter on Human and People's Rights<sup>57</sup>**

### Article 10

- 1. Every individual shall have the right to free association provided that he abides by the law.*

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<sup>56</sup> Vienna Convention on the Law of Treaties, May 23, 1969, 1155 U.N.T.S. 331(entered into force Jan. 27, 1980). [Hereinafter, VCLT]. Egypt's accession of the treaty occurred on 11 February 1982.

<sup>57</sup> The African Charter on Human and Peoples Rights (adopted 27 June 1981, entered into force 21 October 1986) 1520 U.N.T.S. 217 [Hereinafter, African Charter]. Egypt ratified the Charter on 3 April 1984.

## Article 15

*1. Every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work.*

### **African Youth Charter<sup>58</sup>**

*Definition of Youth: For the purposes of this Charter, youth or young people shall refer to every person between the ages of 15 and 35 years.*

## Article 15:

### *Sustainable Livelihoods and Youth Employment*

- 1. Every young person shall have the right to gainful employment.*
- 2. Every young person shall have the right to be protected from economic exploitation and from performing work that is likely to be hazardous to or interfere with the young person's education, or to be harmful to the young person's health or holistic development.*
- 3. States Parties shall address and ensure the availability of accurate data on youth employment, unemployment and underemployment so as to facilitate the prioritisation of the issue in National development programmes complemented by clear programmes to address unemployment;*
- 4. States Parties shall take all appropriate measures with a view to achieving full realisation of this right to gainful employment and shall in particular:*

- a) Ensure equal access to employment and equal pay for equal work or equal value of work and offer protection against discrimination regardless of ethnicity, race, gender, disability, religion, political, social, cultural or economic background;*
- b) Develop macroeconomic policies that focus on job creation particularly for youth and for young women;*
- c) Develop measures to regulate the informal economy to prevent unfair labour practices where the majority of youth work;*
- d) Foster greater linkages between the labour market and the education and training system to ensure that curricula are aligned to the needs of the labour market and that youth are being trained in fields where employment opportunities are available or are growing;*
- e) Implement appropriately-timed career guidance for youth as part of the schooling and post-schooling education system;*
- f) Promote youth entrepreneurship by including entrepreneurship training in the school curricula, providing access to credit, business development skills training, mentorship opportunities and better information on market opportunities;*
- g) Institute incentive schemes for employers to invest in the skills development of employed and unemployed youth;*
- h) Institute national youth service programmes to engender community participation and skills development for entry into the labour market.*

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<sup>58</sup> African Youth Charter, July 2, 2006 (entered into force 8 August 2009). [Hereinafter, AYC]. Egypt ratified the Charter on 1 April 2015.

## **African Charter on the Rights and Welfare of the Child<sup>59</sup>**

### Article 15

*Children should be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with their physical, mental, spiritual, moral, or social development.*

## **Protocol for the Treatment of Palestinians in Arab States<sup>60</sup>**

### Article 1

*Whilst retaining their Palestinian nationality, Palestinians currently residing in the land of .....*  
*have the right of employment on par with its citizens.*

## **3. Bilateral Legal Instruments**

### **Four Freedoms Agreement between Egypt and Sudan<sup>61</sup>**

#### Article 3

*1. The right to employment and property ownership: Citizens of either country enjoy the right to work in any profession, crafts, and other works, adhering to the international and Arab agreements signed by the two countries.*

### **Agreement between Egypt and Greece for the Promotion of Bilateral Cooperation Concerning Labor Matters<sup>62</sup>**

#### Article 3

*In order to encourage and facilitate the employment of workers of the two respective countries, the two contracting governments shall exchange information concerning their needs of workers from each other through data submitted periodically.*  
*The entry of the workers of each one of the two contracting parties into the territory of the other country will be free from now on, provided however that such workers will hold valid passports bearing a consular employment entry visa.*  
*It is understood that such visas shall be granted in case the labour conditions prevailing in each country make it possible.*  
*The exchange of labour shall be carried out upon the approval of the competent services in each country in compliance with the procedure provided for.*

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59 African Charter on the Rights and Welfare of the Child, 1 July 1990, CAB/LEG 24.9/49, entered into force 29 November 1999. [Hereinafter, ACRWC]. Egypt ratified the Charter on 9 May 2001.

60 The Protocol for the Treatment of Palestinians in Arab States (adopted 11 September 1965). [Hereinafter, Casablanca Protocol]. Ratified by Egypt on 11 September 1965.

61 Agreement on the Freedom of Movement, Residence, Work, and Property between the Government of the Arab Republic of Egypt and the Government of the Republic of Sudan ("Four Freedoms Agreement"), Apr. 4, 2004, ratified by Egypt and entered into force 9 September 2004. [Hereinafter, Four Freedoms Agreement]  
(unofficial translation) The Agreement was published in the Official Gazette through Decree No. 76 of 2004 by the Foreign Minister, Al-Jarida Al-Rasmiyya, 9 September 2004 (Egypt).

62 Agreement between the Government of the Arab Republic of Egypt and the Government of the Hellenic Republic for the Promotion of Bilateral Cooperation Concerning Labor Matters, Apr. 18, 1981. [Hereinafter, Labor Agreement Egypt-Greece]

#### Article 4

*Workers holding residence and employment permits under employment [sic] in each one of the contracting parties shall enjoy the same rights and privileges accorded to workers of the other party especially as regards employment conditions, remuneration (both regular and supplementary) weekly and annual leave in accordance with the relevant laws and regulations in force in each country.*

### **Agreement between Egypt and Jordan concerning the Cooperation in Work Force Matters<sup>63</sup>**

#### Article 5

*The workers of both countries working in the other state enjoy the same treatment and have the same advantages, rights, and duties as the local workers according to the laws, systems and regulations in place.*

## **4. Domestic Legal Instruments**

### **Constitution of the Arab Republic of Egypt 2014<sup>64</sup>**

#### Article 12

##### **Right to work, forced labor**

*Work is a right, a duty, and an honor guaranteed by the state. There can be no forced labor except in accordance with the law and for the purpose of performing a public service for a defined period of time and in return for a fair wage, without prejudice to the basic rights of those assigned to the work.*

#### Article 13:

##### **Worker Rights**

*The state commits to protecting worker rights, and works on building balanced work relationships between the two sides of the production process. It ensures means for collective negotiations and works on protecting workers against the risks of work, ensures that conditions for professional security, safety and health are met, and prohibits arbitrary dismissal. All the foregoing is as organized by law.*

#### Article 17:

##### **Social security services**

*The state provides social security services.*

*All citizens who have no access to the social security system have the right to social security to ensure a decent life, if they are unable to support themselves and their families in the event of incapacity to work, old age or unemployment.*

*The state works to provide appropriate pensions to small farmers, agricultural workers, hunters and informal labor in accordance with the law.*

*Insurance and pension funds are private and enjoy all forms of protection afforded to public funds. Together with their returns, they are a right of their beneficiaries. They shall*

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<sup>64</sup> Constitution of the Arab Republic of Egypt, 18 January 2014. [Hereinafter, Egyptian Constitution]

*be invested in a safe manner and managed by an independent entity, in accordance with the law.*

*The state guarantees funds for insurance and pensions.*

### **Labor Code (Law No. 12 of 2003)<sup>65</sup>**

#### Article 4

*The provisions of the present law shall not apply to:*

- a) public servants of the state agencies, including the local government units and the public authorities;*
- b) domestic service workers and the like;*
- c) the employer's family members whom he actually supports.*

*This shall be valid unless a text is prescribed providing otherwise.*

#### Article 27

*Employing aliens (foreign workers) in all installations of the private sector, the public sector units, the public business sector, the public authorities, the local government and the administrative machinery of the state shall be governed by the provisions prescribed in the present chapter, subject to reciprocity conditions.*

*The concerned minister shall determine the cases of exempting the aliens from this condition.*

#### Article 28

*Aliens shall not exercise a work except after obtaining a permit therefor from the concerned ministry, and shall be authorized to enter and reside in the country for the purpose of working. 'Work' in applying the provisions of this chapter shall mean all subordinate work, any profession or crafts, including work in domestic service.*

#### Article 29

*The concerned minister shall issue a decree determining the conditions of obtaining the work permit referred to in previous article, its procedures, the data it comprises, the procedures of its renewal, and the fees to be collected on it, which shall not be less than one thousand Egyptian pounds.*

*He shall also determine the cases of revoking the license before expiry of its period, and the cases of exempting the aliens from the conditions set for its obtainment.*

*Any one employing an alien exempted from the condition set for obtaining the license shall notify the concerned administrative quarter of such employment within seven days from the alien's assumption of work and also in termination of his service with him.*

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<sup>65</sup> Law No. 12 of 2003 (promulgating the Labor Law), Al-Jarida Al-Rasmiyya, 7 April 2003 (Egypt). English translation provided by MELES (Middle East Library for Economic Services) in Foreigners Laws, October 2017. [Hereinafter, Labor Law].

#### Article 30

*The concerned minister shall issue a decree determining the professions, works, and crafts the aliens are prohibited to work in them. He shall also determine the maximum rate of employing the aliens in the establishments and quarters indicated in Article (27) of the present law.*

#### Article 32

*The employer shall draw up a labor contract in Arabic writing, in three copies, of which one copy shall be kept by the employer, one copy shall be kept by the employer, one copy to be delivered to the worker, and the third copy shall be deposited with the concerned social insurance office.*

*The contract shall in particular comprise the following data:*

- a) Name of the employer and the address of the place work.*
- b) The worker's name, qualifications, and profession or craft, his social insurance number and home address, and all that is necessary for his identification.*
- c) Nature and kind of work subject of the contract.*
- d) Wage agreed upon, and the method and time of its payment, as well as the rest of benefits in cash and in kind as agreed upon. If no written contract exists, the worker may alone establish his rights by all methods of evidence.*

*The employer shall deliver to the worker a receipt for the papers and certificates he has deposited with the employer.*

#### Article 34

*A national council for wages shall be established under the chairmanship of the Minister of Planning, to be concerned with setting the minimum wages at the national level, subject to the cost of living, and by providing the methods and measures guaranteeing the realization of balance between wages and prices.*

*The council shall also be concerned with setting the minimum periodical annual increments such that they shall not be less than (7%) of the basic salary on the ground of which the social insurance contributions are reckoned.*

*In case the establishment is exposed to economic conditions with which it becomes impossible to pay the said periodical increment, the matter shall then be submitted to the national council for wages, to decide whatever it deems suitable with its conditions, within thirty days from the date of submitting the matter to it. [...]*

#### Article 35

*Discrimination in wages because of the sex, origin, language, religion or creed shall be prohibited.*

#### Article 42

*The employer shall not oblige the worker to buy foods, goods, or services from specific stores, or buy goods produced or services provided by the employer.*

#### Article 47

*The period of the annual leave shall be 21 days with full pay for those spending one complete year in the service. The leave shall be increased to thirty days once the worker*

*spends ten years in service with one or more employers. The leave shall be for a period of thirty days per year for those over the age of fifty years. The holidays, the official occasions days off, and the weekly days off shall not be counted as part of the leave days.*

*If the worker's service is less than one year, he shall be entitled to a leave in proportion to the period he has spent in work, providing he has spent six months in the service of the employer.*

*In all cases the period of the annual leave shall be increased by seven days for the workers engaged in hard, dangerous, and unwholesome works, or in the remote areas to be determined by virtue of a decree of the Minister concerned after consulting the view of the entities concerned.<sup>66</sup>[...]*

#### Article 54

*The worker whose sickness is established shall have the right to a sick leave to be determined by the concerned medical entity. During that period, he shall be entitled to a compensation for the wage as shall be determined by the Social Insurance Law.*

*The worker whose sickness is established, in industrial installations to which are applicable the provisions of Articles 1 and 8 of Law No. 21 for the year 1958 on Reorganization and Encouragement of Industry, shall have the right to a sick leave every three years in service, on the basis of one month with full pay, then eight months with a wage equivalent to (75%) of his salary, then three months without pay, in case the concerned medical entity decides the likelihood of his recovery.*

*The worker may benefit from his frozen annual leaves, besides the sick leave to which he is entitled. He may also request transferring the annual leave if he has a balance allowing for doing so.*

#### Article 58

*The employer shall set the statute regulating the work and disciplinary sanctions, and indicating the rules on regulation of work and the disciplinary sanctions, and indicating the rules on regulation of work and the disciplinary sanctions, duly endorsed by the concerned administrative authority. This authority shall consult the view of the trade union organization to which are attached the workers of the establishment before endorsing the statute. If the administrative authority does not endorse or object to the statute within thirty days from the date of its submission, it shall then be considered as valid and enforced. The Minister concerned may issue a decree indicating the model systems of the statutes and sanctions to be consulted by the employers.*

*The employer, in case of employing ten or more workers, shall put up this statute in a prominent place.*

#### Article 80

*Subject to the provisions of Law No. 133 of the year 1961 regulating the employment of workers at industrial establishments, the worker shall not be employed in actual labor for more than eight hours a day, or forty-eight hours a week, not including the appropriated mean and rest hours.*

*The maximum working hours may be reduced by decree of the Minister concerned for certain labor categories, or in certain industries or works to be determined by him.*

## Chapter – 2

### Employment of Woman Workers

#### Article 88

*Subject to the provisions of the following articles, all provisions regulating the employment of workers shall apply to woman workers, without discrimination among them, once their work conditions are analogous.*

#### Article 89

*The Minister concerned shall issue a decree determining the cases, works, and occasions for which women shall not be employed to work during the period between 7 pm and 7 am.*

#### Article 90

*The Minister concerned shall issue a decree determining the works that are unwholesome and morally harmful to women, as well as the works in which women may not be employed to work.*

#### Article 91

*A female worker having spent ten months in the service of the employer or more shall have the right to a maternity leave of ninety days, with a compensation equal to her comprehensive wage, comprising the period before delivery and after parturition, providing she shall submit a medical certificate indicating the date on which delivery most likely took place.*

*A female worker shall not be required to work during the forty-five days following childbirth. The maternity leave shall not be entitled more than twice throughout the female worker's period of service*

#### Article 92

*The employer shall be prohibited to discharge the female worker or terminate her service during the maternity leave indicated in the previous article.*

*The employer may deprive her from the compensation for her comprehensive wage on the leave period, or recover the amount paid by him to her if it is proved that she has worked during the leave with another employer. This shall all be without prejudice to the disciplinary impeachment.*

#### Article 93

*A female worker nursing her child shall—in addition to the determined rest period—have the right during the twenty-four months following the date of childbirth to two other periods for breast-feeding, each of not less than a half hour. The female worker shall also have the right to add the two periods together.*

*These two additional periods shall be counted as working hours, and shall not result in any wage reduction.*

#### Article 94

*Subject to provision of the second clause of Article 72 of the Child Law as promulgated by Law No. 12 of the year 1996, a female worker in the establishment where fifty workers or more are employed shall have the right to obtain a leave without pay for a period not exceeding two years, to care for her child. This leave shall not be entitled more than twice throughout her service period.*

#### Article 95

*The employers, in case of employing five female workers or more, shall put up at the places of work or of workers gathering a copy of the women employment system.*

#### Article 96

*An employer engaging a hundred female workers or more in the same place shall establish a nursery school or assign to a nursery school caring for the female workers' children, according to the conditions and terms to be determined by decree of the Minister concerned. Establishments employing less than a hundred female workers in the same area shall participate in implementing the obligation prescribed in the previous clause according to the conditions and terms to be set by a decree of the Minister concerned.*

#### Article 97

*Female workers engaged in sheer agricultural labor shall be excepted from applying the provisions of the present Chapter.*

### **Chapter – 3**

#### **Employment of Infants/juveniles**

#### Article 98

*In applying the provisions of the present Law, an infant/juvenile shall mean any person reaching fourteen years of age, or past the age of elementary education and not reaching eighteen complete years of age.*

*An employer appointing an infant/juvenile under sixteen years of age shall grant him a card proving that he works for him. A picture of the infant/juvenile shall be struck on the card and approved by the concerned manpower office.*

#### Article 99

*Employing female and male infants/juveniles not reaching the age of complete elementary education or fourteen years of age, whichever is older, shall be prohibited. However, they may be trained once they reach twelve years of age.*

#### Article 100

*The Minister concerned shall issue a decree determining the system of employing infants/juveniles, the conditions, terms and cases for their employment, and the jobs, occupations, and industries in which it is prohibited to appoint them, according to the different stages of age.*

#### Article 101

*An infant/juvenile shall not be made to work for more than six hours a day, during which one or more break periods totaling not less than one hour shall be granted for meals and rest. Such period(s) shall be specified in a way by which the infant/juvenile shall not be made to work for more than four unbroken hours. An infant/juvenile shall not be made to work overtime hours or be required to come to work on the weekly days of rest and the official holidays.*

*In all cases, an infant/juvenile shall not be made to work between 7 p.m. and 7 a.m.*

#### Article 102

*An employer appointing one or more infants/juveniles shall:*

- a) Hang on a prominent place at the location of work a copy comprising the provisions prescribed in the present chapter.*
- b) Draw up a statement indicating the working hours and the break periods duly approved by the concerned administrative authority.*
- c) Provide the concerned administrative authority with the names of infants/juveniles working with him, the tasks assigned to them, and the names of the persons charged with controlling their work.*

#### Article 103

*The provisions of the present chapter shall not apply to infants/juveniles working in sheer agricultural labor.*

### **Decree of the Ministry of Manpower and Immigration no. 305 of the year 2015 on the Rules and Implementing Measures Surrounding Work Permits for Foreigners<sup>67</sup>**

#### Article 1

*Its inadmissible for foreigners to work before obtaining a permit therefor from a Manpower and Migration Directorate, whether it is the main directorate or one of its branches, or offices associated with other state agencies, specifically the General Authority for Investment and Free Zones, the Stock Corporation, the Egyptian General Petroleum Corporation; and be authorized to enter and reside in the country for the purpose of working.*


#### Article 2

*The following categories are exempted from a work permit:*

- 1. Those who are exempted by virtue of explicit provisions in international conventions to which the Arab Republic of Egypt is a party, within the limits of these conventions,*
- 2. Administrative staff who work with the embassies and consulates of Arab and foreign countries, and agencies of regional and international organizations, in the Arab Republic of Egypt;*
- 3. Foreign reporters who are working in the Arab Republic of Egypt;*
- 4. Foreign clerics who practice their activities without pay;*

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<sup>67</sup> Ministry of Manpower and Immigration Decree No. 305 of 2015, Al-Jarida Al-Rasmiyya, 14 September 2015 (Egypt). [Hereinafter, Decree No. 305 of 2015]. (Unofficial translation by the research team.)

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5. Foreign employees on Egyptian vessels on the High Seas outside territorial water who obtain the maritime labor license;
  6. Those who are working in the World War Cemeteries Committee of Commonwealth Countries.
  7. Members and experts of institutions, centers and missions who are working in the field of scientific research and ancient Egyptian monuments.
  8. Foreigners who come during their study program to acquire training in establishments, for a period that shall not exceed 6 months.
  9. Foreign investor who has obtained an investor residence permit to carry out his activities within the country, and the joint partner in a capital not less than 35 thousand dollars or its equivalent in Egyptian Pounds.
  10. The foreigner who wishes to do work that does not take except one day or some days to be completed such as starring concerts or performing surgeries after the payment of the duty prescribed for the permit. The duty shall multiply with the multiplicity of the works done thereby.

#### Article 4

The number of non-Egyptian employees in any establishment, regardless of the number of its branches, must not exceed 10 per cent of the total number of employees. Exemptions will only be made by the Committee of Exemptions, a Committee formed for this purpose, and after acquiring the approval of the authorized Minister.

#### Article 5

The following conditions for granting work permits to foreigners should be considered:

1. The foreigner's qualifications and experience match the authorized work activities, and experience should be no less than three years.
2. Acquirement of the required professional license to practice a profession in accordance with the rules and regulations of the country.
3. The foreigner must not compete with Egyptians for work opportunities.<sup>68</sup>
4. The economic need and benefit of the experience to the country and to the work establishment.
5. The commitment of establishments authorized to use foreign experts and technicians to hire two adequately qualified assistants who are Egyptians to be trained by such foreigner, and an annual report about their progress must be issued by the foreigner.
6. Priority must be given to foreigners born and permanently living in the country.

#### Article 6

The work permit can be issued for a year or less, following the payment of a fee. The fraction of a year shall be considered as one year.

The permit fees shall be assessed according to the following:

1. Three thousand Egyptian Pounds per year in case of granting a permit for one year up to three years, due each year.
2. Five thousand Egyptian Pounds for each year when renewing the permit starting from the fourth to the sixth year, with annual increase of one thousand Egyptian Pounds after the sixth year, with a maximum of twelve thousand Egyptian Pounds.

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<sup>68</sup> For exemptions from this requirement see below Ministry of Manpower and Immigration Decree No. 485 of 2010, at note 70.

#### Article 10

*The following categories are exempted from the work permit fees referred to in*

- 1. Sudanese Nationals*
- 2. Palestinian Nationals*
- 3. Nationals of the Lebanese Republic, on the condition of the principle of reciprocity.*
- 4. Italians staying in the country for no less than 5 years*
- 5. Greeks who wish to work in the country*
- 6. Foreigners stated in international agreements or grants to which Egypt is a party, on the condition that the exemption is clearly stipulated in the text, and is part of the obligations under the agreement.*

#### Article 12

*The work permit is revoked by the authorized Minister in the following cases:*

- (a) If an applicant is convicted of a felony or misdemeanor involving moral turpitude or dishonesty.*
- (b) If the foreigner or the establishment used data in the work permit application that proved to be incorrect after receiving the license.*
- (c) In situation when work performed and profession practiced or employer are different from the profession and employer specified in the issued work permit.*
- (c) If there is an opposition from security agencies for reasons related to the country's economic interests, social and national security, or any other reason.*

#### Article 14

*The foreigners shall be prohibited from working in the following professions, jobs and trades: a) Tourism guidance; b) Import, export and customs clearance<sup>69</sup>*

*Ministry of Manpower and Immigration Decree No. 485 of 2010 concerning Foreigners Work Licensing Rules and Executive Procedures<sup>70</sup>*

#### Article 1

*The establishment desiring to bring along foreigners for employment shall submit a request to the Central department for Recruitment and Labor Market Information at the General Diwan of the Ministry of Manpower and Immigration to approve bringing along the said Foreigners, and authorize them to enter and reside in the country for work purposes subject to the condition of reciprocity of treatment. [...]*

*The following categories shall be exempted from the conditions for bringing along foreigners:*

- 1) Palestinians; holders of passports issued from the Palestinian National Authority to temporary reside for a purpose other than tourism, or a Jordanian passport valid for two years issued from Gaza, in addition to the Palestinians obtaining travel documents issued from the Arab Republic of Egypt, Lebanon, Syria and Jordan.*

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<sup>69</sup> According to Decree No. 485 of 2010, *supra* note 68, Article 18, holders of Palestinian nationality residing in the country are exempted from the prohibition regarding customs clearance work.

<sup>70</sup> Ministry of Manpower and Immigration Decree No. 485 of 2010 (Foreigners Work Licensing Rules and Executive Procedures), Al-Jarida Al-Rasmiyya, 9 December 2010 (Egypt). English translation provided by MELES (Middle East Library for Economic Services) in Foreigners Laws, October 2017. [Hereinafter, Decree No. 485 of 2010]

2) The Sudanese obtaining a temporary residence for a purpose other than tourism, and those residing in the country permanently as well as those exempted from the residence and registration conditions.

3) Foreigners coming to the country on the basis of international conventions subscribed by Egypt, as grants for the execution of national projects in the country for which a presidential decree is issued and approved by the People's Assembly.

#### Article 4:

The establishment desiring to issue work permits for the foreigners who will work thereat shall submit the following documents to the concerned administrative body, in whose jurisdiction the head office of the establishment lies or to any of the offices attached to the Foreigners' Work Permits General Department: [...] <sup>71</sup>

The said documents shall be submitted in addition to the general documents, according to each case, as follows: [...]

4) the political refugee shall submit the following: A recommendation letter from the Refugees Affairs Office at the Presidency of the Republic for the approval of granting him/her a work permit.

[...]

The Palestinian national shall submit the following:

a) A certificate from the Administration of Passports, Immigration and Nationality affirming his residence for a period of five uninterrupted and continuous years in the country. The following shall be exempted from this requirement:

- The Palestinian husband married to an Egyptian woman and at least five years have lapsed since their marriage of children were born for him from her, conditional upon the continuity of the marriage

- The Palestinian wife married to an Egyptian husband conditional upon the continuity of the marriage

- business owner or partner

- son of the business owner

- Palestinian wife whose Egyptian husband passed away or she is separated from and has children from him

- Son of the Egyptian wife

b) A certificate from the Administration of Passports, Immigration and Nationality indicating the type of residence

c) A recommendation letter from the Palestinian Workers Union.

#### Article 19

The following categories shall be excepted [sic] from the principle of non-competition to Egyptian labor:

a) The foreigner married to an Egyptian woman and five years shall have lapsed since the date of their marriage or who has children born to him by her, conditional upon the continuity of marital relationship;

b) The foreigner married to an Egyptian man conditional upon the continuity of marital relationship;

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<sup>71</sup> The decree provides a long list of the necessary paperwork to be provided, which includes: copy of the approval from the Central Department for Recruitment and Labor Market Information approving the bringing along of the foreigner; foreigner's passport; foreigners' qualifications approved by the Egyptian Embassy or Foreign Ministry; forms Number 1 and 2; photos; medical certificate declaring the foreigner free of HIV; additional personal documents as required in each case.

- c) Persons without specified nationality residing continuously and permanently in the country;
- d) The political refugee conditional upon the approval of the Political Refugees Office at the Presidency of the Republic;
- e) Individuals born in the country or residing in it conditional upon their continuous residence therein for a period of not less than fifteen years, as well as their non-departure from Egypt for a period not exceeding in its total three months per year;
- f) Son of the business owner;
- g) Foreigners obtaining special residence (ten years) or an ordinary residence (five years);
- h) The foreign wife whose Egyptian husband passed away or is separated from her and has children from him;
- i) Son of the Egyptian wife;
- j) Palestinian holders of passports issued from the Palestinian National Authority and a temporary residence permit for a purpose other than tourism, or a Jordanian passport valid for two years issued from Gaza, in addition to the Palestinians obtaining travel documents issued from the Arab Republic of Egypt, Lebanon, Syrian and Jordan, providing that in all previous cases the relevant documents shall be presented.

**Law No.159 of the year 1981 on Joint Stock Companies, Partnerships Limited by Shares & Limited Liability Companies<sup>72</sup>**

Article 174

*The number of Egyptian workers in Egypt in the Companies ruled by the present law should not be less than 90 % of the manpower in it, and their earnings not less than 80 % of the total of wages paid by the company to its workers.*

Article 175

*The number of professional and administrative Egyptian workers in the shareholder companies working in Egypt must not be less than 75 % of the total of workers in them and the total of their earnings not less than 70 % of the total of the wages and salaries paid by the company to these categories of workers.*

*The provision of the preceding paragraph is applicable on commandite companies with shares, and limited liability companies, the capitals of which exceed L.E. 5000.*

Article 176

*Exceptionally from the provisions of the two preceding articles, the competent minister may authorise the nomination of foreign workers or advisers or specialists in case of inexistence of qualified Egyptians, and for the periods decided by him, and they do not enter in the account of the ratios laid down.*

*The minister or whoever is vested by him shall statute on the demands presented by the relevant authorities in which exceptions are to be made, within two months from the date of the demand. The non-issue of a reply is to be considered an approval of the exception during the period of one year, or the period expressed in the demand, whichever is shorter.*

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72 Law No. 159 of 1981 (Promulgating the Law on Joint Stock Companies, Partnerships Limited by Shares & Limited Liability Companies) Al-Jarida Al-Rasmiyya, October 1981 (Egypt). [Hereinafter, Companies Law]. English translation provided by MELES (Middle East Library for Economic Services) in Companies Law, April 2007.

## **Investor's Guide – Obtaining a Residence for Non-Egyptians<sup>73</sup>**

5 years residence in Egypt for the following categories of non-Egyptian investors:

- Joint Stock Companies and Partnerships Limited by Shares: Board Chairman, Managing Directors, Board Members;
- Limited Liability Companies: General Director of the Company or the Executive Director
- Joint Partnerships and Partnerships in Commendam: joint partners
- Individual Establishments: owner of the establishment
- Branches of companies: director of the branch

The residence is renewed at its expiry; residence is forfeited in case of staying abroad for an uninterrupted period of more than six months.

To obtain a residence, submit a request to the Investors Relations Sector at the Authority, attaching the following documents: a recent data certificate form the Investment Commercial Register, indicating the quality of the residence applicant; copy of the passport; copy of the commercial register.

Receive a letter of recommendation from the Investors Relations Sector, to the Passports Sector at the Authority's Head Office, to record the residence on the passport.

## **Investment Law No 72 of 2017<sup>74</sup>**

### Article 1

In applying the provisions of this law, the following words and phrases shall have the meaning stated next to each of them:

**Investment:** the use of money to establish, expand, develop, finance, own or manage an investment project to contribute to the integrated and sustainable development of the country. **Investor:** all natural or legal persons, whether Egyptian or foreign, regardless of the legal system it is subject to, that invests in the Arab Republic of Egypt in accordance with the provisions of this law.

[...] **Authority:** the General Authority for Investment and Free Zones. [...]

### Article 3

All investments established in the Arab Republic of Egypt shall enjoy fair and equitable treatment.

The State shall guarantee for the foreign investor a treatment similar to that granted to the national investor. As an exception by a decree of the Cabinet, preferential treatment for foreign investors may be prescribed in accordance with the principle of reciprocity treatment.

The invested funds shall not be subject to any arbitrary measures or discriminatory decisions. The State shall grant the non-Egyptian investors residence throughout the duration of the project without prejudice to the provisions of the governing laws and as stipulated in the Executive Regulations of this Law.

The State shall respect and enforce the contracts it concludes. The investment project

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73 Investor's Guide – Issued by the General Authority for Investment and Free Zones, English translation provided by MELES (Middle East Library for Economic Services) in Foreigners Laws, October 2017.

74 Law No. 72 of 2017 (Promulgating the Investment Law), Al-Jarida Al-Rasmiyya, 31 May 2017 (Egypt). [Hereinafter, Investment Law]. English translation provided by MELES (Middle East Library for Economic Services) in Investment Law, June 2017.

established based on fraud or manipulation or corruption shall not enjoy the protection, guarantees, advantages or exemptions prescribed under the provisions of this Law. Proving that shall take place by means of a final court ruling issued by the competent judiciary or arbitration ruling.

In the field of applying the provisions of this Law, all decisions related to the affairs of the investment project shall be substantiated and the concerned parties shall be notified thereof as regulated by the Executive Regulations of this Law.

#### Article 8

The investment project may employ foreign employees within 10% of the total number of the employees of the project. This percentage may increase at no more than 20% of the total number of the employees of the project in case of the inability to employ qualified national labor in accordance with the controls and rules defined in the Executive Regulations of this Law. [...] The foreign employees who work in the investment project may transfer all or part of their financial dues abroad.

### **Executive Regulation to the Investment Law <sup>75</sup>**

#### Article 4

Subject to the provisions of the laws regulating the residence in the Arab Republic of Egypt, the following shall be required in order to grant residence to the non-Egyptian investors:

- 1) It shall be a founder, shareholder or partner in a company or establishment owner;
- 2) The duration of the residence shall not be less than a year and not more than the project duration.

The Board of Directors of the Authority may add other conditions after obtaining approval of the Ministry of Interior.

The residence shall be cancelled if the investor exits the company or the record of the company is removed due to liquidation or the removal of the establishment from the records of the commercial register.

#### Article 5

[...] At the beginning of the foundation, the duration of residence shall be one year to be renewed for another similar period upon demonstrating the seriousness towards starting the project implementation. Then it shall be renewed for other periods that each of them does not exceed five years. In all cases, the duration of residence shall not exceed the project duration.

#### Article 6

The investment project may hire foreign workers within 10% of the total number of the project staff. This percentage may increase at no more than 20% of the total number of the project staff in case it is not possible to employ national staff with the necessary qualifications.

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<sup>75</sup> Prime Minister Decree No. 2319 of 2017 (Promulgating the Executive Regulations of the Investment Law), Al-Jarida Al-Rasmiyya, Oct. 28, 2017 (Egypt). [Hereinafter, Investment Law]. English translation provided by MELES (Middle East Library for Economic Services) in Investment Law, November 2017.

By means of a resolution of the chief executive officer of the Authority, a committee shall be formed and it shall include in its membership technical and legal elements and representatives of the competent entities to be concerned with deciding on the applications of increasing the percentage prescribed for the employment of foreign staff. Its decision shall be approved by the chief executive officer of the Authority. The Committee shall observe the following rules upon considering the submitted applications:

- 1) Study the academic qualifications and experience obtained by the foreign worker and how suitable they are for the how suitable they are for the licensed professions.
- 2) Seek the opinion of the competent authority supervising the economic activity practiced by the company or establishment, as well as the opinion of the competent security authority as required for national security.
- 3) Observe the principle of reciprocity in the State of the foreign workers, if any.
- 4) The economic need and interest for the foreign experience.
- 5) The need of the company or establishment for specialists or consultants, and the work conditions therein, and the effect of approval or rejection on the production or investment.
- 6) The possibility of providing employment opportunities to the Egyptian workers by the company or establishment.
- 7) How serious the company or establishment is in honoring its previous commitments and how compliant it is with the provisions of the law.
- 8) In case there are more than one foreign worker in the same specialty, the preference shall be given to the foreigner born and permanently resided in Egypt.
- 9) The company or establishment authorized to hire foreign experts or technicians with assigning, shall assign Egyptian workers whose qualifications are in line with the qualifications of the foreign experts and technicians to work as assistants, provided that the foreigner shall be obligated to train them and prepare annual reports concerning their performance.

The foreign workers in the Investment Project shall have the right to remit their financial dues, in whole or in part, abroad in accordance with the rules as applicable with the Central Bank of Egypt.

## **Trade Union Law No. 213 of the year 2017<sup>76</sup>**

### Article 1

In applying the provisions of this Law, the following words and phrases shall have the meaning stated next to each of them:


a) Worker: each natural person who works in return for a wage for an employer and under its management or supervision whether his work is permanent, temporary, casual or season or if he is self employed or works for others in a labor craft or profession.[...]

### Article 2

With the exception of the workers of the Armed Forces, Police Authority and the other statutory bodies, the provisions of this Law shall apply to:

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<sup>76</sup> Law No. 213 of 2017 (Promulgating the Law on Labor Trade Union Organization), Al-Jarida Al-Rasmiyya, 17 Dec. 2017 (Egypt). [Hereinafter, Trade Union Law]. English translation provided by MELES (Middle East Library for Economic Services) in Trade Union, January 2018.

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- 1) The civil servants of the State administrative body units of ministries, authorities and agencies with special budgets, the local administration units and the service or economic public authorities.
  - 2) Workers of the companies of the public sector, and public business sector and the workers of the economic activities established by virtue of a law.
  - 3) Workers of the private sector.
  - 4) Workers of the cooperative sector.
  - 5) Workers of the investment sector and the common sector.
  - 6) Agriculture workers
  - 7) Home service workers.
  - 8) Casual and seasonal labor.

### Article 3

*The laws on the public meetings shall not apply to the meetings of the members of the labor trade union organizations for exercising their trade union activity when this meeting is held at the premises of the trade union organization or an institution thereof or in another suitable place.*

### Article 4

*Without discrimination, the workers shall have the right to form the trade union organizations and are free to join them or withdraw from them in accordance with the rules and procedures prescribed in this law, its executive regulations and the articles of association of these organizations.*

### Article 11<sup>77</sup>

*The workers of the establishment shall have the right to form Trade Union Committees for an establishment with not less than 150 workers.[...]*

### Article 12

*The General Trade Union shall be established of no less than fifteen Trade Union Committees that include in the membership thereof twenty-thousand workers at least. The Labor Trade Union Federation shall be established of no less than ten General Trade Unions that include in the membership thereof no less than two hundred thousand workers.*

### Article 14

*The Labor Trade Union Organizations aim at protecting the legitimate rights of their members, defending their common interests, improving the work circumstances and conditions, and carrying out the activities of social, scientific, sports and health nature. They shall work on achieving the following objectives in particular:*

- a) Spread the trade union awareness to guarantee the strengthening of the Trade Union Organization and achieving the objective thereof.

- b) Raise the cultural level of the workers through the educational courses, publishing and media.*
- c) Raise the professional efficiency of the workers and improve their professional level through the establishment of centers of professional training and rehabilitation, and labor and technical education.*
- d) Raise the health, economic, social and sports level of the members and families thereof.*
- e) Participate in discussing the draft economic and social development plans and mobilize the energies of the workers for the achievement of the objectives of these plans and contribution to the implementation thereof.*
- f) Exercise the right of peaceful strike in accordance with the controls organized by the articles of association thereof without contradicting the provisions of the laws in force in this respect.*
- g) Establish funds for confronting the financial burdens resulting from the strike.[...]*

#### Article 21

*The member of the trade union organization shall meet the following conditions:*

- a) He shall not be less than fifteen years old on the date of applying for the membership.*
- b) He shall not be interdicted.*
- c) He shall be a worker in any of the professions or works included in the trade union classification included in the concerned trade union organization.*
- d) He shall not be an employer in any commercial, industrial, agricultural or service activity. With regard to the membership of the vocational agricultural trade union organization, the owner or possessor of more than three feddans shall be considered as an employer.*
- e) He shall not join another labor trade union organization at the same vocational trade union level and classification.*

#### **Penal Code Law No. 59 of the year 1937<sup>78</sup>**

##### Article 117

*Any public official / civil servant who uses unpaid workers in performing a work for any of the entities prescribes in Article 119, or withholds the whole or part of their wages unjustifiably shall be liable to the punishment of an aggravated imprisonment. Detention shall be the penalty if the offender is not a public servant.*

##### Article 375

*A penalty of detention for a period not exceeding two years and a fine not exceeding one hundred pounds shall be inflicted on whoever uses force, violence, terrorism, threat, or illicit arrangements in encroaching or attempting an encroachment on any of the following rights: First: Third party's right to work*

*Second: Third party's right to employ or refrain from employing any person.*

*Third: Third party's right to join any association.*

*The provision of this Article shall apply even if force, violence, terrorism, or illicit arrangements are used with the spouse of the targeted person or his children.*

*The following acts shall in particular be considered of the illicit arrangements:*

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78 Law No. 59 of 1937 (Penal Code), Al-Wakaye Al-Masreya, 5 August 1937 (Egypt). [Hereinafter, Penal Code]. English translation provided by MELES (Middle East Library for Economic Services) in Penal Code, January 2010.

*First: Pursuing the targeted person continuously in his coming and going, or adopting a stand of threat close to his house or any other place he lives or works at.*

*Second: Preventing him from exercising his work by hiding his tools, clothes, or any other thing he uses, or by any other method.*

*The same aforementioned penalties shall apply to whoever abets a third party, by any method, to commit a crime of those prescribed in this article.*

## **ANNEX D EDUCATION**

### **1. International Legal Instruments**

#### **Convention relating to the Status of Refugees 1951 <sup>79</sup>**

##### Article 5

*Nothing in this Convention shall be deemed to impair any rights and benefit granted by a Contracting State to refugees apart from this Convention.*

##### Article 6

*For the purposes of this Convention, the term “in the same circumstances” implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfil for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.*

##### Article 22

*(1) The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.*

*(2) The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.*

##### Article 29

*(1) The Contracting States shall not impose upon refugees duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.*

*Egypt's Reservation to Article 22(1) of the Refugee Convention*

*Concerning articles 20, 22 (paragraph 1), 23 and 24 of the Convention of 1951, the competent Egyptian authorities had reservations because these articles consider the refugee as equal to the national. We made this general reservation to avoid any obstacle which might affect the discretionary authority of Egypt in granting privileges to refugees on a case-by-case basis.*

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<sup>79</sup> Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137 (entered into force Apr. 22, 1954). [Hereinafter, Refugee Convention]. Egypt acceded to the Convention and its Protocol on 22 May 1981.

## International Covenant on Economic, Social, and Cultural Rights<sup>80</sup>

### Article 2

*(1) Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.*

*(2) The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*

*(3) Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.*

### Article 3

*The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.*

### Article 13

*(1) The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.*

*(2) The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:*

- (a) Primary education shall be compulsory and available free to all;*
- (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;*
- (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;*
- (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;*
- (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.*

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<sup>80</sup> International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3 (entered into force January 3, 1976). [Hereinafter, ICESCR]. Egypt ratified the Covenant on 14 January 1982.

(3) *The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.*

(4) *No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.*

#### Article 14

*Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.*

### **Egypt's Declaration on the ICESCR**

*Taking into consideration the provisions of the Islamic Sharia and the fact that they do not conflict with the text annexed to the instrument, we accept, support and ratify it.*

### **Convention on the Rights Child<sup>81</sup>**

#### Article 2

(1) *States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.*

(2) *States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.*

#### Article 3


(1) *In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*

(2) *States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.*

(3) *States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent*

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<sup>81</sup> Convention on the Rights of the Child, 20 Nov. 1989, 1577 U.N.T.S. 3 (entered into force Sept. 2, 1990). [Hereinafter, CRC]. Egypt ratified the Convention on 6 July 1990.



authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

#### Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

#### Article 22

(1) States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

(2) For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

#### Article 23

(1) States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

(2) States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

(3) Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development

(4) States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account

*shall be taken of the needs of developing countries.*

#### Article 28

*(1) States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:*

- (a) Make primary education compulsory and available free to all;*
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;*
- (c) Make higher education accessible to all on the basis of capacity by every appropriate means;*
- (d) Make educational and vocational information and guidance available and accessible to all children;*
- (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.*

*(2) States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.*

*(3) States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.*

#### Article 29

*(1) States Parties agree that the education of the child shall be directed to:*

- (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;*
- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;*
- (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;*
- (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;*
- (e) The development of respect for the natural environment.*

*(2) No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.*

#### Article 32

*(1) States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental,*

spiritual, moral or social development.

(2) States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

- (a) Provide for a minimum age or minimum ages for admission to employment;
- (b) Provide for appropriate regulation of the hours and conditions of employment;
- (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article

#### Article 40

(1) States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

(4) A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

### **Convention on the Elimination of All Forms of Discrimination against Women<sup>82</sup>**

#### Article 1

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

#### Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

#### Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;
- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
- (d) The same opportunities to benefit from scholarships and other study grants;
- (e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- (f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;
- (g) The same opportunities to participate actively in sports and physical education;
- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

#### **Egypt's Reservation to Article 2 of CEDAW**

The Arab Republic of Egypt is willing to comply with the content of this article, provided that such compliance does not run counter to the Islamic Sharia.

#### **International Convention on the Elimination of All Forms of Racial Discrimination<sup>83</sup>**

##### Article 1

(1) In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin

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<sup>83</sup> International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965, 660 UNTS 195 (entered into force Jan. 4, 1969). [Hereinafter, ICERD]. Egypt ratified the Convention on 1 May 1967.

which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

(2) This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.

(3) Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.

#### Article 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(v) The right to education and training;

#### Article 7

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.

### **Convention on the Rights of Persons with Disabilities (CRPD)<sup>84</sup>**

#### Article 1

The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

#### Article 24

(1) States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:

- a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;

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<sup>84</sup> Convention on the Rights of Persons with Disabilities, Jan. 24, 2007, 2515 U.N.T.S. 3 (entered into force May 3, 2008). [Hereinafter, CRPD]. Egypt ratified the Convention on 14 April 2008.

- b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;*
- c) Enabling persons with disabilities to participate effectively in a free society.*

*(2) In realizing this right, States Parties shall ensure that:*

- a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;*
- b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;*
- c) Reasonable accommodation of the individual's requirements is provided;*
- d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;*
- e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.*

*(3) States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:*

- a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;*
- b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;*
- c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.*

*(4) In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.*

*(5) States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.*

## **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families<sup>85</sup>**

### Article 1

*(1) The present Convention is applicable, except as otherwise provided hereafter, to all migrant workers and members of their families without distinction of any kind such as*

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<sup>85</sup> International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 18 Dec 1990, 2220 U.N.T.S. 3 (entered into force July 1, 2003). [Hereinafter, CMW]. Egypt's accession to the Convention occurred on 19 February 1993.

sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

(2) The present Convention shall apply during the entire migration process of migrant workers and members of their families, which comprises preparation for migration, departure, transit and the entire period of stay and remunerated activity in the State of employment as well as return to the State of origin or the State of habitual residence.

### Article 3

The present Convention shall not apply to:

(d) Refugees and stateless persons, unless such application is provided for in the relevant national legislation of, or international instruments in force for, the State Party concerned;

### Article 30

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

### Article 36

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

### Article 43

(1) Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to:

- (a) Access to educational institutions and services subject to the admission requirements and other regulations of the institutions and services concerned;
- (b) Access to vocational guidance and placement services;
- (c) Access to vocational training and retraining facilities and institutions;

(2) States Parties shall promote conditions to ensure effective equality of treatment to enable migrant workers to enjoy the rights mentioned in paragraph 1 of the present article whenever the terms of their stay, as authorized by the State of employment, meet the appropriate requirements.

### Article 45

(1) Members of the families of migrant workers shall, in the State of employment, enjoy equality of treatment with nationals of that State in relation to:

- (a) Access to educational institutions and services, subject to the admission requirements and other regulations of the institutions and services concerned;
- (b) Access to vocational guidance and training institutions and services, provided that requirements for participation are met;

(2) States of employment shall pursue a policy, where appropriate in collaboration with the States of origin, aimed at facilitating the integration of children of migrant workers

in the local school system, particularly in respect of teaching them the local language.

(3) States of employment shall endeavour to facilitate for the children of migrant workers the teaching of their mother tongue and culture and, in this regard, States of origin shall collaborate whenever appropriate.

(4) States of employment may provide special schemes of education in the mother tongue of children of migrant workers, if necessary in collaboration with the States of origin.

## **ILO Convention concerning Minimum Age for Admission to Employment<sup>86</sup>**

### Article 3

(3) The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.

(4) Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.

### Article 6

This Convention does not apply to work done by children and young persons in schools for general, vocational or technical education or in other training institutions, or to work done by persons at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, and is an integral part of—

- (a) a course of education or training for which a school or training institution is primarily responsible;
- (b) a programme of training mainly or entirely in an undertaking, which programme has been approved by the competent authority; or
- (c) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.

### Article 7

(1) National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is—

- (a) not likely to be harmful to their health or development; and
- (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

(2) National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work which meets the requirements set forth in sub-paragraphs (a) and (b) of paragraph 1 of this Article.

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<sup>86</sup> International Labour Organization (ILO), Convention Concerning Minimum Age for Employment, June 26, 1973, 1015 U.N.T.S. 297 (entered into force June 19, 1976). [Hereinafter, C138]. Egypt ratified the Convention on 9 June 1999.

(3) The competent authority shall determine the activities in which employment or work may be permitted under paragraphs 1 and 2 of this Article and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.

(4) Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Member which has availed itself of the provisions of paragraph 4 of Article 2 may, for as long as it continues to do so, substitute the ages 12 and 14 for the ages 13 and 15 in paragraph 1 and the age 14 for the age 15 in paragraph 2 of this Article.

## **Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Form of Child Labour (C182)<sup>87</sup>**

### Article 7

(1) Each Member shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions.

(2) Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:

- (a) prevent the engagement of children in the worst forms of child labour;
- (b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;
- (c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour;
- (d) identify and reach out to children at special risk; and
- (e) take account of the special situation of girls.

(3) Each Member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.

### Article 8

Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention through enhanced international cooperation and/or assistance including support for social and economic development, poverty eradication programmes and universal education.

## **Convention against Discrimination in Education<sup>88</sup>**


### Article 1

(1) For the purposes of this Convention, the term 'discrimination' includes any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular:

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<sup>87</sup> The Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, June 17, 1999, 2133 U.N.T.S.161 (entered into force 19 Nov 2000). [Hereinafter, C182]. Egypt ratified the Convention on 6 May 2002.

<sup>88</sup> Convention against Discrimination in Education, Dec. 14, 1960, 429 U.N.T.S. 93 (entered into force 22 May 1962). [Hereinafter, UNESCO Education Convention] Egypt accepted the treaty on March 28, 1962.

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- (a) Of depriving any person or group of persons of access to education of any type or at any level;
  - (b) Of limiting any person or group of persons to education of an inferior standard;
  - (c) Subject to the provisions of Article 2 of this Convention, of establishing or maintaining separate educational systems or institutions for persons or groups of persons; or
  - (d) Of inflicting on any person or group of persons conditions which are in-compatible with the dignity of man.

(2) For the purposes of this Convention, the term 'education' refers to all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given.

### Article 3

*In order to eliminate and prevent discrimination within the meaning of the Convention, States Parties thereto undertake to:*

- (a) To abrogate any statutory provisions and any administrative instructions and to discontinue any administrative practices which involve discrimination in education;
- (b) To ensure, by legislation where necessary, that there is no discrimination in the admission of pupils to educational institutions;
- (d) Not to allow, in any form of assistance granted by the public authorities to educational institutions, any restrictions or preference based solely on the ground that pupils belong to a particular group;
- (e) To give foreign nationals resident within their territory the same access to education as that given to their own nationals.

### Article 4

*The State Parties to this Convention undertake to furthermore to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education and in particular:*

- (a) To make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; assure compliance by all with the obligation to attend school prescribed by law;
- (b) To ensure that the standards of education are equivalent in all public educational institutions of the same level, and that the conditions relating to the quality of the education provided are also equivalent;
- (c) To encourage and intensify by appropriate methods the education of persons who have not received any primary education or who have not completed the entire primary education course and the continuation of their education on the basis of individual capacity;
- (d) To provide training for the teaching profession without discrimination.

## Article 5

(1) *The States Parties to this Convention agree that:*

(a) *Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms; it shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.*

## **2. Regional Legal Instruments**

### **African Charter on Human and Peoples' Rights<sup>89</sup>**

#### Article 1

*The Member States of the Organisation of African Unity, Parties to the present Charter shall recognise the rights, duties and freedoms enshrined in the Charter and shall undertake to adopt legislative or other measures to give effect to them.*

#### Article 17

(1) *Every individual shall have the right to education*

(2) *Every individual may freely take part in the cultural life of his community.*

(3) *The promotion and protection of morals and traditional values recognized by the community shall be the duty of the State.*

### **African Charter on the Rights and Welfare of the Child<sup>90</sup>**

#### Article 1

(1) *States of the Organization of African Unity, Parties to the present Charter shall recognize the rights, freedoms and duties enshrined in this Charter and shall undertake the necessary steps, in accordance with their Constitutional processes and with the provisions of the present Charter, to adopt such legislative or other measures as may be necessary to give effect to the provisions of this Charter.*

(2) *Nothing in this Charter shall affect any provisions that are more conducive to the realization of the rights and welfare of the child contained in the law of a State Party or in any other international Convention or agreement in force in that State.*

#### Article 4

(1) *In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration.*

#### Article 11

(1) *Every child shall have the right to education.*

(2) *The education of the child shall be directed to:*

(a) *the promotion and development of the child's personality, talents and mental*

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<sup>89</sup> The African Charter on Human and Peoples Rights, June 27, 1981, 1520 U.N.T.S. 217 (entered into force 21 October 1986). [Hereinafter, African Charter]. Ratified by Egypt in 3 April 1984.

<sup>90</sup> African Charter on the Rights and Welfare of the Child, July 1, 1990, CAB/LEG24.9/49 (entered into force 29 November 1999). [Hereinafter, ACRWC]. Egypt ratified the Charter on 9 May 2001.

and physical abilities to their fullest potential;

(b) fostering respect for human rights and fundamental freedoms with particular reference to those set out in the provisions of various African instruments on human and peoples' rights and international human rights declarations and conventions;

(c) the preservation and strengthening of positive African morals, traditional values and cultures;

(d) the preparation of the child for responsible life in a free society, in the spirit of understanding, tolerance, dialogue, mutual respect and friendship among all peoples, ethnic, tribal and religious groups;

(e) the preservation of national independence and territorial integrity;

(f) the promotion and achievement of African Unity and Solidarity;

(g) the development of respect for the environment and natural resources;

(h) the promotion of the child's understanding of primary health care.

(3) State Parties to the present Charter shall take all appropriate measures with a view to achieving the full realization of this right and shall in particular:

(a) provide free and compulsory basic education

(b) encourage the development of secondary education in its different forms and progressively make it free and accessible to all;

(c) make higher education accessible to all on the basis of capacity and ability by every appropriate means;

(d) take measures to encourage regular attendance at schools and the reduction of dropout rates;

(e) take special measures in respect of female, gifted and disadvantaged children, to ensure equal access to education for all sections of the community.

(4) State Parties to the present Charter shall respect the rights and duties of parents, and where applicable, of legal guardians, to choose for their children schools other than those established by public authorities, which conform to such minimum standards as approved by the State, to ensure the religious and moral education of the child in a manner consistent with the evolving capacities of the child.

(5) State Parties to the present Charter shall take all appropriate measures to ensure that a child who is subjected to schools or parental discipline shall be treated with humanity and with respect for the inherent dignity of the child and in conformity with the present Charter.

(6) State Parties to the present Charter shall take all appropriate measures to ensure that children who become pregnant before completing their education shall have an opportunity to continue their education on the basis of their individual ability.

(7) No part of this Article shall be construed as to interfere with the liberty of individuals and bodies to establish and direct educational institutions subject to the observance of the principles set out in Paragraph 1 of this Article and the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the States.

### Article 23

(1) State Parties to the present Charter shall take all appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law shall, whether unaccompanied or accompanied by parents, legal guardians or close relatives, receive appropriate protection and humanitarian assistance in the enjoyment of the rights set out in this Charter and other international human rights and humanitarian instruments to which the States are Parties.

## **African Youth Charter<sup>91</sup>**

### Article 1

*(1) States Parties of the African Union to the present Charter shall recognize the rights, freedoms and duties enshrined in this Charter.*

*(2) State Parties shall undertake the necessary steps, in accordance with their Constitutional processes and with the provisions of the present Charter, to adopt such legislative or other measures that may be necessary to give effect to the provisions of the Charter.*

### Article 2

*(1) Every young person shall be entitled to the enjoyments of the rights and freedoms recognized and guaranteed in this Charter irrespective of their race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status.*

### Article 13

*(1) Every young person shall have the right to education of good quality.*

*(2) The value of multiple forms of education, including formal, non-formal, informal, distance learning and life-long learning, to meet the diverse needs of young people shall be embraced.*

*(3) The education of young people shall be directed to:*

*(a) The promotion and holistic development of the young person's cognitive and creative and emotional abilities to their full potential;*

*(b) Fostering respect for human rights and fundamental freedoms as set out in the provisions of the various African human and people's rights and international human rights declarations and conventions;*

*(c) Preparing young people for responsible lives in free societies that promote peace, understanding, tolerance, dialogue, mutual respect and friendship among all nations and across all groupings of people;*

*(d) The preservation and strengthening of positive African morals, traditional values and cultures and the development of national and African identity and pride;*

*(e) The development of respect for the environment and natural resources;*

*(f) The development of life skills to function effectively in society and include issues such as HIV/AIDS, reproductive health, substance abuse prevention and cultural practices that are harmful to the health of young girls and women as part of the education curricula;*

*(4) States Parties shall take all appropriate measures with a view to achieving full realisation of this right and shall, in particular:*

*(a) Provide free and compulsory basic education and take steps to minimise the indirect costs of education;*

*(b) Make all forms of secondary education more readily available and accessible by all possible means including progressively free;*

*(c) Take steps to encourage regular school attendance and reduce drop-out rates;*

*(d) Strengthen participation in and the quality of training in science and technology;*

*(e) Revitalise vocational education and training relevant to current and prospective employment opportunities and expand access by developing centres in rural and remote areas;*

*(f) Make higher education equally accessible to all including establishing distance learning centres of excellence;*

(g) Avail multiple access points for education and skills development including opportunities outside of mainstream educational institutions e.g., workplace skills development, distance learning, adult literacy and national youth service programmes;

(h) Ensure, where applicable, that girls and young women who become pregnant or married before completing their education shall have the opportunity to continue their education;

(i) Allocate resources to upgrade the quality of education delivered and ensure that it is relevant to the needs of contemporary society and engenders critical thinking rather than rote learning;

(j) Adopt pedagogy that incorporates the benefits of and trains young people in the use of modern information and communication technology such that youth are better prepared for the world of work;

(k) Encourage youth participation in community work as part of education to build a sense of civic duty;

(l) Introduce scholarship and bursary programmes to encourage entry into postprimary school education and into higher education outstanding youth from disadvantaged communities, especially young girls;

(m) Establish and encourage participation of all young men and young women in sport, cultural and recreational activities as part of holistic development;

(n) Promote culturally appropriate, age specific sexuality and responsible parenthood education;

(o) Promote the equivalence of degrees between African educational institutions to enable the youth to study and work in State Parties;

(p) Adopt preferential recruitment policies for African youth with specialised skills amongst States Parties.

(5) Youth are determined to transform the continent in the fields of science and technology. Therefore, they are committed to:

(a) Promoting and using science and technology in Africa;

(b) Conducting research towards science and technology.

(6) State Parties should encourage youth to conduct research. In this regard, an African discoveries day should be established along with mechanism of awarding prizes at the continental level.

(7) Enterprises that are located in Africa should establish partnerships with training institutions to contribute to technology transfer for the benefit of African students and researchers.

## **Charter on the Rights of the Arab Child (CRAC)<sup>92</sup>**

### Article 11

Ensure and guarantee the right to free education in two stages, preschool and basic education –as a minimum. Education is the cornerstone of lasting change, acquiring direction, skills, and abilities to confront new situations with new knowledge. It eliminates negative values and outdated traditions. It is based on scientific and critical thinking and appreciation of science. It provides the ability to raise the standard of living and public culture to contribute to the life of his community and his nation, and to ensure his rights to continuous culture, good investment of leisure time, and entertainment by playing sports and reading.

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<sup>92</sup> Charter on the Rights of the Arab Child, 6 June 1983 (entered into force on Jan. 11, 1994). Egypt ratified the same day. [Hereinafter, Arab Child Charter] (Unofficial translation by the research team.)

### 3. Bilateral Legal Instruments

#### **Ethiopia: Agreement on Economic and Technical Cooperation between the Arab Republic of Egypt and the Federal Democratic Republic of Ethiopia**

##### Article 2

*The Parties may provide the necessary cooperation through:*

*1. Providing scholarships in the training, professional development, and research department.*

#### **Palestine: Agreement on Cooperation in the Field of Education between the of the Arab Republic of Egypt and the Palestinian Liberation Organization representing the Palestinian National Authority (Education Cooperation Agreement)<sup>93</sup>**

##### Article 6

*The Egyptian Ministry shall cooperate with its Palestinian counterpart in the domain of examinations and production of test banks to determine the results of general certificate exams.*

##### Article 8

*The contracting parties shall work on establishing the equivalence of the education certificates granted by each party.*

#### **Yemen: Program of Cooperation in Higher Education between the Government of the Arab Republic of Egypt and the Republic of Yemen<sup>94</sup>**

*Continuing the existing cooperation between the Republic of Yemen and the Arab Republic of Egypt, and the strong brotherly ties between the two peoples, and in accordance with the Cultural Cooperation Agreement ratified between the two countries on 8 January 1963, the two sides have agreed to the following program of educational cooperation.*

### 4. Domestic Legal Instruments

#### **Constitution of the Arab Republic of Egypt 2014<sup>95</sup>**

##### Article 19

*Every citizen has the right to education with the aim of building the Egyptian character, maintaining national identity, planting the roots of scientific thinking, developing talents, promoting innovation and establishing civilizational and spiritual values and the concepts of citizenship, tolerance and non- discrimination. The state commits to uphold its aims in education curricula and methods, and to provide education in accordance with global*

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<sup>93</sup> Agreement on Cooperation in the Field of Education between the Government of the Arab Republic of Egypt and the Palestinian Liberation Organization representing the Palestinian National Authority, Egy.-Pal. arts. 6, 8 adopted on 7 July 1999 [hereinafter, Education Cooperation Agreement]. (Unofficial translation by the research team.)

<sup>94</sup> Program of Cooperation in the Field of Higher Education between the Arab Republic of Egypt and the Republic of Yemen Egy.-Yem. Preamble adopted on 21 August 2010.

<sup>95</sup> Constitution of the Arab Republic of Egypt, 18 January 2014. [Hereinafter, Egyptian Constitution]

quality criteria.

Education is obligatory until the end of the secondary stage or its equivalent. The state grants free education in different stages in state educational institutions as per the law.

The state commits to allocating a percentage of government spending that is no less than 4% of the GDP for education. It will gradually increase this until it reaches global rates. The state oversees education to ensure that all public and private schools and institutes abide by its educational policies.

#### Article 21

The state guarantees the independence of universities, scientific and linguistic academies. It commits to providing university education in accordance with global quality criteria, and to developing free university education in state universities and institutes as per the law

### **Law No. 12 of 1996 Promulgating the Child Law (Child Law)<sup>96</sup>**

#### Article 53

Child education shall, for all educational stages target the following objectives:

- (1) The development of the child's personality, talents, and mental and physical abilities to their fullest potential, taking into consideration that the educational programs conform to the child's dignity, enhance his feelings of self worth, prepare him to participate in society and assume his responsibilities.
- (2) The development of respect for the general rights and freedoms of human beings.
- (3) The development of respect for the child's parents, his cultural identity, his language, and his religious and national values.
- (4) The development of the child's sense of belonging and loyalty to his country, promote brotherhood, tolerance among human beings, and the respect of others.
- (5) The consolidation of values of equality and non-discrimination among individuals on the basis of religion, sex, ethnicity, race, social origin, disability, or any other forms of discrimination.
- (6) The development of respect for the natural environment and its preservation.
- (7) The preparation of the child for responsible life in a united civil society where rights' awareness are concomitant with commitment to duties

#### Article 54

Free education in public schools is a right for all children.

#### Article 59

The two pre-university stages of education shall be as follows:

- (1) *Compulsory Basic Education Stage.* It includes two levels: the primary level and the preparatory level. Another level may be added as specified in the by-laws.
- (2) *Secondary Education Stage (general and technical).*

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<sup>96</sup> Law No. 12 of 1996 (Promulgating the Child Law as amended by Law No. 126 of 2008 and Law No. 7 of 2015), Al-Jarida Al-Rasmiyya, 15 June 2008, No. 24 bis (Egypt) [hereinafter, Child Law]. Unofficial translation provided by UNHCR.

## **Law No. 139 of 1981 Promulgating Education Law (Education Law)<sup>97</sup>**

### Article 3

*Pre-university education is a right of free-education in the state's school for all citizens. No fees may be claimed from the pupils, in return for educational or instructional services provided to them.*

### Article 15

*Elementary education is a right to all Egyptian children reaching six years of age. The state is committed to provide it to them, and the parents or guardians shall implement it, over a period of nine years. The governors, each in the area of his jurisdiction, shall issue the decisions necessary for regulating and executing the obligation with regard to the parents or guardians at the level of the governance. They shall also issue the necessary decisions for distributing children in the age of obligatory education among the elementary education schools in the governorate. In case of existing places, the age for starting obligatory education may be lowered to five and a half years, subject to the density prescribed for the class.*

### Article 54

*All non-governmental establishment undertakings, in its original or affiliate quality, a preuniversity professional or technical education and preparation activity, shall be considered a private school. However, the following shall not be considered a private school*

- 1. Kindergarten schools supervised by the Ministry of Social Affairs*
- 2. Schools established by foreign quarters, where education is restricted to non-Egyptians among workers in the foreign diplomatic and consular corps and other foreigners*
- 3. Cultural centers or institutes established by a foreign country or international organizations, based on a cultural agreement with the Arab Republic of Egypt which provides for a special treatment for these centers or institutes.*

### Article 56

*Private schools shall be subject to the supervision of the Ministry of Instruction and Educations[sic Ministry of Education] and the educational directorates in the governorates. They shall also be subject to the Labor and Insurance laws where no special provision is prescribed in the present law.*

### Article 58

*The owners of a private school shall conditionally fulfill the following conditions:*

- He shall be a juridical person enjoying the nationality of the Arab Republic of Egypt.*
- He shall be able to fulfil the school's financial obligations, and according to the other conditions to be issued by decree of the Minister of Education;*

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<sup>97</sup> Law No. 139 of 1981 (Promulgating Education Law), Al-Jarida Al-Rasmiyya, 20 August 1981 (Egypt) [hereinafter, Law No. 139/1981]. Translation provided by the Middle East Library for Economic Services (2018).

However, with regards to schools already existing at the time of issuing the present law, and which are not owned by juridical persons, they shall be considered authorized to operate throughout the period their owner remains alive.

#### Article 65

The system of study and examination in the private schools shall conform to the system in force in analogous official schools.

### **Presidential Decree Promulgated by Law No. 49 (1972) Concerning the Universities' Organization<sup>98</sup>**

#### Article 169

Gratuitous education shall be secured for the natives of the Republic during all various stages of academic education, with the exception of the branches of the universities subjected to this Law. Abroad, students from other than nationals of the Republic shall pay those education fees stipulated in the executive statute, subject to allocating and appropriating the proceeds of these fees for the educational service in the university wherein they are registered, and all students shall pay those duties that are fixed in the executive statute against the various students' services, on the understanding that the proceeds of each duty thereof shall be appropriated to the service for which it has been paid.

Ministry of Education Decree No. 284 of 2014 concerning the Rules of Incoming Students to Egyptian Universities, Scholarships for Incoming Students, and Egyptian Students

### **Studying in Egyptian Schools Abroad<sup>99</sup>**

#### Article 2

In accordance with this decree, the term "incoming student" refers to students who do not have the citizenship of the Arab Republic of Egypt, as evidenced by a passport or, official documents indicating nationality issued by the authorized bodies, in the event that it is not possible to obtain a passport.

#### Article 4

The directorates and educational departments shall enroll incoming students in their affiliated schools, provided the incoming student submits to the Student Affairs and Examination Section the following documents:

- a. Incoming student status form
- b. Original academic certificate or a certified copy of it accredited by official authorities.
- c. Birth certificate or an officially certified copy of the document.
- d. A valid Passport or document indicating nationality and a renewed residency status.
- e. Approval by the incoming student's embassy or other official body to study in the schools of the Arab Republic of Egypt.

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<sup>98</sup> Presidential Decree Promulgated by Law No. 49 (1972) (Concerning the Universities' Organization), Al-Jarida Al-Rasmiyya, 5 October 1972 (Egypt) [hereinafter University Organization Law].

*f. Two photos of the incoming student.*

*After all of the requirements have been met, the student will receive a letter of enrollment from the competent educational administration (the Student Affairs and Examination Section) directed to the required school*

#### Article 5

*The Department of Incoming Students in the Ministry of Education's General Directorate of Cultural Relations is responsible for all incoming student's technical and administrative matters, including the following:*

- d. Make and regulate assessment exams for incoming students, in coordination with the General Department of Examinations.*
- e. Prepare an annual plan for parental, social, and cultural activities for the incoming students and follow up with their participation in them.*
- f. Receive exemption requests from the educational fees from those not covered by Article XI of this Decree, present it to the specialized committee for a decision on this request, and executing the decision.*
- g. Plan a project and set a budget for educational scholarships for foreign students in coordination with the Ministry of Foreign Affairs.*

#### Article 6

*Incoming students should be registered in private schools, unless they are in the categories that have the right to enroll in public schools under the same conditions as Egyptian students considering age and academic score required for the different educational phases and pursuant to Article XI on the cost of education and exempted categories. The categories [of students permitted to enroll in public schools] are:*

- 1. Students enrolled on a scholarship from any of the following:*
  - a. Ministry of Education*
  - b. Supreme Council for Islamic Affairs*
  - c. United Nations Office of Refugee Affairs – Cairo office*
- 2. Children of employees in the General Secretariat of the League of Arab States and its associated organizations in the Arab Republic of Egypt.*
- 3. Children of political refugees accredited by the Foreign Ministry and the President of the Republic.*
- 4. Children of the advisors and cultural attachés in Arab embassies accredited in the Arab Republic of Egypt.*
- 5. Children of people sent to study in the Arab Republic of Egypt.*
- 6. Children of Egyptian women were married to foreigners and are now divorced or widowed.*
- 7. Sudanese students*
- 8. Jordanian students*
- 9. Libyan students*
- 10. Saudi Arabian students*
- 11. Children of Palestinians employed in or retired from the government, public sector, or armed forces in Egypt.*
- 12. Incoming students who reside where there is no private schools available*

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99 Ministry of Education Decree No. 284 of 2014 (concerning the Rules of Incoming Students to Egyptian Universities, Scholarships for Incoming Students, and Egyptian Students Studying in Egyptian Schools Abroad), Al-Jarida Al-Rasmiyya, 7 July 2014 (Egypt) [hereinafter, Decree No. 284/2014]. (Unofficial translation by the research team.)

13. The Ministry of Education considers admission to public schools on a case-by-case basis.

#### Article 7

Incoming students will be accepted in to the appropriate educational level, without re-assessing them, if their certificates are new and recognized as equivalent to one given by Egyptian schools.

Eligibility criteria are determined in accordance to school regulations, regardless of age.

#### Article 8

The following categories are will undergo an assessment tests:

First: Incoming students who have a certificate that is not equivalent to one given by Egyptian

schools; will be examined as follows:

a. Students desiring to study in an Arab Language curriculum:

(1) Can apply to study in any grade, with consideration given to age regulations.

(2) Should pass an exam supervised by the Administration for General Examinations in cooperation with the Department of Incoming Students. Students who wish to enroll in the second level of basic education or in secondary school, whether in public or private school, must take an assessment exam.

(3) The exam has two stages at two consecutive levels

(4) Students who fail the first stage are allowed to enter the second testing stage for a lower grade level.

(5) In the case the student succeeds in the first and second level, they enroll in the level in which they passed the exam and need not present any certificates.

(6) Students who apply after the completion of both stages of the assessment exam take a level exam under the supervision of the Specialized Educational Bureau in their same district. The same rules and conditions apply to getting documents for enrollment from the Department of Incoming Students.

(7) Those who wish to enter the first level of basic education take an exam to assess their level under the supervision of the Specialized Educational Bureau in their district.

(8) If the student fails in the exam of a lower grade, they are permitted to study in this grade as a fulltime student. In regards to the end of the year exam, they are treated the same as a homeschooled student. If they pass the end of the year exam, they will be considered a regular student the following year.

b. Students who desire to enroll in private language schools:

(1) These incoming students enroll in appropriate grades for their age and level after passing exams held in their schools by the Specialized Educational Bureau

(2) Those who fail the exams are allowed to apply for an exam at a lower level, taking into consideration their age.

Second: Incoming students who have received unregistered equivalent certificates or whose certificate is no more than two years old must take an assessment exam on a case by case basis, taking into consideration their age.

#### Article 9

Incoming students who were enrolled in Egyptian schools and then traveled abroad for less than one year but could not study while abroad and subsequently returned to Egypt are enrolled in the educational level they transferred to before their travel. In case they are enrolled in the first year of high school, they must be enrolled in coordination with the

*General Coordination Rules to receive a certificate.*

#### Article 10

*It is permissible to exceed by two years the maximum age limit determined by the Ministry of Education but enrollment must be in a private school.*

#### Article 11

*Incoming students who are enrolled in official schools pay a cost determined by the Ministry of Education, in addition to the fees paid by Egyptian students, except in the following cases:*

- 1. Students who are registered on scholarships*
- 2. Children of Egyptian women who are divorced or widowed, in addition to those who can prove their inability to pay fees.*
- 3. The Ministry of Education may lower educational costs by half for incoming students enrolled in public education who are the children of Egyptian women not mentioned in Article 11(2).*
- 4. Children of employees of the government, public sector, or armed forces, whether in service or retired. The Administration for Student Affairs and Exams examine these children's documents, keep the documents in a specialized folder for reference, and notify the schools of the fee exemption. The exemption continues until the end of the stage the child is enrolled in. It is permitted to pay fees in two installments, the first at the beginning of the academic year and the second at the start of the second semester. The Administration of Student Affairs and Exams in the Special Education Bureau must notify the Department of Incoming Students in the Ministry of Education with the names, nationalities, and schools of all students who have been exempted according to these provisions.*

#### Article 13

*Every year, the Department of Incoming Students prepares a budgetary project for scholarships included in the ministry's budget, as long as it is within the allocated limits provided by the Ministry of Foreign Affairs.*

#### Article 14

*The Ministry of Foreign Affairs puts registration rules on the nomination and administration of scholarships. The Ministry of Education adheres to the nominations provided by the Ministry of Foreign Affairs.*

#### Article 15

*A student nominated for a scholarship is not admitted to an official school until the head of the central administration gives his approval.*

#### Article 17

*The Administration of the Incoming Students only covers the tuition fees for those enrolled in scholarship programs studying in public schools.*

#### Article 18

*A student admitted in a scholarship program and enrolled in a private school has the right to transfer to a primary school if the rules of transfer are applicable.*

#### Article 19

- a. The value of the scholarship is determined according to the rules agreed on by the Ministry of Foreign Affairs and the Ministry of Education.*
- b. The incoming students passing the high school graduation exam -and its equivalent will continue benefiting from the scholarship until the end of August.*

#### Article 20

*The Administration of Incoming Students is responsible for reporting the names of the students admitted in scholarship programs and the scholarships' value to the schools. The schools are obliged to report monthly the absences of any of these students to the Administration of Incoming Students. They are also obliged to immediately report suspensions, no matter the cause. Otherwise, they will incur legal accountability as a consequence for providing the student with financial rights he does not deserve.*

#### Article 21

*The scholarship will be spent in the beginning of every month as it follows:*

- a. Starting from the beginning of the academic year, if the student applied to a scholarship program and the applicant was to arrive to the Arab Republic of Egypt before the beginning of the academic year.*
- b. Starting from the arrival of the student applying for the scholarship, if his presence in the Arab Republic of Egypt was after the beginning of the academic year.*
- c. Starting from the date the student completed the submission of the scholarship registration files to the Administration of Incoming Students, in the case that the student is already in the Arab Republic of Egypt, and continuing their education in a school they were enrolled in on a date that precedes the date of his admission to the scholarship program.*
- d. The scholarship continues to be paid to the student on a monthly basis as long as they maintain their attendance and pass their exams successfully.*

### **Ministry of Education Decree No. 420 (2014) concerning Private Education<sup>100</sup>**

#### **Article 1**

*A private school is every non-governmental institution established primarily-or for the affiliate activity- of education or vocational training before university education, in exchange for fees.*

*The following are not considered private schools:*

- a. Kindergarten schools supervised by the Ministry of Social Affairs*
- b. Schools established by foreign quarters, where education is restricted to non-*

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<sup>100</sup> Ministry of Education Decree No. 420 of the Year 2014 (Concerning Private Education), 29 September 2014 Al-Jarida Al-Rasmiyya, 29 September 2014 (Egypt) [hereinafter, Private Education Law]. (Unofficial translation by the research team.)

Egyptians among workers in the foreign diplomatic and consular corps and other foreigners

c. Cultural centers or institutes established by a foreign country or international organizations, based on a cultural agreement with the Arab Republic of Egypt which provides for a special treatment for these centers or institutes.

## Article 2

Private schools are established to achieving some or all of the following purposes:

a. Assist in child care, primary education, and secondary education (both general and vocational) in accordance to the set plans and curricula for equivalent schools. Private schools must not mainly aim for material profit.

b. Expand on teaching foreign languages, in addition to the set curricula.

c. Teaching special curricula in addition to official ones, in accordance to what is set by the minister of education and after the approval of the Pre-university high education council.

d. Expand on utilising modern technology and techniques for the purpose of advancing educational processes

e. Instilling spiritual and moral values, and increasing the sense of belonging to the nation and citizenry.

## **Signed Administrative Order on Treating Syrian and Yemini Students as Egyptian for the Year 2018/2019<sup>101</sup>**

*“Dear Sir/ Heads of the Department of Education in Governorates,*

*Kindly be informed that his eminence, the professor and Minister (of Education) has agreed on continuing treating Syrian and Yemini Students as Egyptian Students for the year 2018/2019.*

*Hence, kindly advise and administer education offices and departments that fall under your jurisdiction to take necessary measures in the light of the approval of his eminence, the professor and Minister (of Education), whilst attaining from the students the necessary documents, taking due diligence in the application of Decree 384 Year 2014 regulations, and taking into account security issues.*

*With sincere respect,*

*Head of cultural and incoming students department: Hanan Hasan Muftah*

*Head of the central administration for central services department: Hanaa Mohamed Said Allah*

*Head of the services and activities sector: Hisham El-Singry*

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<sup>101</sup> Signed Administrative Order on Treating Syrian and Yemini Students as Egyptian for the Year 2018/2019 [Hereinafter, Administrative Order on Syrian and Yemeni Students]. (Unofficial translation by the research team.)

## ANNEX E HEALTH

### 1. International Legal Instruments

#### Convention Relating to the Status of Refugees 1951<sup>102</sup>

##### Article 5:

*Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.*

##### Article 6:

*For the purposes of this Convention, the term “in the same circumstances” implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfil for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.*

##### Article 24:

*1. The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters:*

*(a) In so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities: remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, women’s work and the work of young persons, and the enjoyment of the benefits of collective bargaining;*

*(b) Social security (legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:*

*(i) There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;*

*(ii) National laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension.*

*2. The right to compensation for the death of a refugee resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.*

*3. The Contracting States shall extend to refugees the benefits of agreements concluded between them, or which may be concluded between them in the future, concerning the maintenance of acquired rights and rights in the process of acquisition in regard to social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in question.*

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<sup>102</sup> Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137 (entered into force Apr. 22, 1954). [Hereinafter, Refugee Convention]. Egypt acceded to the Convention and its Protocol on 22 May 1981.

4. The Contracting States will give sympathetic consideration to extending to refugees so far as possible the benefits of similar agreements which may at any time be in force between such Contracting States and non-contracting States.

#### Reservation

Egypt made reservations to Articles 12(1), 20, 22 (1), 23 and 24. Concerning Articles 20, 22 (paragraph 1), 23 and 24 of the Convention of 1951, the competent Egyptian authorities had reservations because these articles consider the refugee as equal to the national and made this general reservation to avoid any obstacle which might affect the discretionary authority of Egypt in granting privileges to refugees on a case-by-case basis.

### **International Covenant on Civil and Political Rights<sup>103</sup>**

#### Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

### **International Covenant on Economic, Social and Cultural Rights<sup>104</sup>**

#### Article 2

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

#### Article 4

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

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103 International Covenant on Civil and Political Rights, Dec. 19, 1966, 999 U.N.T.S. 171 (entered into force March 23, 1976). [Hereinafter, ICCPR]. Egypt ratified the Covenant on 14 January 1982 with the following reservation: "Taking into consideration the provisions of the Islamic Sharia and the fact that they do not conflict with the text annexed to the instrument, we accept, support and ratify it."

104 International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3 (entered into force January 3, 1976). [Hereinafter, ICESCR]. Egypt ratified the Covenant on 14 January 1982 with the following declaration: "Taking into consideration the provisions of the Islamic Sharia and the fact that they do not conflict with the text annexed to the instrument, we accept, support and ratify it."

### Article 9

*The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.*

### Article 12

*1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.*

*2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:*

- (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;*
- (b) The improvement of all aspects of environmental and industrial hygiene;*
- (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;*
- (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.*

## **Convention on the Elimination of All Forms of Discrimination against Women<sup>105</sup>**

### Article 12

*1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.*

*2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.*

## **International Convention on the Elimination of All Forms of Racial Discrimination<sup>106</sup>**

### Article 5

*In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:*

*[...] (e) Economic, social and cultural rights, in particular:*

*[...](iv) The right to public health, medical care, social security and social services;*

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<sup>105</sup> Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1248 UNTS 13 (entered into force 3 September 1981). [Hereinafter, CEDAW]. Egypt ratified the Convention on 18 September 1981.

<sup>106</sup> International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965, 660 UNTS 195 (entered into force Jan. 4, 1969). [Hereinafter, ICERD]. Egypt ratified the Convention on 1 May 1967.

## **Convention Against Torture<sup>107</sup>**

### Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.
3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

### Article 4

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.
2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

## **Convention on the Rights of the Child<sup>108</sup>**

### Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programs to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.


### Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental

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<sup>107</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 4 February 1985, 1465 U.N.T.S. 85 (entered into force June 26, 1987). [hereinafter, CAT] Egypt acceded on 25 June 1986.

<sup>108</sup> Convention on the Rights of the Child, 20 Nov. 1989, 1577 U.N.T.S. 3 (entered into force Sept. 2, 1990). [Hereinafter, CRC]. Egypt ratified the Convention on 6 July 1990.



organizations or nongovernmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

#### Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.
3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development
4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

#### Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
  - (a) To diminish infant and child mortality;
  - (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
  - (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
  - (d) To ensure appropriate pre-natal and post-natal health care for mothers;
  - (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health

and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

#### Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

#### Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

### **Convention on the Rights of Persons with Disabilities<sup>109</sup>**

#### Article 25

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

(a) Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;

(b) Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;

(c) Provide these health services as close as possible to people's own communities, including in rural areas;

(d) Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter

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<sup>109</sup> Convention on the Rights of Persons with Disabilities, Jan. 24, 2007, 2515 UNTS 3 (entered into force May 3, 2008). [Hereinafter, CRPD]. Egypt ratified the Convention on 14 April 2008.

alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;

(e) Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;

(f) Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

## **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families<sup>110</sup>**

### Article 1

1. The present Convention is applicable, except as otherwise provided hereafter, to all migrant workers and members of their families without distinction of any kind such as sex, race, color, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

2. The present Convention shall apply during the entire migration process of migrant workers and members of their families, which comprises preparation for migration, departure, transit and the entire period of stay and remunerated activity in the State of employment as well as return to the State of origin or the State of habitual residence.

### Article 2

For the purposes of the present Convention:

1. The term "migrant worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national. [...]

### Article 5

For the purposes of the present Convention, migrant workers and members of their families:

(a) Are considered as documented or in a regular situation if they are authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party;

(b) Are considered as non-documented or in an irregular situation if they do not comply with the conditions provided for in subparagraph (a) of the present article.

### Article 27

1. With respect to social security, migrant workers and members of their families shall enjoy in the State of employment the same treatment granted to nationals in so far as they fulfil the requirements provided for by the applicable legislation of that State and the applicable bilateral and multilateral treaties. The competent authorities of the State of origin and the State of employment can at any time establish the necessary arrangements to determine the modalities of application of this norm.

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<sup>110</sup> International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 18 Dec 1990, 2220 U.N.T.S. 3 (entered into force July 1, 2003). [Hereinafter, CMW]. Egypt's accession to the Convention occurred on 19 February 1993.

2. Where the applicable legislation does not allow migrant workers and members of their families a benefit, the States concerned shall examine the possibility of reimbursing interested persons the amount of contributions made by them with respect to that benefit on the basis of the treatment granted to nationals who are in similar circumstances.

#### Article 28

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

### **The following Articles apply only to migrant workers who are documented or in a regular situation and their families**

#### Article 43

1. Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to: [...] (e) Access to social and health services, provided that the requirements for participation in the respective schemes are met; [...]

#### Article 45

1. Members of the families of migrant workers shall, in the State of employment, enjoy equality of treatment with nationals of that State in relation to: [...] (c) Access to social and health services, provided that requirements for participation in the respective schemes are met; [...]

### **ILO Convention 118 concerning Equality of Treatment of Nationals and Non-Nationals in Social Security, 1962<sup>111</sup>**

#### Article 2

1. Each Member may accept the obligations of this Convention in respect of any one or more of the following branches of social security for which it has in effective operation legislation covering its own nationals within its own territory:

- (a) medical care;
- (b) sickness benefit;
- (c) maternity benefit;
- (d) invalidity benefit;
- (e) old-age benefit;
- (f) survivors' benefit;
- (g) employment injury benefit;
- (h) unemployment benefit; and
- (i) family benefit.

2. Each Member for which this Convention is in force shall comply with its provisions in respect of the branch or branches of social security for which it has accepted the

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<sup>111</sup> International Labour Organization (ILO), Equality of Treatment (Social Security) Convention, C118, 28 June 1962 (entered into force 25 April 1964). Egypt ratified the Convention on 12 January 1993 and accepted branches (a) to (h). [Hereinafter, ILO Convention C118]

*obligations of the Convention.*

*3. Each Member shall specify in its ratification in respect of which branch or branches of social security it accepts the obligations of this Convention. [...]*

#### Article 3

*1. Each Member for which this Convention is in force shall grant within its territory to the nationals of any other Member for which the Convention is in force equality of treatment under*

*its legislation with its own nationals, both as regards coverage and as regards the right to benefits, in respect of every branch of social security for which it has accepted the obligations of the Convention.*

*2. In the case of survivors' benefits, such equality of treatment shall also be granted to the survivors of the nationals of a Member for which the Convention is in force, irrespective of the nationality of such survivors.*

*3. Nothing in the preceding paragraphs of this Article shall require a Member to apply the provisions of these paragraphs, in respect of the benefits of a specified branch of social security, to the nationals of another Member which has legislation relating to that branch but does not grant equality of treatment in respect thereof to the nationals of the first Member.*

#### Article 4

*1. Equality of treatment as regards the grant of benefits shall be accorded without any condition of residence: Provided that equality of treatment in respect of the benefits of a specified branch of social security may be made conditional on residence in the case of nationals of any Member the legislation of which makes the grant of benefits under that branch conditional on residence on its territory.*

*2. Notwithstanding the provisions of paragraph 1 of this Article, the grant of the benefits referred to in paragraph 6 (a) of Article 2--other than medical care, sickness benefit, employment injury benefit and family benefit--may be made subject to the condition that the beneficiary has resided on the territory of the Member in virtue of the legislation of which the benefit is due, or, in the case of a survivor, that the deceased had resided there, for a period which shall not exceed--*

*(a) six months immediately preceding the filing of claim, for grant of maternity benefit and unemployment benefit;*

*(b) five consecutive years immediately preceding the filing of claim, for grant of invalidity benefit, or immediately preceding death, for grant of survivors' benefit;*

*(c) ten years after the age of 18, which may include five consecutive years immediately preceding the filing of claim, for grant of old-age benefit.*

*3. Special provisions may be prescribed in respect of benefits granted under transitional schemes.*

*4. The measures necessary to prevent the cumulation of benefits shall be determined, as necessary, by special arrangements between the Members concerned.*

#### Article 10

*1. The provisions of this Convention apply to refugees and stateless persons without any condition of reciprocity.*

*2. This Convention does not apply to special schemes for civil servants, special schemes for war victims, or public assistance.*

*3. This Convention does not require any Member to apply the provisions thereof to persons*

who, in accordance with the provisions of international instruments, are exempted from its national social security legislation.

## *2. Regional Legal Instruments*

### **African Charter on Human and Peoples' Rights<sup>112</sup>**

#### Article 1

*The Member States of the Organization of African Unity parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Chapter and shall undertake to adopt legislative or other measures to give effect to them.*

#### Article 2

*Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.*

#### Article 16

- 1. Every individual shall have the right to enjoy the best attainable state of physical and mental health.*
- 2. States parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.*

#### Article 18

- 1. The family shall be the natural unit and basis of society. It shall be protected by the State which shall take care of its physical health and morals.*
- 2. The State shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community.*
- 3. The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.*
- 4. The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs.*

### **African Charter on the Rights and Welfare of the Child<sup>113</sup>**

#### Article 13

*Every child who is mentally or physically disabled has the right to special protection to ensure his or her dignity, promote his self-reliance and active participation in the community.*

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<sup>112</sup> African Charter on Human and Peoples' Rights, 27 June 1981, 1520 U.N.T.S. 217 (entered into force Oct. 21, 1986). [Hereinafter, African Charter] Egypt ratified the Charter on 3 April 1984.

<sup>113</sup> African Charter on the Rights and Welfare of the Child, July 1, 1990, CAB/LEG24.9/49 (entered into force Nov. 29, 1999). [Hereinafter, ACRWC]. Egypt ratified the Charter on 9 May 2001.

#### Article 14

*Every child shall has [sic] the right to enjoy the best attainable state of physical, mental and spiritual health. This includes the provision of nutritious food and safe drinking water, as well as adequate health care.*

#### Article 16

*Children should be protected from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse.*

#### Article 23

*Refugee Children should receive appropriate protection and humanitarian assistance.*

### **African Youth Charter<sup>114</sup>**

Definition of Youth: *For the purposes of this Charter, youth or young people shall refer to every person between the ages of 15 and 35 years.*

#### Article 14:

- 1. States Parties shall: Recognise the right of young people to a standard of living adequate for their holistic development.*
- 2. Recognise the right of young people to be free from hunger and shall take individual or collective measures to: (...)*
- 3. Recognise the right of every young person to benefit from social security, including social insurance.*

*In this regard, States Parties shall take the necessary measures to achieve the full realisation of these rights in accordance with their national law especially when the security of food tenure, clothing, housing and other basic needs are compromised.*

#### Article 16

- 1. Every young person shall have the right to enjoy the best attainable state of physical, mental and spiritual health.*
- 2. States Parties shall undertake to pursue the full implementation of this right and in particular shall take measures to:*
  - a) Make available equitable and ready access to medical assistance and health care especially in rural and poor urban areas with an emphasis on the development of primary health care;*
  - b) Secure the full involvement of youth in identifying their reproductive and health needs and designing programmes that respond to these needs with special attention to vulnerable and disadvantaged youth;*
  - c) Provide access to youth friendly reproductive health services including contraceptives, antenatal and post natal services;*
  - d) Institute programmes to address health pandemics in Africa such as HIV/AIDS, tuberculosis and malaria;*

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<sup>114</sup> African Youth Charter, July 2, 2006 (entered into force 8 August 2009). [Hereinafter, AYC] Egypt ratified the Charter on 1 April 2015.

- e) Institute comprehensive programmes to prevent the transmission of sexually transmitted infections and HIV/AIDS by providing education, information, communication and awareness creation as well as making protective measures and reproductive health services available;
- f) Expand the availability and encourage the uptake of voluntary counselling and confidential testing for HIV/ AIDS;
- g) Provide timely access to treatment for young people infected with HIV/AIDS including prevention of mother to child transmission, post rape prophylaxis, and anti-retroviral therapy and creation of health services specific for young people;
- h) Provide food security for people living with HIV/AIDS;
- i) Institute comprehensive programmes including legislative steps to prevent unsafe abortions;
- j) Take legislative steps such as banning advertising and increasing price in addition to instituting comprehensive preventative and curative programmes to control the consumption of tobacco, exposure to environmental tobacco smoke and alcohol abuse;
- k) Raise awareness amongst youth on the dangers of drug abuse through partnerships with youth, youth organisations and the community;
- l) Strengthen local, national, regional and international partnerships to eradicate the demand, supply and trafficking of drugs including using youth to traffic drugs;
- m) Provide rehabilitation for young people abusing drugs such that they can be reintegrated into social and economic life;
- n) Provide technical and financial support to build the institutional capacity of youth organisations to address public health concerns including issues concerning youth with disabilities and young people married at an early age.

#### Article 24

##### *Mentally and Physically Challenged Youth*

1. States Parties recognise the right of mentally and physically challenged youth to special care and shall ensure that they have equal and effective access to education, training, health care services, employment, sport, physical education and cultural and recreational activities.
2. States Parties shall work towards eliminating any obstacles that may have negative implications for the full integration of mentally and physically challenged youth into society including the provision of appropriate infrastructure and services to facilitate easy mobility.

#### **Charter on the Rights of the Arab Child<sup>115</sup>**

##### Article 8 (Essential rights of the Arab Child)

*Emphasizing and ensuring the child's right in care and family upbringing that is based on stability, affection, empathy, warmth and acceptance. And giving the child a proper place in the family that enables it to positively interact in it and makes it the center of care. This is done through providing and fulfilling its biological, psychological, spiritual and social needs and everything that helps it build an independent personality and a freedom of mind and expression without any discrimination against the two genders.*

##### Article 9 (Essential rights of the Arab Child)

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115 Charter on the Rights of the Arab Child, 6 June 1983 (entered into force on Jan. 11, 1994). Egypt ratified the same day. [Hereinafter, Arab Child Charter] (Unofficial translation by the research team.)

*Emphasizing and ensuring the child's right in social insurance and growing up in a healthy environment that is based on providing health care in both its preventive and remedial aspects for the child and his mother starting from the first day of her pregnancy. Also improving the environment the child will grow up in, and emphasizing his right in having a suitable shelter and a balanced and appropriate nutrition that meets the stages of his development*

Article 19 (Goals the Charter is aiming at fulfilling)

*Securing the family life and providing all its essential needs and social insurance so that the children grow up in a stable fully caring environment. This full care is provided by the government through providing job opportunities for the citizens. The citizens should work and increase productivity and enable the mother to give the maximum care to her children.*

Article 20 (Goals the Charter is aiming at fulfilling)

*Providing full health care in both its preventive and remedial aspects for every Arab child and his mother.*

### **3. Bilateral Legal Instruments**

#### **Cooperation Protocol in the Field of Health and Medicine between the Government of the Arab Republic of Egypt and the State of Palestine<sup>116</sup>**

Article 5

*The Egyptian side is ready to offer curative services to Palestinian citizens, according to the rules the two parties agreed upon through:*

- a) The Palestinian Ministry of Health hosts Egyptian medical teams to provide its medical and educational services.*
- b) The Ministry of Health of the Arab Republic of Egypt receives some medical cases, of which the treatment in Palestine is difficult, for treatment in governmental hospitals in the Arab Republic of Egypt.*

#### **Cooperation Protocol between the Ministry of Public Health of the Republic of Yemen and the Ministry of Health and Population in the Arab Republic of Egypt<sup>117</sup>**

In the field of treating patients:

- 1) The Egyptian side provides "30" grants per year to treat intractable medical conditions for free in hospitals run by the Ministry of Health in Egypt. The Yemeni side provides the travel card and the accommodation outside of the hospital.*
- 2) The Yemeni patients asking for treatment will be paying at their own expenses in the hospitals run by the Ministry of Health in Egypt and given the same treatment as Egyptian patients. The Ministry of Health has to make attempts in making the Egyptian investment hospitals treat the Yemeni patients the same as Egyptian patients in terms of the treatment cost.*

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<sup>116</sup> Cooperation Protocol in the Area of Health and Drugs between the Government of the Arab Republic of Egypt and the State of Palestine, signed on 1 July 1996 in Cairo. (Unofficial translation by the research team.)

<sup>117</sup> Cooperation Protocol between the Ministry of Public Health of the Republic of Yemen and the Ministry of Health and Population in the Arab Republic of Egypt, signed between both sides on 21 August 1996. Retrieved from the website of the Egyptian Ministry of Foreign Affairs: <https://www.mfa.gov.eg/English/Ministry/TreatiesAndDocs/Pages/default.aspx>. (Unofficial translation by the research team.)

## **Executive Program between the Ministry of Public Health and Population in the Republic of Yemen and the Ministry of Health and Population in the Arab Republic of Egypt concerning the Procedures and Control of Medical Tourism in the Hospitals and Clinics in the Arab Republic of Egypt<sup>118</sup>**

### *The commitment of the Egyptian side:*

1. Treating the Yemeni patients at the same price of treatment for the Egyptian patients.
  2. The Egyptian side is responsible for sending a list of the best hospitals, and the best professors and consultants from different fields working at these hospitals, and also a list of the prices of each.
  3. The Egyptian side is obliged to welcome the patient, take him/her to the hospital and return him back after his treatment has ended.
  4. The Egyptian side offers remarkable services and proper treatment for the Yemeni patients during their treatment period at the hospital.
  5. The Egyptian side is obliged not to ask the patient for any extra fees out of the prices list agreed on previously, according to the medical report previously sent.
  6. The hospital gives the patient a medical report describing his medical state after the end of his treatment and sends a copy of it to the party that sent the patient in the first place.
  7. The hospitals are responsible for treating one medical case for free in exchange for treating ten cases according to the agreement between the two parties.
- Both of the two parties encourage direct cooperation and twinning agreements between the hospitals.

## **Cooperation Agreement in the Area of Public Health, Medical Sciences and Medicine between the Government of the Arab Republic of Egypt and the Governments of the Kingdom of Swaziland<sup>119</sup>**

### *Article 7*

- 1) In the event of a medical or surgical emergency during the temporary stay of a national of either of the two parties in the territory of the other, the host party shall provide the necessary medical care for its nationals, according to the followed system, until the condition of the patient allows for the transport to his/her country.
- 2) The two parties may send patients for diagnosis and treatment to the other party, provided that the sending organization carries the treatment expenses.

## **Cooperation Agreement in the Area of Public Health, Medical Sciences and Medicine between the Ministry of Health and Population of the Arab Republic of Egypt and the Ministry of Health of the Republic of Armenia<sup>120</sup>**

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118 Executive Program between the Ministry of Public Health and Population in the Republic of Yemen and the Ministry of Health and Population in the Arab Republic of Egypt concerning the Procedures and Control of Medical Tourism in the Hospitals and Clinics in the Arab Republic of Egypt, signed between both sides on 6 March 2005. Retrieved from the website of the Egyptian Ministry of Foreign Affairs: <https://www.mfa.gov.eg/English/Ministry/TreatiesAndDocs/Pages/default.aspx>. (Unofficial translation by the research team.)

119 Cooperation Agreement in the Area of Public Health, Medical Sciences and Medicine between the Government of the Arab Republic of Egypt and the Governments of the Kingdom of Swaziland, date signed not included in the agreement. (Next to the signature of the party from Swaziland it says 16 November 1999. Retrieved from the website of the Egyptian Ministry of Foreign Affairs: <https://www.mfa.gov.eg/English/Ministry/TreatiesAndDocs/Pages/default.aspx>. (Unofficial translation by the research team.)

120 Cooperation Agreement in the Area of Public Health, Medical Sciences and Medicine between the Ministry of Health and Population of the Arab Republic of Egypt and the Ministry of Health of the Republic of Armenia, signed by both parties on 1 May 1997. Retrieved from the website of the Egyptian Ministry of Foreign Affairs: <https://www.mfa.gov.eg/English/Ministry/TreatiesAndDocs/Pages/default.aspx>. (Unofficial translation by the research team.)

## Article 6

- 1) When there are medical or surgical emergencies, the host country shall provide medical treatment for the nationals of the other state who are temporarily on their territory, and this in accordance with the system in place for their nationals, until the condition of the patient allows for the transport to his/her country.
- 2) Each party may send patients for diagnosis and treatment to the other party, and in this case the sending state carries the expenses of medical treatment.[...]

## **4. Domestic Legal Instruments**

### **Constitution of the Arab Republic of Egypt 2014<sup>121</sup>**

#### Article 17

*The state provides social security services.*

*All citizens who have no access to the social security system have the right to social security to ensure a decent life, if they are unable to support themselves and their families in the event of incapacity to work, old age or unemployment.*

*The state works to provide appropriate pensions to small farmers, agricultural workers, hunters and informal labor in accordance with the law.*

*Insurance and pension funds are private and enjoy all forms of protection afforded to public funds. Together with their returns, they are a right of their beneficiaries. They shall be invested in a safe manner and managed by an independent entity, in accordance with the law. The state guarantees funds for insurance and pensions.*

#### Article 18

*Every citizen is entitled to health and to comprehensive health care with quality criteria. The state guarantees to maintain and support public health facilities that provide health services to the people, and work on enhancing their efficiency and their fair geographical distribution. The state commits to allocate a percentage of government expenditure that is no less than 3% of Gross Domestic Product (GDP) to health. The percentage will gradually increase to reach global rates.*

*The state commits to the establishment of a comprehensive health care system for all Egyptians covering all diseases. The contribution of citizens to its subscriptions or their exemption therefrom is based on their income rates.*

*Denying any form of medical treatment to any human in emergency or life-threatening situations is a crime.*

*The state commits to improving the conditions of physicians, nursing staff, and health sector workers, and achieving equity for them.*


*All health facilities and health related products, materials, and health-related means of advertisement are subject to state oversight. The state encourages the participation of the private and public sectors in providing health care services as per the law.*

#### Article 60

*The human body is inviolable. Any assault, defilement or mutilation thereof is a crime*

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<sup>121</sup> Constitution of the Arab Republic of Egypt, 18 January 2014. [Hereinafter, Egyptian Constitution]



*punishable by law. Organ trafficking is forbidden, and no medical or scientific experiment may be performed thereon without the documented free consent of the subject, according to the established principles of the medical field as regulated by law.*

#### Article 61

*Donation of tissues and organs is a gift of life. Every human has the right to donate his body organs during his lifetime or after his death by virtue of a documented consent or will. The state commits to the establishment of a mechanism to regulate the rules for organ donation and transplant in accordance with the law.*

#### Article 80

*A child is considered to be anyone who has not reached 18 years of age. Children have the right to be named and possess identification papers, have access to free compulsory vaccinations, health and family care or an alternative, basic nutrition, safe shelter, religious education, and emotional and cognitive development.*

*The state guarantees the rights of children who have disabilities, and ensures their rehabilitation and incorporation into society.*

*The state shall care for children and protect them from all forms of violence, abuse, mistreatment and commercial and sexual exploitation.*

*Every child is entitled to early education in a childhood center until the age of six. It is prohibited to employ children before they reach the age of having completed their primary education, and it is prohibited to employ them in jobs that expose them to risk.*

*The state shall establish a judicial system for child victims and witnesses. No child may be held criminally responsible or detained except in accordance with the law and the time frame specified therein. Legal aid shall be provided to children, and they shall be detained in appropriate locations separate from adult detention centers.*

*The state shall work to achieve children's best interest in all measures taken with regards to them.*

#### Article 81

*The state shall guarantee the health, economic, social, cultural, entertainment, sporting and education rights of dwarves and people with disabilities. The state shall provide work opportunities for such individuals, and allocate a percentage of these opportunities to them, in addition to equipping public utilities and their surrounding environment. The state their right to exercise political rights, and their integration with other citizens in order to achieve the principles of equality, justice and equal opportunities.*

#### Article 91

*The state shall grant political asylum to any foreigner who has been persecuted for defending the interests of peoples, human rights, peace or justice. Extradition of political refugees is forbidden. All of the above is according to the law.*

#### Article 93

*The state is committed to the agreements, covenants, and international conventions of human rights that were ratified by Egypt. They have the force of law after publication in accordance with the specified circumstances.*

## **Law Number 2 of the year 2018 on Comprehensive Health Insurance Scheme<sup>122</sup>**

### Preamble Article 3

*The provisions of the attached law shall gradually apply to the governorates, guided by the phases outlined in Table (5) attached hereto, in a way that guarantees the sustainable solvency of the Scheme, taking into consideration its actuarial balance.*

*The insured shall continue to benefit from health insurance services and facilities, under the legislation, regulations and decrees currently in force, until the provisions of the attached law come into force in their regard, according to the geographically phased application. Starting from said date, the following laws and decrees shall cease to apply to the insured:*

*[...]*

- Law No. 99 of the year 1992 regarding Health Insurance Scheme for Students;*
- Law No. 23 of the year 2012 regarding Health Insurance Scheme for Single Mothers;<sup>123</sup>*
- Law No. 86 of the year 2012 regarding Health Insurance Scheme for Preschool Children;*
- Law No. 3 of the year 2012 regarding Health Insurance Scheme for Farmers and Agricultural Laborers; and*
- Law No. 3 of the year 2017 amending some provisions of the Social Insurance Law No. 79 of the year 1975 [...]*

*Additionally, any provision, whether cited in the Social Insurance Law promulgated by Law No. 79 of the year 1975, or in any other law, that conflicts with the provisions of the law attached hereto, shall cease to apply at the date specified for the insured.*

*The State shall gradually raise the quality and efficiency of its health facilities, before commencement and continuity of the Scheme in the designated governorates, in order to enable these facilities to get the necessary accreditation, pursuant to the attached Law.*

*The Executive Regulations of the attached Law shall set out the rules and procedures organizing the gradual application of the Law.*

### Article 2

*Comprehensive health insurance is as compulsory scheme, based on social solidarity. Its umbrella covers all citizens of the Arab Republic of Egypt. The family shall be the main insurance coverage unit within the Scheme. The State shall bear insurance burdens for the poor, according to exemption controls, to be determined by a Prime Minister decree. The Scheme shall be based on separation of finance from service delivery. The Organization<sup>124</sup> may not provide, or participate in providing curative services.*

### Article 3

*Services provided under the Scheme shall include the package of health insurance services covering all diseases provided to the insured within the Arab Republic of Egypt,*

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<sup>122</sup> Law No. 2 of 2018 (Law on the Comprehensive Health Insurance Scheme), Al-Jarida Al-Rasmiyya, 11 January 2018 (Egypt). (English translation provided by MELES (Middle East Library for Economic Services) in Law on Comprehensive Health Insurance Scheme, February 2018)

<sup>123</sup> The translation provided by MELES called this law "Health Insurance Scheme for Single Mothers", however the law does not exclusively apply to single mothers but to all women supporting themselves and/or their families. Therefore, in the later following translation of this law it will be referred to as the law regarding "Health Insurance Scheme for Unsupported Women".

<sup>124</sup> Law No. 2 of 2018, supra note 122, Article 1 (4): "The Organization: shall mean the General Organization for Comprehensive Health Insurance, established under Article (4) herein."

be they diagnostic, curative, rehabilitative services, or medical or laboratory examinations. The Organization may, based on proposals by competent committees, add other services to the foregoing services, provided that financial and actuarial balance of the Scheme is maintained.

[...]

#### Article 40

The Organization's resources shall consist of:

##### First: the share of the insured and the dependents:

- Premiums paid by insured persons covered under this Law, as per percentages set out in Table

(1) attached herein.

- If the insured is engaged in multiple jobs, he shall be required to pay premiums for every income he earns.

- Premiums that the head of the family has to pay for his spouse who neither works nor has a fixed income, and for his sons and daughters living with him as well as his dependents, according to the Table (1) attached herein. Premiums of sons/daughters and dependents shall continue pending their employment, or the marriage of the females.

##### Second: the share of employers:

Employers as defined in social insurance legislation shall be required to pay their share of workers' premiums; specifically 4% monthly of the contributory wage of the insured worker, provided that the amount paid should not be less than fifty Egyptian pounds, for the services rendered for insurance against illness, treatment and work-related injuries.

##### Third: Copayments:

Amounts paid by the insured upon receiving the services, as per Table (3) attached herein. The poor whose premiums are borne by the Public Treasury shall be exempted from copayments. Also exempted shall be patients sustaining chronic diseases and tumors. Such exemption shall be effected subject to a Prime Minister decree regulating exemption controls.

##### Fourth: investment yield of the Organization's funds:

The yield resulting from investing in the funds and reserves available at the Organization according to the investment strategy, the rules of which shall be defined by the Executive Regulations of this Law.

##### Fifth: Obligations of Public Treasury

The premiums of insured persons belonging to the poor segments of society, including the jobless poor, ineligible individuals for employment compensation, or those whose eligibility for unemployment compensation have expired, as well as every dependent member of the family. The Treasury shall bear 5% monthly of the minimum wages announced by the government at the national level for each individual, all in the manner set out in Table (4) attached herein.

[...]

##### Ninth: other sources:

The following payments shall be collected under this Law to fund the Scheme:

- Seventy-five piasters per pack of cigarettes sold in the local market, whether the cigarettes are produced locally or abroad. The said amount shall be increased every three years by twenty-five piasters till it reaches one hundred and fifty piasters.

- 10% of the price of every sold unit of tobacco derivatives, apart from cigarettes.

- One Egyptian Pound shall be collected for every vehicles passing highways that are subject to this fees-collection system.
- Twenty Egyptian Pounds for every year, when issuing or renewing a driving license.
- Fifty Egyptian Pounds for every year, when issuing or renewing license for a vehicle with capacity of less than 1.6 liters.
- 150 Egyptian Pounds for every, when issuing or renewing license for a vehicle with a capacity of 1.6 liters and less than 2 liters.
- 300 Egyptian Pounds for every year, when issuing or renewing license for a vehicle with a capacity of 2 liters or more.
- An amount ranging between 1.000 and 15.000 Egyptian Pounds when medical clinics, therapeutic centers, pharmacies and pharmaceutical companies contract with the Scheme, according to the rules to be prescribed by the Executive Regulations of this Law.
- 1.000 Egyptian Pounds for every bed when licensing hospitals and medical centers.
- Solidarity contribution of 0,0025 % (two and half per thousand) of gross annual revenues of sole proprietorships and companies, regardless of their type or legal system governing them, as well as public economic authorities. In application of the Income Tax Law, solidarity contributions shall not be considered deductible costs, and shall be collected according to the controls and measures prescribed by the Executive Regulations of this Law [...]

#### Article 59

The Organization may render its services to foreigners either residing in, or visiting the Arab Republic of Egypt, as per the controls and conditions it sets, provided that the rule of reciprocity should be taken into consideration.

### **Executive Regulation for Law No. 2 of 2018, issued by Prime Minister Decree Number 909 of the year 2018<sup>125</sup>**

#### Article 68

The authority is to setup a health program to cover foreign nationals residing in Egypt for work, or those with a permanent residence permit, or refugees, as well as those entering the country on short-term, be it for tourism, short term business trips, or for educational purposes.

The program is to determine the subscription amounts as well as the service outlets, using as a guide what health insurance benefits or services Egyptians residing abroad enjoy.

For this purpose, the authority co-ordinates with:

Ministry of Foreign Affairs.

Ministry of Interior.

Ministry of Tourism.

Ministry of Health and Population.

### **Law Number 79 of the year 1975 promulgating the Social Insurance Law<sup>126</sup>**

<sup>125</sup> Executive Regulation to Law No. 2 of 2018 (Law on the Comprehensive Health Insurance Scheme), Prime Minister Decree No. 909 of 2018, Al-Jarida Al-Rasmiyya, 8 May 2018 (Egypt). (Unofficial translation by the research team.) [Hereinafter, Executive Regulation to Law 2/2018]

<sup>126</sup> Law No. 79 of 1975 (Social Insurance Law), Al-Jarida Al-Rasmiyya, 28 August 1975 (Egypt).

#### Article 1

*The Social Insurance Scheme shall comprise the following insurance scopes:*

- 1. Old Age, Disability, and Death Insurance*
- 2. Work Accidents Insurance.*
- 3. Medical Insurance.*
- 4. Unemployment Insurance.*
- 5. Social Care Insurance for Pensioners*

#### Article 2

*The provisions of this Law shall be applicable to workers of the following categories:*

*a) The Civil Workers of the State Administrative Body, Public Authorities, General Organizations, and Economic Units affiliating to any of such entities and any other Public Sector Economic Units.*

*b) Workers subject to the provisions of the Labour Law who fulfill the following requirements:*

- 1. The age of the insured person should be 18 years or above.*
- 2. The work relation that combine the insured person with the employer shall be a regular one. The Minister of Insurance shall issue a decree to determine the rules and conditions necessary to be fulfilled in order to consider the work relation as a regular one. The condition shall not apply to the workers working in the contracting field, as well as loading and unloading workers. Without prejudice of the provisions of the International Agreements that were endorsed by the Arab Republic of Egypt, in order to apply the provisions of this Law on the foreigners who are subject to Labor Law, it is provided that the contract period is not less than one year and the existence of an agreement on reciprocal treatment.*

*c) Those engaged in work connected with domestic services except for those working inside private houses who shall be determined by a decree of the Minister of Insurance.*

*d) Family members of the employer working therewith and supported thereby, conditional on fulfilling the conditions stipulated upon in item b.*

#### Article 6


*Two funds for insurance as provided for in Article 1 shall be established as follows:*

- 1. Insurance Fund for the workers in the State Administrative Body, and in Public Authorities.*
- 2. Insurance Fund for workers in General Institutions, Economic Units, and in Cooperative and Private Sectors.*

#### Article 7

*The resources for each of the two funds referred in Article 6 shall consist of the following resources:*

- 1. Contributions payable by employers on behalf of their workers, whether the share which the employer is committed to pay, or the share of contribution of the insured person pursuant to the provisions of this Law.*
- 2. Amounts payable by the Public Treasury for account of old age, disability and death insurance.*
- 3. Amounts payable by the Public Treasury, or the employer, or the insured persons for accounts of previous service periods calculated within the period of contribution to insurance.*
- 4. Fees payable by employers or the insured persons pursuant to the provisions of this Law.*

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5. Proceeds of investing the Fund's moneys.
  6. Due additional amounts in accordance with the provisions of this Law.
  7. Other resources resulting from the Fund's activity.
  8. Subsidies, donations and gratuities to be approved by the board of directors.

**Law Number 12 of the year 1996 promulgating the Child Law, as amended by Law Number 126 of the year 2008<sup>127</sup>**

Article 1

*The State shall ensure the protection of childhood and motherhood, the welfare of children, and provide suitable conditions for their appropriate upbringing in all respects, within the framework of freedom and human dignity.*

*Furthermore, the State shall, as a minimum, guarantee the rights of the child, as stated in the Convention of the Rights of the Child and all other relevant international covenants enforced in Egypt.*

Article 3

*The present law shall particularly ensure the following principles and rights:*

*a) The right of the child to life, survival, and development in a supportive family environment, to enjoy various preventive measures, and to be protected from all forms of violence, or injury, or physical, mental or sexual abuse, or negligence, or negligent treatment, or any other forms of maltreatment or exploitation. [...]*

Article 7-bis

*Every child shall have the right to access health and social care services and to be treated for any illnesses. The State shall take all necessary measures to ensure that all children enjoy the highest level of healthcare.*

*The State shall ensure providing the parents, the child, and all community sectors with the essential information related to the child's health and nutrition, the advantages of breastfeeding, the principles of health protection, environmental safety, and accidents prevention, and shall assist them in benefiting from such information.*

*Furthermore, the State shall ensure the right of the child, in all settings, to a suitable, healthy, and clean environment and shall take all effective measures to eliminate harmful practices to his health.*

Article 7-bis (a)

*With due consideration to the duties and rights of the person who is responsible for the care of the child, and his right to discipline him through legitimate means, it is prohibited to intentionally expose the child to any illegitimate physical abuse or harmful practice.*

*The Sub-Committee for Child Protection may undertake legal procedures in the event of violations of the preceding paragraph.*

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127 Law No. 12 of 1996 (Child Law), Al-Jarida Al-Rasmiyya, 28 March 1996 (Egypt). As amended by Law No. 126 of 2008 and Law No. 6 of 2015. English translation provided by the National Council for Childhood and Motherhood (an entity established by Presidential Decree under the Ministry of State for Family and Population), amended version of 2008. Retrieved from [http://www.nccmegypt.org/e7/e2498/e2691/infoboxContent2692/ChildLawno126english\\_eng.pdf](http://www.nccmegypt.org/e7/e2498/e2691/infoboxContent2692/ChildLawno126english_eng.pdf)

#### Article 7-bis (b)

*The State shall ensure the protection of the life of the child, his safe and secure upbringing away from armed conflicts, and ensure that he shall not engage in any acts of war. Furthermore, the State shall, in cases of emergency, disasters, wars, and armed conflicts, ensure the respect of all his rights, and shall take all necessary measures to prosecute and penalize any person who commits against the child any acts of war crimes, genocide, or crimes against humanity*

#### Article 25

*The child shall be inoculated and immunized, free of charge, with vaccines protecting him from contagious diseases, at the health offices and health units, according to the systems and schedules as stated in the By-laws.*

#### Article 27

*Every child shall have a healthcare card whose data shall be recorded in a special registry found at the concerned health office. This card shall be delivered to the father or to the person in charge of the child, after recording its number in the birth certificate. The By-laws shall determine the system and data for this card.*

#### Article 75

*The State shall ensure the protection of the child from disability and from all work liable to harm his health or his physical, mental, spiritual, or social development. The State shall take all necessary measures for the early detection of disabilities, the rehabilitation of the disabled, and employment of the disabled when they reach the age of work. The State shall take all appropriate measures for media participation in the awareness and guidance programs on the prevention of disability, focusing on the rights of disabled children to increase their awareness of as well as that of their caregivers to facilitate their integration and participation in the society.*

#### Article 76

*A disabled child shall have the right to enjoy special social, physical, and mental care promoting self-reliance, and facilitating the child's integration and participation in the community.*

### **Executive Regulation for the Law of the Child Number 12 of the year 1996, issued by Prime Minister Decree Number 2075 of the year 2010<sup>128</sup>**

#### Article 1

*In the application of the provisions of the Law of the Child and this Executive Regulation, each of the following words and phrases in question shall mean:  
[...] The Child: All those who have not attained the age of 18 years, according to the means of evidence established in Article 2 of this law. [...]*

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<sup>128</sup> Executive Regulation to Law No. 12 of 1996 (Child Law), Prime Minister Decree No. 2075 of 2010, Al-Jarida Al-Rasmiyya, 22 July 1996 (Egypt). (Unofficial translation by the research team.)

#### Article 9

*Every child has the right to access health care and social services, and the treatment of disease, the state takes all measures to ensure that all children enjoy the highest attainable standard of health.*

*The State shall ensure that parents, children, and all sectors of society are provided with the basic information on children's health and nutrition, the benefits of breastfeeding, the principles of health and environmental safety and the prevention of accidents and to assist in making use of such information.*

*The state also guarantees the child: in all fields the right to a good, healthy and clean environment, and to take all effective measures to prevent practices harmful to their health.*

### **Law Number 82 of the year 2016 issuing the Law on Combating Illegal Migration and Smuggling of Migrants<sup>129</sup>**

#### Article 25

*The State shall provide the appropriate arrangements to protect the rights of smuggled migrants<sup>130</sup> including their right to a livelihood, humane treatment, healthcare, physical, moral and psychological safety, protection of personal privacy, and raising their awareness on their right in getting legal assistance; all while prioritizing women and children.*

### **Law Number 64 of the year 2010 regarding Combating Human Trafficking<sup>131</sup>**

#### Article 22

*The State shall guarantee the protection of the victim and shall work to create the appropriate conditions for his assistance, health, psychological, educational and social care; and rehabilitation and reintegration into the society, within the framework of liberty and human dignity, as well as his return to his homeland in an expeditious and safe manner, if he was a foreigner or a non-permanent resident in the State, in accordance with the rules and procedures established by a decision of the Council of Ministers.*

### **Law Number 23 of the year 2012, regarding Health Insurance System for Unsupported Women<sup>132</sup>**

*(The application of this law will end once Law No. 2 of 2018 is applied in the respective territory.)*

#### Article 1:

*A health insurance system is established for unsupported women. The term unsupported women means: women who are solely supporting themselves, and/or their families and*

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<sup>129</sup> Law No. 82 of 2016 (Law on Combating Illegal Migration and Smuggling of Migrants), Al-Jarida Al-Rasmiyya, 7 November 2016 (Egypt).

<sup>130</sup> According to Article 1(3) smuggling of migrants is defined as: "Arranging for the transfer of one person or several persons in an illegal manner from one country to another, in order to directly or indirectly obtain material or moral gain or for any other purpose."

<sup>131</sup> Law No. 64 of 2010 (regarding Combating Human Trafficking), Al-Jarida Al-Rasmiyya, 9 May 2010 (Egypt).

<sup>132</sup> Law No. 23 of 2012 (regarding Health Insurance System for Unsupported Women), Al-Jarida Al-Rasmiyya, 31 May 2012 (Egypt). (Unofficial translation by the research team.)

do not fall under a health insurance system in accordance to any other law.

Article 2:

The General Authority for Health Insurance provides treatment and medical care services for unsupported women in the treatment centers it designates, whether inside or outside its network, in accordance to medical service level and rules issued by a decree from the Minister of Health.

Article 3:

The system [of health care] established by this law provides all the medical and rehabilitation services needed in cases of illness or accidents, which is covered by the health care system for unsupported women residing in the Republic.

Article 4:

The system is funded as follows:

1. The annual subscription carries by the unsupported woman is 1% of her income, with a minimum of 12 Egyptian Pounds per annum.
2. The annual contribution carried by the Public Treasury is 200 Egyptian Pound per annum for every unsupported woman.
3. The forms of aid, donations, and gifts presented for this system and accepted by the board of directors of the General Authority for Health Insurance.

Article 5:

Unsupported women enjoy treatment and medical care until she is healed or her case is stabilized.

Article 9:

The government covers additional expenses not covered by the health insurance system, such as in the cases of liver transplants and chronic medical conditions.

**Law No. 127 of 2014, regarding regulation Health Insurance System for Farmers and Agrarian Workers<sup>133</sup>**

(The application of this law will end once Law No. 2 of 2018 is applied in the respective territory.)

Article 1:

A health insurance system is established to include the following categories:

1. Farmers that are not covered by a health insurance system under any other law. In applying the provisions of this law, "farmer" is everyone who works professionally in agriculture and has this as the main source of income.
2. Agrarian workers.

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<sup>133</sup> Law No. 127 of 2014 (regarding Health Insurance System for Farmers and Agrarian Workers), Al-Jarida Al-Rasmiyya, 17 September 2014 (Egypt). (Unofficial translation by the research team.)

#### Article 2:

*The General Authority for Health Insurance provides treatment and medical care services for the formerly mentioned categories in the treatment centers it designates, whether inside or outside its network, in accordance to medical service level and rules issued by a decree from the Minister of Health.*

#### Article 3:

*The system [of health care] established by this law provides all the medical and rehabilitation services needed in both accidents and other illness cases.*

#### Article 4:

*The health care system for farmers and agrarian workers is funded as follows:*

- 1. The annual subscription payed by the beneficiaries, not exceeding 120 Egyptian pounds per annum.*
- 2. The annual contribution by the Public Treasury is 200 Egyptian Pound per annum for every beneficiary in this system.*
- 3. 2% of the services provided by the Ministry of Agriculture and Land Reclamation.<sup>134</sup>*
- 4. Financial aid provided by associations and unions concerned with agriculture and land cultivation in favor of this system.*
- 5. The forms of aid, donations, and gifts presented for this system and accepted by the board of directors of the General Authority for Health Insurance.*

#### Article 5:

*Beneficiaries of this system enjoy treatment and medical care until they are healed or their case is stabilized.*

### **Law No. 86 of 2012, regarding Health Insurance System for Pre-school Children<sup>135</sup>**

*(The application of this law will end once Law No. 2 of 2018 is applied in the respective territory.)*

#### Article 1:

*A health insurance system is established for children below schooling age. The provisions of this law are applicable to all newborns and those below the foundational schooling age who do not fall under Law No. 99 of the year 1992, regarding the health insurance system for students, and the insurance based on the provisions of this law is compulsory.*

#### Article 2:

*The General Authority for Health Insurance provides treatment and medical care services for the children in the treatment centers it designates, whether inside or outside its network, in accordance to medical service level and rules issued by a decree from the Minister of Health and Population.*

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<sup>134</sup> Concerning "Land Reclamation": this is the term used by the official government websites. The original term is to be understood as meaning "cultivation of land".

<sup>135</sup> Law No. 86 of 2012 (regarding Health Insurance System for Pre-school Children Al-Jarida Al-Rasmiyya, 2 September 2012 (Egypt). (Unofficial translation by the research team.)

### Article 3:

*The system is funded as follows:*

- 1. The annual subscription payed by the caregivers of the child is 8 Egyptian pounds for every child per annum.*
- 2. The annual contribution by the Public Treasury is 12 Egyptian Pounds per annum for every child.*
- 3. The forms of aid, donations, and gifts presented for this system and accepted by the General Authority for Health Insurance.*

### Article 4:

*The health care system established by this law provides the following services:*

- 1. Treatment and rehabilitation services that are provided in the republic of Egypt in accident and illness cases, which specifically include:*
  - a. Medical services provided by general practitioners in specified treatment units.*
  - b. Medical services provided by specialized and consultant physicians including dental specialties.*
  - c. X-rays, laboratory tests, and other medical examinations*
  - d. Treatment and stay in hospitals, clinics, specialized hospitals, the costs of surgical operations, in addition to other forms of treatment.*
  - e. Obtaining medicines necessary for treatment*
  - f. Providing medical therapeutic appliances including eyeglasses*

*This is in accordance with the provisions of Law No. 99 year 1992, regarding Health Insurance for Students.*

- 2. Preventive medical services: which include protection against diseases. The Ministry of Health and Population is responsible for providing and funding all the necessary appliances for preventative medical services for children. This is in accordance to the condition and situations stipulated in an issued decree by the Minister of Health and Population.*

### Article 5:

*Children enjoy treatment and medical care until they are healed or their case is stabilized.*

### Article 6:

*A child will stop being included in this health care system in the following cases:*

- 1. Law No. 99 of the year 1992, regarding the Health Insurance System for students applies to the child.*
- 2. If the child reached the age of 7 years old, and was not enrolled in school.*

## **Law Number 99 of the year 1992, regarding the Health Insurance System for Students<sup>136</sup>**

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<sup>136</sup> Law No. 99 of 1992 (Health Insurance System for Students), Al-Jarida Al-Rasmiyya, 30 July 1992 (Egypt). (Unofficial translation by the research team.)

### Article 1

*Regarding the health insurance system for students, according to the provisions of this law, it includes the following categories:*

- 1) Kindergarten children*
- 2) Students in basic educational stages*
- 3) Students in high schools and vocational schools*
- 4) Students in vocational schools in the five-year system*
- 5) Students in secondary experimental schools for teachers*
- 6) Students in private schools of different stages and types*
- 7) Students of Al-Azhar institutes*

*By a decision of the Prime Minister, and based on an offer by the Minister of Health, new categories of students may be included, with determination of the value of the subscriptions, contributions and the parties that bear them. This shall not exceed the prescribed limits according to this law.*

### Article 2

*The provisions of this law shall be applied gradually, but not exceeding five years from the date of implementation of this law, on the categories and parties determined by a decision of the Minister of Health, and the scheme shall be compulsory for all students.*

### Article 3

*The Students' Health Insurance Scheme is funded as follows:*

*A) Through annual subscriptions that the student in each educational stage is supposed to cover every academic year on dates decided by the Minister of Health in accordance with the competent minister, as follows:*

- Four pounds paid for every child in kindergarten and every student in the basic educational system, all types of high schools, technical schools of a five-year system, the secondary experimental preparatory schools for teachers, private schools and Azhar institutes.*
- 10 percent of the value of the yearly tuition fees paid for every child in private kindergartens and every student that goes to a private school, with a maximum limit of fifty pounds*

*B) The annual subscriptions that are covered by the Public Treasury and is valued at twelve pounds for every student in schools and kindergartens owned by the state, and subsidized private schools.*

**Ministry of Health and Population Decree Number 239 of the year 1997, promulgating the Basic Regulations for Hospitals and Medical Units belonging to Local Administrative Units<sup>137</sup>**

### Article 20 – Treatment of Foreigners and the Arab Brothers

*Foreign patients for whom no decision to be treated as Egyptians has been issued, pay*

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<sup>137</sup> Ministry of Health and Population Decree No. 239 of 1997 (Basic Regulations for Hospitals and Medical Units belonging to Local Administrative Units), Al-Jarida Al-Rasmiyya, 23 September 1997 (Egypt). (Unofficial translation by the research team.)

stay and medical treatment according to the price list of treatment institutions for the treatment of foreigners.

Ministry of Health and Population Decree Number 674 of the year 2010, promulgating the Basic Regulations for Hospitals and Primary Health Care Centers and Family Health of the Local Administration Units<sup>138</sup> (currently suspended)

#### Annex No.1, Article 20 – Treatment of Non-Egyptians

The fees and the amounts in the price list attached to this regulation apply to Egyptians and Non-Egyptians for whom a decision was issued to treat them like Egyptians. For other foreigners for whom no decisions to treat them like Egyptians were issued, the hospital may determine the appropriate price after the approval of the hospital's Board of Directors.

### **Ministry of Health and Population Decree Number 334 of the year 2011<sup>139</sup>**

#### Article 1

Suspension of the basic regulations for hospitals and primary health care centers and family health of the local administration units issued by Ministerial Decree No. 674 of 2010, as amended by Ministerial Decree No. 730 of 2010, to re-study some provisions of these regulations in order to achieve the best performance.

### **Memorandum of Understanding between the Ministry of Health Arab Republic of Egypt and the Office of the United Nations High Commissioner for Refugees on Enhancing Access of Persons of Concern to UNHCR to Public Primary Health Care and Referral Curative Care Services<sup>140</sup>**

#### Article 1

The purpose of this Memorandum of Understanding ("MOU" or "the Agreement") is to provide a framework for collaboration between the MOH<sup>141</sup> and UNHCR on the access of refugees, asylum seekers and other PoCs<sup>142</sup> to the primary and referral curative care services inclusive for emergency care in the national public health system.

This 2016 MOU aims at further enhancing access to maternal and neonatal care by nationals and refugees alike, and further strengthening MOH efforts to reduce maternal and neonatal mortalities and morbidities at a critical mother and child care interface; that is the antenatal and perinatal care for nationals and refugees alike and supporting the Government of Egypt efforts to eliminate barriers that limit access to care by mothers and newborns, including among vulnerable populations.

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138 Ministerial Decree No. 674 of 2010 (Basic Regulations for Hospitals and Primary Health Care Centers and Family Health of the Local Administration Units), Al-Jarida Al-Rasmiyya, 9 December 2010 (Egypt). (Unofficial translation by the research team.)

139 Ministry of Health and Population Decree No. 334 of 2011 (On the Suspension of the Basic Regulation for Hospitals), Al-Jarida Al-Rasmiyya, 22 May 2011 (Egypt). (Unofficial translation by the research team.)

140 Memorandum of Understanding between the Ministry of Health Arab Republic of Egypt and the Office of the United Nations High Commissioner for Refugees on Enhancing Access of Persons of Concern to UNHCR to Public Primary Health Care and Referral Curative Care Services, 2016. (A copy of the MoU was provided to the research team by UNHCR)

141 Ministry of Health of the Government of the Arab Republic of Egypt, referred to as "MOH" in the agreement.

142 "PoC" is used in the agreement to refer to Persons of Concern.

### Article 3

#### *Responsibilities of the MOH*

*The MOH shall:*

3.1 Ensure that refugees and asylum seekers, including mothers and their newly born children, benefit from public primary, referral and emergency maternal and neonatal care services at the same level as is available for the Egyptian population. This entails granting refugees and asylum seekers access to primary and referral maternal and neonatal essential health services in government health facilities and hospitals under the same conditions and applicable regulations as those applied to Egyptian nationals.

3.2 Ensure that a referral system is in place between primary maternal and child health care facilities and [sic] (hospitals to be determined by the MOH in accordance with the MOU signed by the MOH and UNHCR on September 4<sup>th</sup>, 2014).

3.3 Enhance access by refugees and asylum seeker women and their newly born children to specialized maternal and child hospitals, with the support extended by UNHCR in 25 MOH hospitals in Cairo, Giza, Qalyoubeya, Sharkeya, Dakahleya and Damietta governorates.

3.4 Enhance critical and emergency care at MOH hospitals in Cairo and other Governorates for Egyptian citizens and refugees

3.5 Enhance mental health care services access to all refugees at the MOH Mental Health Secretariat administered hospitals;

- Abbasseya hospital for mental health in Cairo
- Helwan hospital for mental health in Cairo
- Ma'moura hospital for mental health in Alexandria

### Article 4


#### *Responsibilities of UNHCR*

*UNHCR shall:*

4.1 Support 4 selected primary health facilities in Cairo and Giza governorates with resources needed to upscale reproductive health care services through infrastructural and renovation work, and the provision of medical and laboratory equipment with a maximum cost of 80,000 USD in order to leverage the quality of care for nationals and refugee and asylum-seeker women and their newly born children alike in Cairo, and Giza governorates; specifically: New Cairo: First Settlement Medical Center, Nasr City East district: Seventh District Medical Centre, Giza Omrania: Talebeya Medical Center, and El Haram: Karf Nassar Medical Centre.

4.2 Support 25 MOH Central and other specialized hospitals located in 5 governorates; Sharkeya, Qalubeya, Dakahleya, Damietta and Giza with up to 70 incubators and 20 ventilators with a cost of 600,000 USD in order to upscale the delivery of neonatal intensive care services.

4.3 Support Mounira hospital in Cairo Governorate and other hospitals in various governorates based on priority needs to be determined by MOH to serve Egyptian citizens and refugees with medical equipment to upscale intensive care units services with ICU beds and ventilators with a cost of 420,000 USD.



*4.4 Ensure that procurement, contracting of and contract administration processes for goods and services to be purchased in accordance with this MOU meet the requirements and procedures stated in the Egyptian laws and regulations and in UNHCR's internal rules and regulations including with reference to the transfer of title, whereas the ownership of such equipment shall be transferred to the MOH as soon as the cabinet approves the grant.*

*- Foreign nationals affiliated with UNHCR shall deal with governorates, localities and citizens through national governmental institutions only.*

## ANNEX F HOUSING

### 1. International Legal Instruments

#### 1951 Convention Relating to the Status of Refugees<sup>143</sup>

##### Article 5

*Nothing in this Convention shall be deemed to impair any rights and benefit granted by a Contracting State to refugees apart from this Convention.*

##### Article 6

*For the purposes of this Convention, the term “in the same circumstances” implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfil for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.*

##### Article 13

*The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.*

##### Article 21

*As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.*

##### Article 23

*The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.*

##### Article 26

*Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances*

### Egypt's Reservation to Article 23

*Concerning articles 20, 22 (paragraph 1), 23 and 24 of the Convention of 1951, the*

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<sup>143</sup> Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137 (entered into force Apr. 22, 1954). [Hereinafter, Refugee Convention]. Egypt acceded to the Convention and its Protocol on 22 May 1981.

competent Egyptian authorities had reservations because these articles consider the refugee as equal to the national. We made this general reservation to avoid any obstacle which might affect the discretionary authority of Egypt in granting privileges to refugees on a case-by-case basis.

## **International Convention on Economic, Social, and Cultural Rights<sup>144</sup>**

### Article 2

(1) Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

(2) The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

(3) Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

### Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

### Article 11

(1) The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

#### *Egypt's Declaration on the ICESCR*

*Taking into consideration the provisions of the Islamic Sharia and the fact that they do not conflict with the text annexed to the instrument, we accept, support and ratify it.*

## **International Covenant on Civil and Political Rights<sup>145</sup>**

### Article 4

(1) In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take

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<sup>144</sup> International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3 (entered into force January 3, 1976). [Hereinafter, ICESCR]. Egypt ratified the Covenant on 14 January 1982.

<sup>145</sup> International Covenant on Civil and Political Rights, Dec. 19, 1966, 999 U.N.T.S. 171 (entered into force March 23, 1976). [Hereinafter, ICCPR]. Egypt ratified the Covenant on 14 January 1982 with the following declaration: "Taking into consideration the provisions of the Islamic Sharia and the fact that they do not conflict with the text annexed to the instrument, we accept, support and ratify it."

measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

(2) No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

(3) Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

#### Article 17

(1) No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

(2) Everyone has the right to the protection of the law against such interference or attacks.

### **Convention on the Rights of the Child<sup>146</sup>**

#### Article 3

(1) In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

#### Article 16

No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation.

#### Article 22

(1) States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

#### Article 27

(1) States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

(2) The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

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<sup>146</sup> Convention on the Rights of the Child, 20 Nov. 1989, 1577 U.N.T.S. 3 (entered into force Sept. 2, 1990). [Hereinafter, CRC]. Egypt ratified the Convention on 6 July 1990.

(3) States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

(4) States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

## **Convention on the Elimination of All Forms of Discrimination against Women<sup>147</sup>**

### **Article 2**

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women

### **Article 14**

(1) States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

(2) States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right.

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

(3) States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

(4) States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

### **Article 15**

(1) States Parties shall accord to women equality with men before the law.

(2) States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

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<sup>147</sup> Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1248 UNTS 13 (entered into force Sept. 3, 1981). [Hereinafter, CEDAW]. Egypt ratified the Convention on 18 September 1981.

## Article 16

*(l) States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:*

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

### **Egypt's Reservation to CEDAW Article 2**

*The Arab Republic of Egypt is willing to comply with the content of this article, provided that such compliance does not run counter to the Islamic Sharia.*

### **Egypt's Reservation to CEDAW Article 16**

*Reservation to the text of article 16 concerning the equality of men and women in all matters relating to marriage and family relations during the marriage and upon its dissolution, without prejudice to the Islamic sharia provisions whereby women are accorded rights equivalent to those of their spouses so as to ensure a just balance between them. This is out of respect for the sacrosanct nature of the firm religious beliefs which govern marital relations in Egypt and which may not be called in question and in view of the fact that one of the most important bases of these relations is an equivalency of rights and duties so as to ensure complementarity which guarantees true equality between the spouses, not a quasi-equality that renders the marriage a burden on the wife. The provisions of the sharia lay down that the husband shall pay bridal money to the wife and maintain her fully and shall also make a payment to her upon divorce, whereas the wife retains full rights over her property and is not obliged to spend anything on her keep. The sharia therefore restricts the wife's rights to divorce by making it contingent on a judge's ruling, whereas no such restriction is laid down in the case of the husband.*

## **International Convention on the Rights of Persons with Disabilities<sup>148</sup>**

### Article 9

*(l) To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:*

*(a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;*

### Article 19

*State Parties to the present Convention recognize the equal right of all persons with*

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<sup>148</sup> Convention on the Rights of Persons with Disabilities, Jan. 24, 2007, 2515 UNTS 3 (entered into force May 3, 2008). [Hereinafter, CRPD]. Egypt ratified the Convention on 14 April 2008.

disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

- (a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;
- (b) Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;
- (c) Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

#### Article 28

(1) States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.

(2) States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:

- (a) To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;
- (b) To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;
- (c) To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care;
- (d) To ensure access by persons with disabilities to public housing programmes;
- (e) To ensure equal access by persons with disabilities to retirement benefits and programmes.


### **Protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime<sup>149</sup>**

#### Article 6

(3) Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

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<sup>149</sup> Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, Nov. 15, 2000, 2237 UNTS 319 (entered into force 25 December 2003). [Hereinafter, Trafficking Protocol]. Egypt ratified the Convention on 5 March 2004.

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- (a) Appropriate housing;
- (b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
- (c) Medical, psychological and material assistance; and
- (d) Employment, educational and training opportunities.
- (4) Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.
- (5) Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory

## **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families<sup>150</sup>**

### Article 1

*(1) The present Convention is applicable, except as otherwise provided hereafter, to all migrant workers and members of their families without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.*

### Article 2

*For the purposes of the present Convention:*

*(1) The term "migrant worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.*

### Article 3

*The present Convention shall not apply to:*

*(d) Refugees and stateless persons, unless such application is provided for in the relevant national legislation of, or international instruments in force for, the State Party concerned;*

### Article 14

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

### Article 36

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

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<sup>150</sup> International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 18 Dec 1990, 2220 U.N.T.S. 3 (entered into force July 1, 2003). [Hereinafter, CMW]. Egypt's accession to the Convention occurred on 19 February 1993.

#### Article 39

(1) Migrant workers and members of their families shall have the right to liberty of movement in the territory of the State of employment and freedom to choose their residence there.

(2) The rights mentioned in paragraph 1 of the present article shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (ordre public), public health or morals, or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

#### Article 43

(1) Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to:

(d) Access to housing, including social housing schemes, and protection against exploitation in respect of rents;

(2) States Parties shall promote conditions to ensure effective equality of treatment to enable migrant workers to enjoy the rights mentioned in paragraph 1 of the present article whenever the terms of their stay, as authorized by the State of employment, meet the appropriate requirements.

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

#### Article 49

(1) Where separate authorizations to reside and to engage in employment are required by national legislation, the States of employment shall issue to migrant workers authorization of residence for at least the same period of time as their authorization to engage in remunerated activity.

(2) Migrant workers who in the State of employment are allowed freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere fact of the termination of their remunerated activity prior to the expiration of their work permits or similar authorizations.

(3) In order to allow migrant workers referred to in paragraph 2 of the present article sufficient time to find alternative remunerated activities, the authorization of residence shall not be withdrawn at least for a period corresponding to that during which they may be entitled to unemployment benefits

#### Article 61

(1) Project-tied workers, as defined in article 2, paragraph 2 (g) of the present Convention, and members of their families shall be entitled to the rights provided for in part IV except the provisions of article 43, paragraphs 1 (b) and (c), article 43, paragraph 1 (d), as it pertains to social housing schemes, article 45, paragraph 1 (b), and articles 52 to 55.

#### Article 62

(1). Specified-employment workers as defined in article 2, paragraph 2 (g), of the present Convention, shall be entitled to the rights provided for in part IV, except the provisions of

article 43, paragraphs 1(b) and (c), article 43, paragraph 1(d), as it pertains to social housing schemes, article 52, and article 54, paragraph 1(d).

## **2. Regional Legal Instruments**

### **Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa<sup>151</sup>**

#### Article 11

*(6) For reasons of security, countries of asylum shall, as far as possible, settle refugees at a reasonable distance from the frontier of their country of origin.*

### **African Charter on Human and Peoples' Rights<sup>152</sup>**

#### Article 12

*(1) Every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law.*

#### Article 14

*The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.*

#### Article 16

*(1) Every individual shall have the right to enjoy the best attainable state of physical and mental health.*

#### Article 18

*(1) The family shall be the natural unit and basis of society. It shall be protected by the State which shall take care of its physical health and moral.*

### **African Charter on the Rights and Welfare of the Child<sup>153</sup>**

#### Article 3

*Every child shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in this Charter irrespective of the child's or his/her parents' or legal guardians' race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status.*

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<sup>151</sup> Convention Governing the Specific Aspects of Refugee Problems in Africa, Sept. 10, 1969, 1001 U.N.T.S. 45 (entered into force 20 June 1974). [Hereinafter, OAU Refugee Convention]. Egypt ratified the Convention on 17 November 1980.

<sup>152</sup> African Charter on Human and Peoples' Rights, 27 June 1981, 1520 U.N.T.S. 217 (entered into force Oct. 21, 1986). [Hereinafter, African Charter] Egypt ratified the Charter on 3 April 1984.

<sup>153</sup> African Charter on the Rights and Welfare of the Child, July 1, 1990, CAB/LEG24.9/49 (entered into force Nov. 29, 1999). [Hereinafter, ACRWC]. Egypt ratified the Charter on 9 May 2001.

#### Article 4

*(1) In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration.*

#### Article 10

*No child shall be subject to arbitrary or unlawful interference with his privacy, family home or correspondence, or to the attacks upon his honour or reputation, provided that parents or legal guardians shall have the right to exercise reasonable supervision over the conduct of their children. The child has the right to the protection of the law against such interference or attacks.*

#### Article 14

*(1) Every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health.*

#### Article 18

*(1) The family shall be the natural unit and basis of society. It shall enjoy the protection and support of the State for its establishment and development.*

#### Article 23

*(1) State Parties to the present Charter shall take all appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law shall, whether unaccompanied or accompanied by parents, legal guardians or close relatives, receive appropriate protection and humanitarian assistance in the enjoyment of the rights set out in this Charter and other international human rights and humanitarian instruments to which the States are Parties.*

#### Article 31

*Children have responsibilities towards their families and societies, to respect their parents, superiors and elders, to preserve and strengthen African cultural values in their relation with other members of their communities.*

### **African Youth Charter<sup>154</sup>**

#### Article 2

*Every young person shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in this Charter irrespective of their race, ethnic group, colour, sex, religion, political or other opinion, national or social origin, fortune, birth, or other status.*

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<sup>154</sup> African Youth Charter, July 2, 2006 (entered into force 8 August 2009). [Hereinafter, AYC]. Egypt ratified the Charter on 1 April 2015.

#### Article 7

*No young person shall be subjected to arbitrary or unlawful interference with his/her privacy, residence, or correspondence, or attacks upon his/her honour or reputation.*

#### Article 8

*The family, as the most basic social institution, shall enjoy the full protection and support of States Parties for its establishment and development noting that the structure and form of families varies in different social and cultural contexts.*

#### Article 9

- (1) Every young person shall have the right to own and inherit property.*
- (2) State Parties shall ensure that young men and young women enjoy equal rights to own property.*
- (3) State Parties shall ensure that youth are not arbitrarily deprived of their property including inherited property.*

#### Article 14

- (1) State Parties shall: Recognise the right of young people to a standard of living adequate for their holistic development.*

#### Article 16

- (1) Every young person shall have the right to enjoy the best attainable state of physical, mental, and spiritual health.*

### **Charter on the Rights of the Arab Child<sup>155</sup>**

*9. Emphasizing and ensuring the child's right to social insurance and growing up in a healthy environment that is based on providing health care in both its preventive and remedial aspects for the child and his mother starting from the first day of her pregnancy. Also improving the environment the child will grow up in, and emphasizing his right in having a suitable shelter and a balanced and appropriate nutrition that meets the stages of his development.*

### **3. Bilateral Legal Instruments**

#### **Four Freedoms Agreement between Egypt and Sudan<sup>156</sup>**

#### Article 2

*The residence, movement and entry of Citizens and their exit from and into either country shall be by valid passport or document, or other documents to be agreed upon by both parties in the territories of both states, and through the ports of land, sea and air officially approved by the Two Countries.*

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<sup>155</sup> Charter on the Rights of the Arab Child, 6 June 1983 (entered into force on Jan. 11, 1994). Egypt ratified the same day. [Hereinafter, Arab Child Charter] (Unofficial translation by the research team.)

<sup>156</sup> Four Freedoms Agreement between Egyptian and Sudan, Egy.-Sud (adopted 4 September 2004, entered into force 9 September 2011. [Hereinafter, Four Freedoms Agreement].

### Article 3

1. Citizens of both countries enjoy the right to work, practice various professions, trades, and occupations in compliance with the international and Arab agreements regarding this topic signed by the two countries.
2. The countries agree on its citizens' right to own and dispose of land, real estate, and moveable property and to establish companies. The companies agree to take the necessary legislative and executive measures to implement this.

## **4. Domestic Legal Instruments**

### **Constitution of the Arab Republic of Egypt 2014<sup>157</sup>**

#### Article 41

*The state commits to the implementation of a housing program that aims at achieving balance between population growth rates and the resources available, maximizing investment in human energy, and improving its features, within the framework of achieving sustainable development.*

#### Article 53

*Citizens are equal before the law, possess equal rights and public duties, and may not be discriminated against on the basis of religion, belief, sex, origin, race, color, language, disability, social class, political or geographical affiliation, or for any other reason. Discrimination and incitement to hate are crimes punishable by law. The state shall take all necessary measures to eliminate all forms of discrimination, and the law shall regulate the establishment of an independent commission for this purpose.*

#### Article 58

*Homes are inviolable. Except in cases of danger, or if a call for help is made, they may not be entered, searched, monitored or wiretapped except by causal judicial warrant specifying the place, time and purpose thereof. All of the above is to be conducted in cases specified by the law, and in the manner prescribed. Upon entering or searching homes, those inside shall be notified and informed of the warrant issued in this regard.*

#### Article 78

*The state guarantees citizens the right to decent, safe and healthy housing, in a way that preserves human dignity and achieves social justice. The state shall draft a national housing plan that upholds environmental particularity, and guarantees the contribution of personal and collaborative initiatives in its implementation. The state shall also regulate the use of state lands and provide them with basic facilities, as part of a comprehensive urban planning framework for cities and villages and a population distribution strategy. This must be done in a way that serves the public interest, improves the quality of life for citizens and preserves the rights of future generations. The state shall draft a comprehensive, national plan to address the problem of informal areas that includes providing infrastructure and facilities and improving quality of life and public health. The*

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<sup>157</sup> Constitution of the Arab Republic of Egypt, 18 January 2014. [Hereinafter, Egyptian Constitution]

state shall also guarantee the provision of necessary resources to implement the plan within a specified time frame.

#### Article 91

The state shall grant political asylum to any foreigner who has been persecuted for defending the interests of peoples, human rights, peace or justice.

Extradition of political refugees is forbidden. All of the above is according to the law.

### **Law No. 12 of 1996 Promulgating the Child Law<sup>158</sup>**

#### Article 3

The present law shall particularly ensure the following principles and rights:

- a) The right of the child to life, survival, and development in a supportive family environment, to enjoy various preventive measures, and to be protected from all forms of violence, or injury, or physical, mental or sexual abuse, or negligence, or negligent treatment, or any other forms of maltreatment or exploitation.
- b) The right to be protected from all forms of discrimination among children, on the basis of birth place, parents, sex, religion, race, disability, or on any other status, and ensure equal opportunities among children to benefit from all rights.
- c) The right of the child who is able to form his own opinions, to access information which empowers him to form and express such opinions, and to be heard in all matters related to him, including judicial and administrative procedures, in accordance with the procedures specified by the Law.

The best interests of the child and his protection shall be a primary consideration in all decisions and procedures whatever the department or authority issuing or undertaking them.

#### Article 144-bis<sup>159</sup>

A fund shall be established affiliated to the NCCM, to be named the Childhood and Motherhood Care Fund. The Fund shall have the status of a legal person and a special budget. Its financial year will start with the beginning of the state's financial year, and will end with it. The surplus of the financial year shall be carried over to the next financial year.

#### Article 144 bis-(b)<sup>160</sup>

The Board of Directors of the Fund shall be the party in control, particularly with regards to the following:

- 1 - Undertake the necessary actions to develop the fund's resources
- 2 - Establish shelter homes, schools, and hospitals for children
- 3 - Establish services and productive projects, organize events, charity bazaars, exhibitions, and sports events, in order to achieve the objectives of NCCM, after obtaining the

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<sup>158</sup> Law No. 12 of 1996 (Child Law), Al-Jarida Al-Rasmiyya, 28 March 1996 (Egypt). As amended by Law No. 126 of 2008 and Law No. 6 of 2015. English translation provided by the National Council for Childhood and Motherhood (an entity established by Presidential Decree under the Ministry of State for Family and Population), amended version of 2008. Retrieved from [http://www.nccmegypt.org/e7/e2498/e2691/infoboxContent2692/ChildLawno126english\\_eng.pdf](http://www.nccmegypt.org/e7/e2498/e2691/infoboxContent2692/ChildLawno126english_eng.pdf)

<sup>159</sup> Added by Law No. 126 of 2008.

<sup>160</sup> Added by Law No. 126 of 2008.

necessary permits from the concerned authorities

4 - Provide assistance to the entities concerned with childhood and motherhood

5 - Carry out any activity that would promote the rights of the child.

### **Law No. 131 of 1948 Issuing the Civil Code<sup>161</sup>**

#### Article 17

1) The applicable law with regard to inheritance, wills, and all acts producing posthumous effects, is the law to which the deceased was subject.

2) The applicable law for the form of the will and all acts producing posthumous effects is also the law to which the deceased was subject or the law of the country where the will was written.

#### Article 18

With regard to acquisition, ownership, and other in-kind rights, the law of the location shall apply with regards to real-estate. The applicable law in cases of moveable property shall be the law of the place where the moveable is located at the time of the act resulting in the acquisition of or forfeiture of ownership or other in-kind rights.

#### Article 19

1) With regard to contractual obligations, if the contracting parties have a common domicile, the law of this state applies. In case the parties have two different domiciles, the law of the state where the contract is concluded shall apply, unless the two parties agreed to apply another law or it is apparent from the surrounding circumstances that they intended to apply another law

2) However, the law applicable to the location of the realty shall apply to the contract signed in connection with that realty.

#### Article 25

1) The judge shall define the law applicable to stateless persons, or persons holding with multiple nationalities.

#### Article 574

If work by a governmental quarter results, within the limits of the law, in largely reducing the benefit from the leased realty, the lessee, according to the conditions, may ask for rescinding the contract or reducing the rental amount. He may also claim indemnification from the lessor, if the act of the governmental quarter is consequent upon a cause for which the lessor is accountable. This is all unless otherwise agreed upon.

### **Law No. 136 for the Year 1981 Regulating Leasing and Selling Properties and the Relationship between Lessor and Lessee<sup>162</sup>**

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<sup>161</sup> Law No. 131 of 1948 (Promulgating the Civil Code), Al-Waqa'i' al Misriyah, 29 July 1948 (Egypt). [Hereinafter, Civil Code]. The Civil Code was reinstated as the regime applicable to tenancies pursuant to Law No. 4 for the Year 1996 (as amended by Law No. 137/2006). (Unofficial translation by the research team.)

<sup>162</sup> Law No. 136 of the Year 1981 Regulating Leasing and Selling Properties and the Relationship between Lessor and Lessee, Al-Jarida Al-Rasmiyya 30 July 1981 (Egypt). [Hereinafter, Lease Law]. (Unofficial translation by the research team.)

## Article 17

*Lease contracts to non-Egyptians are terminated by the force of law on the end-date of their legal residence in the country.*

*In regards to real estate leased by non-Egyptians after the issuance of this law,<sup>163</sup> the lessee is permitted to request evacuation when the non-Egyptian party [tenant]'s residency permit in the country is terminated.*

*The residency of a non-Egyptian is proven by a certificate issued from the designated administrative authority. The General Prosecutor's Office notices a non-Egyptian party [in case of eviction]. However, in all cases, the lease contract resumes its effects –by the power of the law- in favor of a non-Egyptian's Egyptian wife and her children residing in the leased property, unless proven that they left the country indefinitely.<sup>164</sup>*

## **Law No. 230 of 1996 Organizing the Possession of Built-Realities and Vacant Lands by Non-Egyptians<sup>165</sup>**

### Article 1

*Subject to the provisions of the Law on Investment as promulgated by Law No. 230 of the year 1989, the possession of built realities or vacant lands on the Arab Republic of Egypt, by Non- Egyptians, whether they are natural or juridical persons, whatever the basis for their acquisition of the ownership, with the exception of heritage, shall be in accordance with the provisions of this Law.*

*The expression "Possession" within the context of the provisions of this Law means ownership, and nude ownership of the property, and usufruct rights.*

### Article 2

*A Non-Egyptian may possess the realities, whether built or vacant lands, on the following conditions:*

*1. His possession of the realities shall be restricted to at most two realities in all parts of the Republic for the purpose of the private dwelling for himself and his family, without derogation to his right of possessing the realities necessary for exercising his special activity as authorized thereby by the competent Egyptian Authorities.*

*"Family" means the spouses and minor children*

*2. The area of each realty shall not exceed four thousand meters.*

### Article 4

*A Non-Egyptian who acquires the ownership of a vacant land, in applying the provisions of the Law, shall begin building on it within a period not exceeding five years from the registration of the disposal. If this period lapses without beginning the construction*

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<sup>163</sup> Contracts between Egyptians and non-nationals signed prior to 1981 do not fall within the scope of this bill.

<sup>164</sup> Article 17(4) of Law No.136 was ruled unconstitutional by the Arab Republic of Egypt High Constitutional Court on April 27, 2002 (Judgment No. 6 of the Year 2002 on the Constitutionality of Article 17(4) of Law No. 136 of the Year 1981. ["Ordering the unconstitutionality of paragraph four, article 17, of law 136 year 1981, regarding regulating renting and selling places and regulating the relationship between lessee and lessor, on guarantying limiting the effects of the lese contract to the non-Egyptian's Egyptian wife and her children when his residency is terminated, without extending the same right to the non-Egyptian's Egyptian husband and his children..."].

<sup>165</sup> Law No.230 of 1996 Organizing the Possession of Built-Realities and Vacant Lands by Non-Egyptians, Al- Jarida Al-Rasmiyya, 14 July 1996 (Egypt). [Hereinafter, Law No. 230]. English translation provided by MELES (Middle East Library for Economic Services (2018).

works, the prohibition period prescribed in the following article shall be increased by the equivalent of the period of delay in starting the building works.

#### Article 5

A Non-Egyptian who acquires ownership of a realty in accordance with the provisions of this Law shall not dispose thereof in any form of ownership alienation disposals before the lapse of five years from the date of acquiring ownership.

#### Article 6

Each disposal which takes place in violation of the provisions of this Law shall be null and invalid, and shall not be registered.

Each concerned party and the Public Prosecution may request a Court Judgment ruling the nullity of such disposal, and the Court may as well issue by itself a ruling ordering the nullity and invalidity of such disposal.

#### Article 7

The Real Estate Registration and Notarization Department shall be the Authority entrusted with implementing the provisions of this Law.

Special Real Estate Registration and Notarization Department shall be established and concerned with the Registration and Notification Affairs with regard to requests for possession of built realties and vacant lands by Non-Egyptians, in accordance with the provisions of this Law. These officials shall finalize and complete the registration procedures within at most ten days from fulfilling the required documents and papers

### **Ministry of Justice Decree No. 3338 of the Year 1996 Regulating Work in the Office of the Possession Affairs of Built Realities by Non-Egyptians<sup>166</sup>**

#### Article 1

An office called "The office of the possession affairs of built realities by Non-Egyptians" shall be established in the Real Estate Registration and Notarization Department. Sub-offices in each Governorate shall be affiliated to such office.

#### Article 2

The main office referred to in the previous article shall be formed under the chairmanship of the head of the real estate registration and notarization sector and the membership of the representatives of the concerned Ministries and entities as well as a sufficient number of the technical members, administrators, and clerks. Each sub-office shall be headed by the office secretary and the membership of the office secretary – assistant and the manager of the real estate administration. A sufficient amount of clerks shall be appointed therein.

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<sup>166</sup> Decree of the Minister of Justice No. 3338 of 1996 (On Organizing Work in the Offices Regulating the Possession Affairs of Build Realities and Vacant Lands by Non-Egyptians), Al-Jarida Al-Rasmiyya, 3 August 1996 (Egypt). [Hereinafter, Ministerial Decree No. 3338 of 1996]. Translation provided by the Middle East Library for Economic Services (2018).

#### Article 3<sup>167</sup>

*The task of the offices of the possession affairs by Non-Egyptians in the department and the governorates is to follow up daily the applications submitted from the Non-Egyptians to own the built realities, the vacant lands, the desert lands and agricultural lands according to the set rules and procedures determined for processing the same.*

#### Article 4

*The competent real estate registration directorate has to send a copy of each registration application to be submitted thereto in favour of the non-Egyptians to each of the two offices of the possession affairs of the non-Egyptians in the governorate and the directorate on the same day so that each one of them shall record the application in a register to be prepared for that purpose and preparing a file for each application separately in which a copy of the application and all the correspondence and petitions to be submitted in its concern shall be kept. It should be taken into consideration that a special register shall be kept in the office for each directorate affiliated thereto.*

#### Article 9

*The office for the possession affairs of the non-Egyptians in the administration shall prepare a guide to informing of the procedures, documents and fees required for the registration and notarization operations to be distributed, free of all charge, to all applying for possession.*

### **Cabinet Decree No. 1237 of the Year 2018 Mandating Jurisdiction of the Advisor of the Minister of Justice to the Prime Minister as Stipulated in Article (2) and (5) of Law No. 2301 of the Year 1996<sup>168</sup>**

#### Article 1

*The Advisor of Minister of Justice is mandated to the jurisdiction of Prime Minister for the application of Article 1 and 5 of Law No. 230 of the Year 1996.*

### **Prime Minister's Decree No. 548 of the Year 2005 Concerning the Non-Egyptian's Ownership and Usufruct of Residential Units in Certain Areas<sup>169</sup>**

#### Article 1

*The non-Egyptian shall receive the same treatment of the Egyptians with regard to the ownership of residential units in the following new urban and tourist areas after obtaining the approval of the concerned entities:*

- 1). Sidi Abdel-Rahman tourist area as specified by virtue of decree of the Minister of Tourism No. 112 of the year 1981.*

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<sup>167</sup> Substituted as per Law No. 3543 of 2007.

<sup>168</sup> Cabinet Decree No. 1237 of the Year 2018 Mandating Jurisdiction of the Advisor of the Minister of Justice to the Prime Minister as Stipulated in Article 2 and 5 of Law No. 2301 of the Year 1996, Al-Jarida Al-Rasmiyya, 11 July 2018 (Egypt).

<sup>169</sup> Prime Minister's Decree No. 548 of the Year 2005 Concerning the Non-Egyptians' Ownership and Usufruct of Residential Units in Certain Areas, Al-Jarida Al-Rasmiyya, 5 April 2005 (Supplement) (Egypt). [Hereinafter, Ministerial Decree No. 548]. Translation provided by the Middle East Library for Economic Services (2018).

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2. Hurghada tourist area as specified by virtue of Decree of Minister of Tourism No. 113 of the year 1981.
  3. Red Sea tourist area as specified by virtue of Decree of the Minister of Tourism No. 175 of the year 1982.
  4. Ras Al-Hekma tourist area in Matrouh Governorate and Masra Matrouh tourist area as specified by virtue of Decree of the Minister of Tourism No. 105 of the year 1986.
  5. The areas reallocated in favor of the Tourism Development Authority, as specified by the virtue of presidential decree no. 612 of year 2013.

#### Article 2

*It is permissible to grant a usufruct to non-Egyptians with regard to residential units for a period of ninety nine years maximum in Sharm El-Sheikh City by virtue of a decree of the competent body after obtaining the approval of the concerned entities.*

#### Article 3

*The non-Egyptians, who are granted ownership or usufructuary right in accordance with the provisions of the present decree, may dispose of the units as of the date of acquiring such right.*

### **Decree-Law No. 15 of the Year 1963 Prohibiting the Ownership by Foreigners of Farmland and the Like<sup>170</sup>**

#### Article 1

*It shall be prohibited for foreigners, whether natural or juridical persons, to own farmland and the like cultivable, barren, and desert land in the United Arab Republic. Such prohibition shall include full ownership as well as nude ownership or usufruct.*

*For the purposes of this law, the land falling within the range of the cities and towns governed by the provisions of Law No. 52 of the year 1940 referred to shall not be deemed to be farmland if they are not subject to the farmland tax.*

#### Article 10

*Any contract concluded in violation of the provisions of this law shall be null and void and may not be registered. A court ruling declaring such nullity may be asked for by any concerned party and the public prosecution. The court shall rule it of its own accord.*

### **Military Order No. 62 of the Year 1940 Regarding Ownership of Real Estate in Border Areas<sup>171</sup>**

#### Article 1

*It is prohibited for any foreign national or legal person to own in anyway – except through*

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<sup>170</sup> Decree-Law No. 15 of the Year 1963 of the President of the United Arab Republic Prohibiting the Ownership by Foreigners of Farmland and the Like (as amended per Decrees Nos. 69/1971 and 104/1985), Al-Jarida Al- Rasmiyya 19 January 1963 No. 16 (Egypt). [Hereinafter, Decree-Law No. 15]. (Unofficial translation by the research team.)

<sup>171</sup> Military Order No. 62 of the Year 1940 Regarding the Ownership of Real Estate in Border Areas, Al-Wakaye Al-Mesreya, 23 June 1940 (Egypt). [Hereinafter, Military Order No. 62]. (Unofficial translation by the research team.)

*inheritance – a property that exists under sections administrated by boarder security. Such prohibition is extended to endowments for foreigners and acts establishing in-kind rights.*

*Only a military order can specify that sections within the designated area [border lands] do not fall under this prohibition. A military can also amend the specified areas or its limits and borders.*

#### Article 3

*After the acceptance of the Cabinet, the Minister of Defense can permit general or specific exceptions to the prohibitions stipulated in Article 1 or 2.*

#### Article 4

*Every transmission of ownership, or endowment, or in-kind rights in violation of this order is null.*

### **Law No. 77 for the Year 1943 Regarding Inheritance<sup>172</sup>**

#### Article 6

*No inheritance takes place between a Muslim and a non-Muslim.*

*Non-Muslims inherit from each other.*

*Difference of nationality does not prevent inheritance between Muslims,*

*It [difference in nationality] does not prevent inheritance between non-Muslims, unless the law of the foreign country prohibits foreigners inheriting from its nationals.*

### **Law No. 71 of the Year 1946 Regarding Wills<sup>173</sup>**

#### Article 9

*A will is valid between those from different religions and sects. It is valid between those from different nationalities, unless the testator is from a Muslim country and the devisee is non-Muslim from a non-Muslim country that prohibits by law a will to be directed to a person such as the testator.*

### **Law No. 150 for the Year 1950 Promulgating the Code of Criminal Procedure<sup>174</sup>**

#### Article 45

*Authorities are not permitted to enter an inhabited premise except in the cases stipulated in the law, or if help was requested from inside of the premises, or in cases of fire, or drowning and similar situations.*

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<sup>172</sup> Law No. 77 for the Year 1943 Regarding Inheritance, Al-Wakaye Al-Mesreya, 12 August 1943 (Egypt). [Hereinafter, Law No. 77]. (Unofficial translation by the research team.)

<sup>173</sup> Law No. 71 for the Year 1946 Regarding Wills, Al-Wakaye Al-Mesreya, 1 July 1946 (Egypt). [Hereinafter, Law No. 71]. (Unofficial translation by the research team.)

<sup>174</sup> Law No. 150 for the Year 1950 Promulgating the Code of Criminal Procedure, Al-Jarida Al-Rasmiyya, 15 October 1950 (Egypt). [Hereinafter, Criminal Code]. (Unofficial translation by the research team.)

#### Article 50

*Searches are permitted for the purpose of finding only what relates to the crime under investigation. However, if other items were found during the search, and possession is considered a crime, or it exposes truths related to another crime, then it becomes permissible for the officer to seize it.*

#### Article 51

*Searches take place whenever possible in the presence of the accused or his authorized representative. If not, then two witnesses should be present. The two witnesses, as possible, should be the accused's adult relatives, those living with the accused, or their neighbours. This should be stated in the records of the search.*

#### Article 52

*If found in the house of the accused any stamped or sealed papers – any way- the officer is not allowed to open them or unpack them.*

#### Article 54

*The possessor of the premise can appeal the [search] warrant issued by the public prosecutor before a judge, and accordingly this appeal should be transferred to the judge immediately.<sup>175</sup>*

#### Article 91

*House searches are acts of investigation. It is not to be resorted to except with a warrant issued by the investigative judge on the basis of an accusation of a felony, misdemeanour, or complicity in a criminal act directed against a person residing in the premise intended to be searched, or if evidence was found of the resident's acquisition of items related to the crime. The investigative judge may search any premise and seize papers, weapons, and all objects that might be used in or result from committing a crime, or that could expose truths about the crime. And, in any case, a search warrant has to include a written justification.<sup>176</sup>*

#### Article 92

*Searches take place, if possible, in the presence of the accused or their authorized representatives. If the home of a person other than the accused is searched, the owner of the place or their authorized representative is, if possible, summoned to be present in person during the search.*

### **Law No. 162 of the Year 1958 Concerning the State of Emergency<sup>177</sup>**

#### Article 3 (amended by Constitutional Court)

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<sup>175</sup> As amended by Law No. 37 of the Year 1972.

<sup>176</sup> As amended by Law No. 43 of the Year 1958.

<sup>177</sup> Law No. 162 for the Year 1958 concerning the State of Emergency, Al-Jarida Al-Rasmiyya, 28 September 1958 (Egypt). [Hereinafter, State of Emergency Law]. (Unofficial translation by the research team.)

*Whenever the state of emergency is declared the President of the Republic may take the appropriate measures to preserve security and public order, in particular he may:*

*1- Set restrictions on the freedom of persons to meet, move, reside or pass in certain places or time, to detain and arrest the suspects among them or those representing danger to the security and the public order; the authorization to search persons and places without complying with the provisions of the Criminal Procedural Law.<sup>178</sup>*

*4) Assign any person to any task and confiscate movable and immovable properties, following regulations regarding appeals and compensation as stipulated in the General Mobilization Law.*

*6) Evacuate or cordon off some areas and adjust means of transportation by limiting and restricting transport between different areas.*

### **Constitutional Court Decision on 2 June 2013, Case Number 17 of the Judicial Year 15<sup>179</sup>**

#### *Ruling*

*The Court ruled unconstitutional the contents of item 1 in Article 3 of Presidential Decree on Law No. 162 of the year 1958<sup>180</sup> which allow the President of the Republic to authorize the arrest or detention, the search of persons and places without complying with the provisions of the Criminal Procedural Law; and ordered the government to cover the expenses and the amount of two hundred pounds for lawyer fees.*

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<sup>178</sup> What was included in the first paragraph of this Article: "that the President of the Republic is authorized to permit the arrest and detention, and inspection, of persons and places without complying with the provisions of the Criminal Procedural Law", was judged unconstitutional in the judgment issued on 2 June 2013 in the case registered under Number 15 of Judicial Year 17 "Constitutional".

<sup>179</sup> Constitutional Court Decision on 2 June 2013, Case Number 17 of the Judicial Year 15, Al-Jarida Al- Rasmiyya, 3 June 2013 (Egypt). (Unofficial translation by the research team.)

<sup>180</sup> Emergency Law No. 162/1958, supra note 249.

## ANNEX G

### DETENTION AND EXPULSION

#### 1. International Legal Instruments

##### 1951 Convention Relating to the Status of Refugees<sup>181</sup>

###### Article 5

*Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.*

###### Article 26

*Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.*

###### Article 31

*(1) The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.*

*(2) The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.*

###### Article 32

*(1) The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.*

*(2) The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.*

*(3) The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.*

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<sup>181</sup> Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137 (entered into force Apr. 22, 1954). [Hereinafter, Refugee Convention]. Egypt acceded to the Convention and its Protocol on 22 May 1981.

### Article 33

*(1) No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.*

*(2) The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.*

### Article 42

*(1) At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1, 3, 4, 16(1), 33, 36-46 inclusive.*

## **International Covenant on Civil and Political Rights<sup>182</sup>**

### Article 4

*(1) In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.*

*(2) No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.*

*(3) Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.*

### Article 7

*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.*

### Article 9

*(1) Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds*

*and in accordance with such procedure as are established by law.*

*(2) Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.*

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<sup>182</sup> International Covenant on Civil and Political Rights, Dec. 19, 1966, 999 U.N.T.S. 171 (entered into force March 23, 1976). [Hereinafter, ICCPR]. Egypt ratified the Covenant on 14 January 1982.

(3) Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

(4) Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

(5) Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

#### Article 10

(1) All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

(2) (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

(3) The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

#### Article 11

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

#### Article 12

(1) Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

(3) The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.


### **Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment<sup>183</sup>**

#### Article 1

For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession,

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<sup>183</sup> Convention against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85 (entered into force 26 June 1987). [Hereinafter, CAT]. Egypt ratified the Convention on 25 June 1986.



*punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.*

#### Article 2

*(1) Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.*

*(2) No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.*

*(3) An order from a superior officer or a public authority may not be invoked as a justification of torture.*

#### Article 3

*(1) No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.*

*(2) For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.*

#### Article 4

*(1) Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.*

*(2) Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.*

#### Article 13

*Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.*

#### Article 14

*(1) Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.*

*(2) Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.*

### Article 15

*Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.*

## **Convention to End All Forms of Discrimination against Women<sup>184</sup>**

### Article 15

*(4) States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.*

## **Convention on the Rights of the Child<sup>185</sup>**

### Article 1

*For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.*

### Article 9

*(1) States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.*

*(2) In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.*

*(3) States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.*

*(4) Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned*

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<sup>184</sup> Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1248 UNTS 13 (entered into force 3 September 1981). [Hereinafter, CEDAW]. Egypt ratified the Convention on 18 September 1981.

<sup>185</sup> Convention on the Rights of the Child, 20 Nov. 1989, 1577 U.N.T.S. 3 (entered into force Sept. 2, 1990). [Hereinafter, CRC]. Egypt ratified the Convention on 6 July 1990.

## Article 22

*(1) States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.*

## Article 37

*States Parties shall ensure that:*

*(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment*

*or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;*

*(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;*

*(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and*

*shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;*

*(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.*

## Article 40

*(1) States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.*

*(2) To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:*

*(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;*

*(b) Every child alleged as or accused of having infringed the penal law has at least the*

*following guarantees:*

*(i) To be presumed innocent until proven guilty according to law;*

*(ii) To be informed promptly and directly of the charges against him or her, and,*

if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of

witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.

(3) States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to

have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

(4) A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives

to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

## **Convention on the Rights of Persons with Disabilities<sup>186</sup>**

### Article 14

(1) States Parties shall ensure that persons with disabilities, on an equal basis with others:

(a) Enjoy the right to liberty and security of person;

(b) Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.

(2) States Parties shall ensure that if persons with disabilities are deprived of their liberty

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<sup>186</sup> Convention on the Rights of Persons with Disabilities, Jan. 24, 2007, 2515 UNTS 3 (entered into force May 3, 2008). [Hereinafter, CRPD]. Egypt ratified the Convention on 14 April 2008.

through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of the present Convention, including by provision of reasonable accommodation.

#### Article 15

(1) No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.

(2) States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

### **Protocol against the Smuggling of Migrants by Land, Sea, and Air, Supplementing the United Nations Convention against Organized Crime<sup>187</sup>**

#### Article 5

Migrants shall not become liable to criminal prosecution under this Protocol for the fact of having been the object of conduct set forth in article 6 of this Protocol.

#### Article 6

(1) Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit:

- (a) The smuggling of migrants;
- (b) When committed for the purpose of enabling the smuggling of migrants:
  - (i) Producing a fraudulent travel or identity document;
  - (ii) Procuring, providing or possessing such a document;
- (c) Enabling a person who is not a national or a permanent resident to remain in the State concerned without complying with the necessary requirements for legally remaining in the State by the means mentioned in subparagraph (b) of this paragraph or any other illegal means.

#### Article 16

(1) In implementing this Protocol, each State Party shall take, consistent with its obligations under international law, all appropriate measures, including legislation if necessary, to preserve and protect the rights of persons who have been the object of conduct set forth in article 6 of this Protocol as accorded under applicable international law, in particular the right to life and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

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<sup>187</sup> Protocol against the Smuggling of Migrants by Land, Sea, and Air, Supplementing the United Nations Convention against Organized Crime, Nov. 15, 2000, 2241 U.N.T.S. 507 (entered into force Jan. 28, 2004). [Hereinafter, Smuggling Protocol]. Egypt ratified the Convention on 1 March 2005.

(2) Each State Party shall take appropriate measures to afford migrants appropriate protection against violence that may be inflicted upon them, whether by individuals or groups, by reason of being the object of conduct set forth in article 6 of this Protocol.

(3) Each State Party shall afford appropriate assistance to migrants whose lives or safety are endangered by reason of being the object of conduct set forth in article 6 of this Protocol.

(4) In applying the provisions of this article, States Parties shall take into account the special needs of women and children.

(5) In the case of the detention of a person who has been the object of conduct set forth in article

6 of this Protocol, each State Party shall comply with its obligations under the Vienna Convention on Consular Relations, where applicable, including that of informing the person concerned without delay about the provisions concerning notification to and communication with consular officers.

### **Protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime<sup>188</sup>**

#### Article 6

(1) In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.

(2) Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:

(a) Information on relevant court and administrative proceedings;

(b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

(4) Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.

(6) Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

#### Article 7

(1) In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.

(2) In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.

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<sup>188</sup> Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, Nov. 15, 2000, 2237 UNTS 319 (entered into force 25 December 2003). [Hereinafter, Trafficking Protocol]. Egypt ratified the Protocol on 5 March 2004.

## Article 8

*(1) The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.*

## **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families<sup>189</sup>**

### Article 3

*The present Convention shall not apply to:*

*(d) Refugees and stateless persons, unless such application is provided for in the relevant national legislation of, or international instruments in force for, the State Party concerned;*

### Article 10

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

### Article 16

*(1) Migrant workers and members of their families shall have the right to liberty and security of person.*

*(2) Migrant workers and members of their families shall be entitled to effective protection by the State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions.*

*(3) Any verification by law enforcement officials of the identity of migrant workers or members of their families shall be carried out in accordance with procedure established by law.*

*(4) Migrant workers and members of their families shall not be subjected individually or collectively to arbitrary arrest or detention; they shall not be deprived of their liberty except on such grounds and in accordance with such procedures as are established by law.*

*(5) Migrant workers and members of their families who are arrested shall be informed at the time of arrest as far as possible in a language they understand of the reasons for their arrest and they shall be promptly informed in a language they understand of any charges against them.*

*(6) Migrant workers and members of their families who are arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that while awaiting trial they shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings and, should the occasion arise, for the execution of the judgement.*

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<sup>189</sup> International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 18 Dec 1990, 2220 U.N.T.S. 3 (entered into force July 1, 2003). [Hereinafter, CMW]. Egypt's accession to the Convention occurred on 19 February 1993.

(7) When a migrant worker or a member of his or her family is arrested or committed to prison or custody pending trial or is detained in any other manner:

(a) The consular or diplomatic authorities of his or her State of origin or of a State representing the interests of that State shall, if he or she so requests, be informed without

delay of his or her arrest or detention and of the reasons therefor;

(b) The person concerned shall have the right to communicate with the said authorities.

Any communication by the person concerned to the said authorities shall be forwarded

without delay, and he or she shall also have the right to receive communications sent by the said authorities without delay;

(c) The person concerned shall be informed without delay of this right and of rights deriving from relevant treaties, if any, applicable between the States concerned, to correspond and to meet with representatives of the said authorities and to make arrangements with them for his or her legal representation.

(8) Migrant workers and members of their families who are deprived of their liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of their detention and order their release if the detention is not lawful. When they attend such proceedings, they shall have the assistance, if necessary without cost to them, of an interpreter, if they cannot understand or speak the language used.

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

#### Article 17

(1) Migrant workers and members of their families who are deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person and for their cultural identity.

(2) Accused migrant workers and members of their families shall, save in exceptional circumstances, be separated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons. Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

(3) Any migrant worker or member of his or her family who is detained in a State of transit or in a State of employment for violation of provisions relating to migration shall be held, in so far as practicable, separately from convicted persons or persons detained pending trial.

(4) During any period of imprisonment in pursuance of a sentence imposed by a court of law, the essential aim of the treatment of a migrant worker or a member of his or her family shall be his or her reformation and social rehabilitation. Juvenile offenders shall be separated from adults and be accorded treatment appropriate to their age and legal status.

(5) During detention or imprisonment, migrant workers and members of their families shall enjoy the same rights as nationals to visits by members of their families.

(6) Whenever a migrant worker is deprived of his or her liberty, the competent authorities of the State concerned shall pay attention to the problems that may be posed for members of his or her family, in particular for spouses and minor children.

(7) Migrant workers and members of their families who are subjected to any form of detention or imprisonment in accordance with the law in force in the State of employment or in the State of transit shall enjoy the same rights as nationals of those States who are in the same situation.

(8) If a migrant worker or a member of his or her family is detained for the purpose of verifying any infraction of provisions related to migration, he or she shall not bear any costs arising therefrom.

#### Article 20

(1) No migrant worker or member of his or her family shall be imprisoned merely on the ground of failure to fulfil a contractual obligation.

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

#### Article 22

(1) Migrant workers and members of their families shall not be subject to measures of collective expulsion. Each case of expulsion shall be examined and decided individually.

(2) Migrant workers and members of their families may be expelled from the territory of a State Party only in pursuance of a decision taken by the competent authority in accordance with law.

(3) The decision shall be communicated to them in a language they understand. Upon their request where not otherwise mandatory, the decision shall be communicated to them in writing and, save in exceptional circumstances on account of national security, the reasons for the decision likewise stated. The persons concerned shall be informed of these rights before or at the latest at the time the decision is rendered.

(4) Except where a final decision is pronounced by a judicial authority, the person concerned shall have the right to submit the reason he or she should not be expelled and to have his or her case reviewed by the competent authority, unless compelling reasons of national security require otherwise. Pending such review, the person concerned shall have the right to seek a stay of the decision of expulsion.

(5) If a decision of expulsion that has already been executed is subsequently annulled, the person concerned shall have the right to seek compensation according to law and the earlier decision shall not be used to prevent him or her from re-entering the State concerned.

(6) In case of expulsion, the person concerned shall have a reasonable opportunity before or after departure to settle any claims for wages and other entitlements due to him or her and any pending liabilities.

(7) Without prejudice to the execution of a decision of expulsion, a migrant worker or a member of his or her family who is subject to such a decision may seek entry into a State other than his or her State of origin.

(8) In case of expulsion of a migrant worker or a member of his or her family the costs of expulsion shall not be borne by him or her. The person concerned may be required to pay his or her own travel costs.

(9) Expulsion from the State of employment shall not in itself prejudice any rights of a migrant worker or a member of his or her family acquired in accordance with the law of that State, including the right to receive wages and other entitlements due to him or her.

#### Article 23

Migrant workers and members of their families shall have the right to have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin or of a State representing the interests of that State whenever the rights

recognized in the present Convention are impaired. In particular, in case of expulsion, the person concerned shall be informed of this right without delay and the authorities of the expelling State shall facilitate the exercise of such right.

#### Article 36

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

#### Article 39

(1) Migrant workers and members of their families shall have the right to liberty of movement in the territory of the State of employment and freedom to choose their residence there.

(2) The rights mentioned in paragraph 1 of the present article shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals, or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

### **Vienna Convention on Consular Relations<sup>190</sup>**

#### Article 5

Consular functions consist in (i) subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, provisional measures for the preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defence of their rights and interests;

#### Article 36

(1) With a view to facilitating the exercise of consular functions relating to nationals of the sending State:

(a) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State;

(b) if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this subparagraph;

(c) consular officers shall have the right to visit a national of the sending State who is

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<sup>190</sup> Vienna Convention on Consular Relations, Apr. 24, 1963, 596 U.N.T.S. 261 (entered into force Mar. 19, 1967). [Hereinafter, VCCR]. Egypt ratified the Convention on 21 June 1965.

*in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgement. Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action.*

## **2. Regional Legal Instruments**

### **Convention Governing the Specific Aspects of Refugee Problems in Africa<sup>191</sup>**

#### Article 2

*(3) No person shall be subjected by a Member State to measures such as rejection at the frontier, return or expulsion, which would compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened for the reasons set out in Article 1, paragraphs 1 and 2.*

*(5) Where a refugee has not received the right to reside in any country of asylum, he may be granted temporary residence in any country of asylum in which he first presented himself as a refugee pending arrangement for his resettlement in accordance with the preceding paragraph.*

### **African Charter on Human and Peoples' Rights<sup>192</sup>**

#### Article 5

*Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, or inhumane or degrading punishment and treatment shall be prohibited.*

#### Article 6

*Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.*

#### Article 7

- (1) Every individual shall have the right to have his cause heard. This comprises:*
- a. The right to an appeal to competent national organs against acts of violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force;*
  - b. The right to be presumed innocent until proved guilty by a competent court or tribunal;*

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<sup>191</sup> Convention Governing the Specific Aspects of Refugee Problems in Africa, Sept. 10, 1969, 1001 U.N.T.S. 45 (entered into force 20 June 1974). [Hereinafter, OAU Refugee Convention]. Egypt ratified the Convention on 17 November 1980.

<sup>192</sup> African Charter on Human and Peoples' Rights, 27 June 1981, 1520 U.N.T.S. 217 (entered into force Oct. 21, 1986). [Hereinafter, African Charter] Egypt ratified the Charter on 3 April 1984.

- c. The right to defence, including the right to be defended by counsel of his choice;
  - d. The right to be tried within a reasonable time by an impartial court or tribunal.
- (2) No one may be condemned for an act or omission which did not constitute a legally punishable offence at the time it was committed. No penalty may be inflicted for an offence for which no provision was made at the time it was committed. Punishment is personal and can be imposed only on the offender.

#### Article 12

- (1) Every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law.
- (3) Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with the laws of those countries and international conventions.
- (4) A non-national legally admitted to the territory of a State Party to the present Charter, may only be expelled from it by virtue of a decision taken in accordance with the law.
- (5) The mass expulsion of non-nationals shall be prohibited. Mass expulsion shall be that which is aimed at national, racial, ethnic, or religious groups.

### **African Charter on the Rights and Welfare of the Child<sup>193</sup>**

#### Article 3

Every child shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in this Charter irrespective of the child's or his/her parents' or legal guardians' race, ethnic group, colour, sex, language, religion, political or other opinion, national or social origin, fortune, birth, or other status.

#### Article 16

- (1) States Parties to the present Charter shall take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of the child.
- (2) Protective measures under this Article shall include effective procedures for the establishment of special monitoring units to provide necessary support for the child and for those who have the care of the child, as well as other forms of prevention and for identification, reporting referral investigation, treatment, and follow-up of instances of child abuse and neglect.

#### Article 17

- (1) Every child accused or found guilty of having infringed penal law shall have the right to special treatment in a manner consistent with the child's sense of dignity and worth and which reinforces the child's respect for human rights and fundamental freedoms of others.
- (2) States Parties to the present Charter shall in particular:
- (a) ensure that no child who is detained or imprisoned or otherwise deprived of his/

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<sup>193</sup> African Charter on the Rights and Welfare of the Child, July 1, 1990, CAB/LEG24.9/49 (entered into force Nov. 29, 1999). [Hereinafter, ACRWC]. Egypt ratified the Charter on 9 May 2001.

her liberty is subjected to torture, inhuman or degrading treatment or punishment;  
(b) ensure that children are separated from adults in their place of detention or imprisonment;

(c) ensure that every child accused in infringing the penal law:

- (i) shall be presumed innocent until duly recognized guilty;
- (ii) shall be informed promptly in a language that he understands and in detail of the charge against him, and shall be entitled to the assistance of an interpreter if he or she cannot understand the language used;
- (iii) shall be afforded legal and other appropriate assistance in the preparation and presentation of his defense;
- (iv) shall have the matter determined as speedily as possible by an impartial tribunal and if found guilty, be entitled to an appeal by a higher tribunal;

(d) prohibit the press and the public from trial.

(3) The essential aim of treatment of every child during the trial and also if found guilty of infringing the penal law shall be his or her reformation, re-integration into his or her family and social rehabilitation.

(4) There shall be a minimum age below which children shall be presumed not to have the capacity to infringe the penal law.

#### Article 23

(1) States Parties to the present Charter shall take all appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law shall, whether unaccompanied or accompanied by parents, legal guardians or close relatives, receive appropriate protection and humanitarian assistance in the enjoyment of the rights set out in this Charter and other international human rights and humanitarian instruments to which the States are Parties.

#### Article 30

(1) States Parties to the present Charter shall undertake to provide special treatment to expectant mothers and to mothers of infants and young children who have been accused or found guilty of infringing the penal law and shall in particular:

- (a) ensure that a non-custodial sentence will always be first considered when sentencing such mothers;
- (b) establish and promote measures alternative to institutional confinement for the treatment of such mothers;
- (c) establish special alternative institutions for holding such mothers;
- (d) ensure that a mother shall not be imprisoned with her child;
- (e) ensure that a death sentence shall not be imposed on such mothers;
- (f) the essential aim of the penitentiary system will be the reformation, the integration of the mother to the family and social rehabilitation.

### **African Youth Charter<sup>194</sup>**

#### Article 2

(1) Every young person shall be entitled to the enjoyment of the rights and freedoms

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<sup>194</sup> African Youth Charter, July 2, 2006 (entered into force 8 August 2009). [Hereinafter, AYC]. Egypt ratified the Charter on 1 April 2015.

recognized and guaranteed in this Charter irrespective of their race, ethnic group, colour, sex, language, political or other opinion, national and social origin, fortune, birth, or other status.

(2) State Parties should take appropriate measures to ensure that youth are protected against all forms of discrimination on the basis of status, activities, expressed opinions, or beliefs.

#### Article 18

(1) Every young person accused or found guilty of having infringed the penal law shall have the right to be treated with humanity and respect for the inherent dignity of the human person.

(2) State Parties shall in particular:

- a. Ensure youth who are detained or imprisoned or in rehabilitation centres are not subject to torture, inhumane, or degrading treatment or punishment;
- b. Ensure that accused minors shall be segregated from convicted persons and shall be subject to separate treatment appropriate to their status
- c. Build rehabilitation centres for detained and imprisoned youth who are still minors and house them separately from adults;
- d. Provide introduction programmes for imprisoned youth that are based on reformation, social rehabilitation, and re-integration into family life;
- e. Make provisions for the continued education and skills development of imprisoned young people as part of the restorative justice process.
- f. Ensure that accused and convicted young people are entitled to a lawyer

### **3. Bilateral Legal Instruments**

#### **Four Freedoms Agreement between Egypt and Sudan<sup>195</sup>**

##### Article 1

“The Citizen”: means every natural person belonging through his nationality to either of the Two Countries.

##### Article 2

The residence, movement and entry of Citizens and their exit from and into either country shall be by valid passport or document, or other documents to be agreed upon by both parties in the territories of both states, and through the ports of land, sea and air officially approved by the Two Countries.

### **4. Domestic Legal Instruments**

#### **Constitution of the Arab Republic of Egypt 2014<sup>196</sup>**

##### Article 52

All forms of torture are a crime with no statute of limitations.

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<sup>195</sup> Four Freedoms Agreement between Egyptian and Sudan, Egy.-Sud (adopted 4 September 2004, entered into force 9 September 2011. [Hereinafter, Four Freedoms Agreement].

<sup>196</sup> Constitution of the Arab Republic of Egypt, 18 January 2014. [Hereinafter, Egyptian Constitution]

#### Article 54

*Personal freedom is a natural right which is safeguarded and cannot be infringed upon. Except in cases of in flagrante delicto, citizens may only be apprehended, searched, arrested, or have their freedoms restricted by a causal judicial warrant necessitated by an investigation. All those whose freedoms have been restricted shall be immediately informed of the causes therefor, notified of their rights in writing, be allowed to immediately contact their family and lawyer, and be brought before the investigating authority within twenty-four hours of their freedoms having been restricted.*

*Questioning of the person may only begin once his lawyer is present. If he has no lawyer, a lawyer will be appointed for him. Those with disabilities shall be provided all necessary aid, according to procedures stipulated in the law.*

*Those who have their freedom restricted and others possess the right of recourse before the judiciary. Judgment must be rendered within a week from such recourse, otherwise the petitioner shall be immediately released.*

*The law shall regulate preventive detention, its duration, causes, and which cases are eligible for compensation that the state shall discharge for preventative detention or for execution of a penalty that had been executed by virtue of a judgment that is overruled by a final judgment.*

*In all cases, the accused may be brought to criminal trial for crimes that he may be detained for only in the presence of an authorized or appointed lawyer.*

#### Article 55

*All those who are apprehended, detained or have their freedom restricted shall be treated in a way that preserves their dignity. They may not be tortured, terrorized, or coerced. They may not be physically or mentally harmed, or arrested and confined in designated locations that are appropriate according to humanitarian and health standards. The state shall provide means of access for those with disabilities.*

*Any violation of the above is a crime and the perpetrator shall be punished under the law. The accused possesses the right to remain silent. Any statement that is proven to have been given by the detainee under pressure of any of that which is stated above, or the threat of such, shall be considered null and void.*

#### Article 91

*The state shall grant political asylum to any foreigner who has been persecuted for defending the interests of peoples, human rights, peace or justice.*

*Extradition of political refugees is forbidden. All of the above is according to the law.*

### **Memorandum of Understanding between Egypt and UNHCR<sup>197</sup>**

#### Article 1

*Without prejudice to Egyptian legislation and, in general, of all sovereign prerogatives of the Egyptian Government, the High Commissioner for Refugees is authorized to establish a Branch Office in Cairo in view of assuring, in the interest of the refugees*

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<sup>197</sup> Memorandum of Understanding between Egypt and the United Nations High Commissioner for Refugees (adopted on 10 February 1954) Egy.-UNHCR. Available at [http://carimsouth.eu/databases/legal/Egypt/Bilateral%20Agreements/LE3EGY1054\\_844.pdf](http://carimsouth.eu/databases/legal/Egypt/Bilateral%20Agreements/LE3EGY1054_844.pdf). [Hereinafter, MOU]. Official translation provided by UNHCR.

within his mandate, and in agreement with the Egyptian authorities, the closest possible cooperation with such authorities for the implementation of the tasks mentioned in Article 2 below.

#### Article 2

The tasks entrusted to the High Commissioner Delegation in Egypt will be in particular, the following:

- a) Cooperate with the governmental authorities in view of undertaking the census of and identifying the refugees eligible under the mandate of the High commissioner;
- b) Facilitate the voluntary repatriation of refugees;
- c) Encourage, in cooperation with the Egyptian Government, and the international organizations competent in immigration matters, the initiative leading to resettle, in every possible measure, in the countries of immigration, the refugees residing in Egypt;
- d) Help, within the limits of the funds received to this effect, the most destitute refugees within his mandate residing in Egypt;
- e) Insure the coordination of the activities undertaken in Egypt in favour of refugees under his mandate, by welfare societies duly authorized by the Government.

#### Article 6

The Egyptian Government will grant to “bona fide” refugees, residing in Egypt, who fall within the High Commissioner’s mandate, residence permits according to the regulations in force.

### **Presidential Decree-Law No. 89 for 1960 concerning Entry and Residence of Aliens in the Territories of the United Arab Republic and Their Departure Therefrom<sup>198</sup>**

#### Article 1

Whoever does not hold the nationality of Arab Republic of Egypt shall be considered an alien under the provisions of the present law.

#### Article 16

All aliens residing in the Arab Republic of Egypt shall obtain a permit for residence in it, and shall depart from the Arab Republic of Egypt upon termination of his residency.

#### Article 25

The Minister of Interior, by decree issued by him, may deport aliens

#### Article 26

An alien with special residence may not be deported unless his presence represents a threat to the State and country security and safety internally or abroad, or it its national economy, public health, public morals, or public tranquility, or he is a burden to the State, after referring his case to the Committee prescribed in Article 29, and getting its approval.

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<sup>198</sup> Presidential Decree-Law No. 89 for the Year 1960 concerning Entry and Residence of Aliens in the Territories of the United Arab Republic and Their Departure Therefrom, Al-Jarida Al-Rasmiyya, 24 March 1960 (Egypt). [Hereinafter, Entry and Residence Law]. Unofficial translation provided by the Middle East Library for Economic Services.

#### Article 27

*The Minister of Interior may order the temporary detention of a person whom he decides to eliminate pending completion of deportations procedures.*

#### Article 28

*The Minister of Interior shall indicate the procedures to be followed in issuing the deportation decision, announcing, and implanting it.*

#### Article 29

*The deportation committee shall be formed as follows:*

- 1) Senior Assistant to the Minister for Security (Chairman);*
- 2) Head of the Legal Counsel Department for the Ministry of Interior at the State Council (Member);*
- 3) Director of the Passports, Immigration, and Nationality Administration (Member);*
- 4) Director of the Consular Department at the Ministry of Foreign Affairs (Member);*
- 5) A delegate of the Public Security Department (Member);*

*The committee shall convene upon the requests of its chairman, and the validity of its convention shall be conditional upon the attendance of its chairman and three members at least. The decisions shall be issued with the majority of votes of attending members, and in case of equal voting, the chairman shall have the casting vote.*

*The work of the committee's rapporteur shall be assumed by the director of the Residence Division at the Passports, Immigration, and Nationality Administration, or his deputy. The committee shall issue its view with regard to deportation without delay.*

#### Article 30

*The Director of the Passports, Immigration, and Nationality Administration may issue a decision imposing on the alien, in whose respect a deportation decision is issued and it is difficult to enforce such a decision, to reside at a specific place and report to the concerned police station at the times determined in the decision, pending his deportation.*

#### Article 31

*An alien previously deported shall not be allowed to return to the Arab Republic of Egypt except with permission from the Minister of Interior.*

#### Article 31 (bis)<sup>199</sup>

*The Director of Passports, Immigration, and Nationality Administration may order the banishment of an alien who is not granted a special residence, in the following cases:*

- 1) Entering the country by illegal methods, or non-obtaining a residence permit following the expiry of the period of granted him by virtue of the entry visa.*
- 2) Violating the purpose for which he has obtained the residence*
- 3) Failure to deport from the country within fifteen days from the expiry date of his residence period, unless he has submitted a request for the renewal of his residence*

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<sup>199</sup> Added as per Law No. 88 of 2005.

before the expiry of his original residence period, and his request has been approved.

4) Failure to depart from the country within fifteen days from the date he is notified of the refusal to grant him the residence or renew it. The Director of the Administration may, toward enforcing that decision, detain the alien or limit his residence to a designated place, and grant him a period for travel renewable, pending the completion of his banishment procedures.

#### Article 38

Whoever refrains from executing the decision issued for his deportation or banishment, or violates the provisions of Article 30 of the present law shall be liable to penal servitude for a period not exceeding two years and a fine of not less than five hundred pounds and not exceeding two thousand pounds or either penalty, subject to executing the deportation or banishment decision. In case of recurrence, he shall be liable for imprisonment for a period of not less than six month.

#### Article 39

Whoever violates the provisions of Article 31 shall be subject to imprisonment with labour, for a period of not less than one year.

#### Article 40

Subject to any stricter penalty prescribed in other laws, whoever gives false statements before the competent authorities or submits to them invalid papers while knowing that, in order to facilitate his entry to or residence in, or the entry of residence of a third party, in the Arab Republic of Egypt, shall be liable to imprisonment for a period not exceeding two years and a fine not exceeding two thousand pounds, or either penalty.

#### Article 41

Subject to any stricter penalty prescribed in the other laws, whoever violates the provisions of Articles 2, 3, and 7 of the present law and the decrees issued for its enforcement, shall be liable to imprisonment for a period not exceeding six months and a fine of not less than two hundred pounds and not exceeding one thousand pounds, or either penalty. The penalty shall be imprisonment for a period of not less than two years and not exceeding five years and a fine of not less than one thousand pounds and not exceeding five thousand pounds, in case of contravening the provisions of Articles 2, 3, and 40 and the decrees issued for their enforcement if the violator or the alien is a national of another country in a state of war with the Arab Republic of Egypt, or in case of severing the political relations with it, or if violating the provisions of Article 3 of the present law has taken place in the border areas to be determined by decree of the Minister of Interior, in agreement with the Minister of Foreign Affairs.

Subject to the criminal trial or execution of the penalty, the alien may also be deported from the country in the cases prescribed in Articles 2, 3, and 16 of the present law.

### **Law No. 82 of 2016 on Combatting Illegal Migration and Smuggling of Migrants<sup>200</sup>**

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<sup>200</sup> Law No. 82 for the Year 2016 issuing the Law on Combatting Illegal Migration and Smuggling of Migrants Al-Jarida Al-Rasmiyya 7 November 2016 (Egypt) [hereinafter, Smuggling Law].

## Article 12

*The smuggled migrant shall not bear any criminal or civil liability for the crimes of smuggling of migrants provided for in this Law.*

*The consent of the smuggled migrants or the consent of the person responsible for them or their guardian shall not be considered in the crimes of smuggling of migrants provided for in this Law.*

## **Law No. 64 of 2010 regarding Combatting Human Trafficking<sup>201</sup>**

### Article 1

*In applying the provisions of this law, the following phrases and words shall have the meanings indicated alongside:*

*3) The victim: a natural person who suffered any material or moral harm, in particular bodily, psychological or mental harm; or economic loss if the harm or loss was caused directly by one of the crimes stipulated in this law.*

### Article 2

*A person who commits the crime of human trafficking shall be considered one who deals in any manner in a natural person, including: the sale, offer for sale, purchase, or promise thereof; or the use, transport, delivery, harboring, reception, or receipt, whether within the country or across its national borders; if this occurred through the use of force, violence, or threat thereof; or through abduction, fraud, deception, abuse of power, or exploitation of a position of vulnerability or need; or through a promise to give or receive payments or benefits in exchange for obtaining the consent of a person to traffic another having control over him; or if the purpose of the transaction was exploitation in any of its forms, including: exploitation of acts of prostitution and all forms of sexual exploitation, exploitation of children in such acts and in pornography, forced labor or services, slavery or practices similar to slavery or servitude, or begging or removal of human organs, tissues or a part thereof.*

### Article 3

*The consent of the victim to exploitation in any of the forms of human trafficking shall be irrelevant as long as any of the means stipulated in Article (2) of this law have been used. To establish trafficking in a child or in the incapacitated, use of any of the means referred to is not required, and in all cases his consent or the consent of the person responsible for him or his guardian shall be irrelevant.*

### Article 15

*If one of the perpetrators takes the initiative to notify any of the competent authorities about the crime and its perpetrators before their knowledge thereof, the court shall exempt him from penalty if his notification causes the apprehension of the other perpetrators and the seizure of funds derived from this crime.*

*The court may exempt him from the principal penalty if the notification occurred after the authorities knew about the crime and led to the disclosure of the other perpetrators,*

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201 Law No. 64 for the Year 2010 regarding Combatting Human Trafficking, Al-Jarida Al-Rasmiyya, 9 May 2010 (Egypt) [hereinafter, Trafficking Law].

*their apprehension, and the seizure of the funds derived therefrom. The previous two paragraphs shall not apply if the result of the crime was the death of the victim or his suffering an incurable disease or permanent disability*

#### Article 21

*The victim shall not be criminally or civilly liable for any of the crimes of human trafficking as long as the crime occurred or was directly related to being a victim.*

#### Article 22

*The State shall guarantee the protection of the victim and shall work to create the appropriate conditions for his assistance, health, psychological, educational and social care; and rehabilitation and reintegration into the society, within the framework of liberty and human dignity, as well as his return to his homeland in an expeditious and safe manner, if he was a foreigner or a non -permanent resident in the State, in accordance with the rules and procedures established by a decision of the Council of Ministers.*

*Law No. 12 of the Year 1996 Promulgating the Child Law*<sup>202</sup>

#### Article 107

*Placement of a child shall mean entrusting him to one of the social care institutions for juveniles affiliated to, or recognized by, the Ministry concerned with social affairs. If the child is disabled, he shall be placed in a suitable institute for his rehabilitation. The duration of such placement shall not be determined by the Court in its ruling. The Court shall follow up the child's case by means of a report submitted at least once every two months, by the institution where the child is placed so as to enable the Court to decide whether to immediately stop the measure, or replace it if necessary, provided that the placement in the institution is for the shortest appropriate period.*

*In all cases, the Court ruling to place the child shall be a measure of last resort. In all cases, placement duration should not exceed ten (10) years for criminal act cases and five years for misdemeanor cases.*

#### Article 112

*Children may not be detained, placed in custody, or imprisoned with adults in one place. In detention, it should be observed that children are to be classified according to their age, sex, and nature of their crime. Shall be sentenced to jail for a period not less than three (3) months, and not exceeding two (2) years, and a fine not less than one thousand (1,000) Egyptian pounds, and not more than five thousand (5,000) Egyptian pounds, or by one of the two penalties, any public official or in charge of a public service who detains, places in custody, or imprisons a child with one or more adults in one place.*

#### Article 116 bis(d)

*Child victims and witnesses of crime, at all stages of arrest, investigation, trial, and implementation, shall have the right to be heard, and to be treated with dignity and sympathy with full respect for their physical, psychological, and moral safety, and shall have the right to protection, to health, social and legal assistance, to rehabilitation, and integration in the society, in accordance with the UN Guidelines on Justice for Child Victims and Witnesses of Crime.*

#### Article 119

*A child who has not reached fifteen (15) years of age shall not be placed in temporary custody. The Public Prosecution may place him in one of the observation centers, for a period not exceeding one (1) week, and shall make him available upon each request if the circumstances of the case necessitate keeping him in custody. However, the period for keeping the child in custody shall not exceed one (1) week unless the court decides to extend the period according to the regulations for temporary custody as stipulated in the Criminal Procedure Code.*

*As an alternative to the procedure of the previous paragraph, an order may be issued to deliver the child to one of his parents, or to his guardian, and make him available upon each request. Any person violating this duty shall be penalized with a fine not exceeding 100 Egyptian pounds.*

### **Code of Criminal Procedure<sup>203</sup>**

#### Article 30

*A crime shall be deemed in flagrante delicto if the perpetrator is caught while committing it, or shortly after committing it. A crime shall also be deemed in flagrante delicto if the perpetrator was chased by the victim or the public while crying out due to the occurrence of the crime, or if the perpetrator is found shortly after of the crime carrying arms, weapons, baggage, documents or other items indicating that the carrier of such items is the perpetrator or an accomplice, or if other indicative signs are found on them at the time.*

#### Article 34<sup>204</sup>

*In the event of a flagrante delicto crime or misdemeanor, punishable by incarceration for a period of time exceeding three-months, a judicial officer may order the arrest of the present suspect if sufficient incriminating evidence was found.*

#### Article 40

*No person may be arrested or incarcerated unless by virtue of a warrant issued from the legally competent authorities. Persons shall be treated with dignity and may not be physically or morally harmed.*

#### Article 41

*No one shall be imprisoned except in the prisons designated for that purpose. A prison warden may not accept any person [to be incarcerated in a correction facility] except by virtue of an order issued by the competent authority, and shall not keep him/her imprisoned after the period specified in this order.*

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203 Law No. 150 for the Year 1950 promulgating the Code of Criminal Procedure (as amended by Law No. 95 of 2003) Al-Jarida Al-Rasmiyya 15 October 1950 (Egypt). [Hereinafter, Criminal Code]. (Unofficial translation by the research team.)

204 As amended by Law No.37 of the Year 1972.

#### Article 137

*The Public Prosecution may, at any time, request the accused be held in temporary custody.*

#### Article 142

*The period of temporary detention ends upon the elapse of fifteen-days from the date of the accused was detained. The investigating judge may, after hearing the statement of the Public Prosecution and the accused, order the extension of the detention period for an extra period or periods that shall not, in total, exceed 45- days. In misdemeanor cases, the detained person shall be released upon the elapse of an eight-days from the date of interrogation, provided that their residence in Egypt is known, that the maximum sentence punishable by law does not exceed one year, and that they have not been previously convicted or detained for more than a one-year period.*

#### Article 145

*In cases where release is not mandatory, the accused person shall not be released - with or without guarantee except after assigning them a place that falls under the jurisdiction of the court, if they do not already reside there.*

#### Article 463

*Judgments issued sentences of fines and expenses shall immediately be enforceable, even if appealed. This is the same for sentences of imprisonment in cases of theft, judgments against repeat offenders, or defendants with no fixed place of residence in Egypt, - as well as other jail sentence cases<sup>205</sup> - shall also be immediately enforceable, unless the accused provided guarantees that they would not flee from execution of the subsequent sentence. Any judgment issued, in such cases, sentencing a prison punishment shall specify an amount of bail.*

#### Article 465

*A provisionally detained defendant shall immediately be released if a judgment was issued acquitting them or if the judgment sentenced them to a punishment that does not include incarceration, if the execution was suspended, or if the defendant has been detained temporarily for a period of time equivalent to the period of time they are sentenced for.*

### **Law No. 396 for the Year 1956 concerning the Organization of Prisons<sup>206</sup>**

#### Article 20

*Any person deprived of his liberty without a juridical sentence shall receive the same*

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<sup>205</sup> The Criminal Code differentiates between "jail sentences" (usually for misdemeanors and for a period of months) and "prison sentences" (normally for felonies and for a period exceeding one year).

<sup>206</sup> President of the Republic Decree promulgating Law No. 396 for 1956 concerning the Organization of Prisons, Al-Jarida Al-Rasmiyya 29 November 1956 (Egypt). [Hereinafter, Prison Organization Law]. (Unofficial translation provided by the Open-ended Intergovernmental Group of Experts on the Standard Minimum Rules for the Treatment of Prisoners.)

treatment designated for persons in preventive custody in this law, and all provisions contravening this are repealed.<sup>207</sup>

#### Article 28

*The prison administration shall educate prisoners, taking into account their age, capability and the length of their sentence.*

#### Article 33

*Every penitentiary or non-central prison shall have one or more physicians, one of them being a resident, entrusted with health work as indicated in the prison regulations. A central prison shall have a physician; otherwise, a state physician shall be assigned the duties of the prison physician.*

#### Article 94

*The Minister of Interior may set aside a place in the general prison to admit those foreigners that in his opinion need to be placed in preventive custody before deportation, pursuant to the Decree promulgating Law No. 74 for 1952 concerning passports and the residence of foreigners and the laws amending it. They shall be subjected to the treatment decided by the Minister of Interior.*

### **Law No. 162 of the Year 1958 concerning the State of Emergency<sup>208</sup>**

#### Article 3

*Whenever the state of emergency is declared the President of the Republic may take the appropriate measures to preserve security and public order, in particular he may:*

- (1) Set restrictions on the freedom of persons to meet, move, reside or pass in certain places or time, to detain and arrest the suspects among them or those representing danger to the security and the public order; the authorization to search persons and places without complying with the provisions of the Criminal Procedural Law.*
- (6) Evacuate or isolate certain areas, control means of transport, restrict and limit transport between different areas.*

#### Article (3) bis 1

*In accordance with the previous article the detained person has the right to complain against the order of arrest if six months elapsed from the date of issue without being released. The complaint shall be through a request submitted without payment of duties to a Supreme State Security Court formed pursuant to the provisions of this law and the Court decides on the complaint immediately. The release decision of the Court shall not be effective except after ratification by the President of the Republic.*

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<sup>207</sup> As amended by Law No. 57 for the Year 1968.

<sup>208</sup> Law No. 162 for the Year 1958 concerning the State of Emergency, Al-Jarida Al-Rasmiyya 28 September 1958 (Egypt). [Hereinafter, State of Emergency Law]. (Unofficial translation provided by the International Center for Not-for-Profit Law and the research team.)

#### Article 5

*Without prejudice to any severer penalty provided by the applicable laws, any person who contravenes the orders issued by the President of the Republic or his substitute shall be punished by the penalties prescribed in such orders, provided that such penalty shall not exceed imprisonment in a maximum security prison or a fine of four thousand Pounds or forty thousand Lira. If such orders did not mention the punishment for violation of their provisions, the violator shall be punished with imprisonment for a period not exceeding six months, and a fine not exceeding fifty Pounds or five hundred Syrian Lira or one of these two punishments.<sup>209</sup>*

#### Article 6

*Violators of orders issued in accordance with the provisions of this law and the crimes defined by these orders may be arrested immediately. The arrested person may file a grievance against the arrest order to the competent State Security Court, which shall adjudicate the grievance within 30 days from the date of the grievance, otherwise the arrested shall be released immediately.*

*The competent court, whether during the adjudication of the grievance or during the proceedings, may issue a decision on the provisional release of the accused. The decision of the court shall be enforceable unless the Minister of Interior challenges it within fifteen days from the date of its issuance and the accusation attributed to the accused is a crime of internal or external state security. If the Minister of Interior challenges the decision to release in this case, the challenge shall be referred to a different circuit within fifteen days from the date of its submission, so that it shall be adjudicated within fifteen days from the date of the referral. Otherwise, the accused shall be released immediately. The decision of the court in this case shall be enforceable. In all cases, whose grievance was rejected may file a new grievance whenever thirty days have elapsed since the date of rejection of the grievance.*

### **Presidential Decree No 298 of 1995 on Securing the Eastern Borders of the Arab Republic of Egypt.<sup>210</sup>**

#### Article 1

*Presence in the area adjacent to eastern border from Rafah in the north to Taba in the south within a distance of 150 meters is prohibited except for at Rafah and legal ports of entry.*


#### Article 2

*A person who contravenes the provisions of Article 1 shall be punished by imprisonment for a period of not less than six months. Anyone who infiltrates or attempts to infiltrate or is able to illegally enter or exit the country's territory from the eastern border shall be punished by imprisonment and a fine of not less than 1,000 pounds and not exceeding*

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<sup>209</sup> This Article still mentions the Syrian Lira as an accepted currency for the payment of fines, though the legal database Eastlaws states this Article, in exactly this wording, was accepted as of 19 June 2013.

<sup>210</sup> Presidential Decree No. 298 of 1995 on Securing the Eastern Borders of the Arab Republic of Egypt, Al- Jarida Al-Rasmiyya, 9 September 1995 No. 33 Bis (Egypt). [Hereinafter, Decree No. 298/1995].



*five thousand pounds; as well as the confiscation of the vehicle or means of transport used and the goods carried by the violators.*

Article 5

*The military judiciary shall be the competent authority during a state of emergency to consider the offenses stipulated in Articles 1, 2, and 3 of this declaration and crimes associated with it.*

**Ministry of Defense Decree No. 176 for the Year 1995<sup>211</sup>**

Article 7

*The Military Intelligence and Reconnaissance Administration shall establish records to confirm data relating to all those who have been issued permits, as well as those going to Israel or entering the territory of the Republic of Egypt through legal [ports of entry at the] eastern borders, and records for tasks related to the Customs Department.*

Article 9

*The Military Intelligence and Reconnaissance Administration should coordinate with legally competent bodies to secure legal ports of entry at the eastern border.*

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<sup>211</sup> Ministry of Defense Decree No. 176 for the Year 1995 on the Implementation of Presidential Decree No. 298 for the Year 1995 to Secure the Eastern Borders of the Arab Republic of Egypt, Al-Jarida Al-Rasmiyya, 18 February 1996 (Egypt). [Hereinafter, Defense Decree No. 176/1995].

## ANNEX H

### ACCESS TO COURTS

#### 1. International Legal Instruments

##### Convention Relating to the Status of Refugees 1951<sup>212</sup>

###### Article 16

###### ACCESS TO COURTS

1. A refugee shall have free access to the courts of law on the territory of all Contracting States.
2. A refugee shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the Courts, including legal assistance and exemption from *cautio judicatum solvi*.
3. A refugee shall be accorded in the matters referred to in paragraph 2 in countries other than that in which he has his habitual residence the treatment granted to a national of the country of his habitual residence

###### Article 29

###### FISCAL CHARGES

1. The Contracting States shall not impose upon refugees duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.
2. Nothing in the above paragraph shall prevent the application to refugees of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents including identity papers.

#### International Covenant on Civil and Political Rights<sup>213</sup>

###### Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.
3. Each State Party to the present Covenant undertakes:
  - (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed

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<sup>212</sup> Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137 (entered into force Apr. 22, 1954). [Hereinafter, Refugee Convention]. Egypt acceded to the Convention and its Protocol on 22 May 1981.

<sup>213</sup> International Covenant on Civil and Political Rights, Dec. 19, 1966, 999 U.N.T.S. 171 (entered into force March 23, 1976). [Hereinafter, ICCPR]. Egypt ratified the Covenant on 14 January 1982 with the following reservation: "Taking into consideration the provisions of the Islamic Sharia and the fact that they do not conflict with the text annexed to the instrument, we accept, support and ratify it."

by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

#### Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

#### Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient

means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

#### Article 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

#### Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

#### Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

#### Reservation entered by Egypt

Taking into consideration the provisions of the Islamic Sharia and the fact that they do not conflict with the text annexed to the instrument, we accept, support and ratify it.

### **Convention on the Rights of the Child<sup>214</sup>**

#### Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare

*institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*

*2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.*

*3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.*

#### Article 37

*States Parties shall ensure that:*

*(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;*

*(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;*

*(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;*

*(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.*

#### Article 40

*1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.*

*2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:*

*(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;*

*(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:*

- (i) To be presumed innocent until proven guilty according to law;
- (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;
- (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
- (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
- (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
- (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;
- (vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

- (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
- (b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

## **Convention on the Elimination of All Forms of Discrimination against Women<sup>215</sup>**

### Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

<sup>215</sup> Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1248 UNTS 13 (entered into force Sept. 3, 1981). [Hereinafter, CEDAW]. Egypt ratified the Convention on 18 September 1981.

- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

#### Article 15

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

#### General reservation to Article 2:

The Arab Republic of Egypt is willing to comply with the content of this article, provided that such compliance does not run counter to the Islamic Sharia.

### **International Convention on the Elimination of All Forms of Racial Discrimination<sup>216</sup>**

#### Article 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

- (a) The right to equal treatment before the tribunals and all other organs administering justice;
- (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;
- (c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;

[...]

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<sup>216</sup> International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965, 660 UNTS 195 (entered into force Jan. 4, 1969). [Hereinafter, ICERD]. Egypt ratified the Convention on 1 May 1967.

## Article 6

*States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.*

## **Convention on the Rights of Persons with Disabilities<sup>217</sup>**

### Article 12

#### *EQUAL RECOGNITION BEFORE THE LAW*

- 1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.*
- 2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.*
- 3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.*
- 4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.*
- 5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.*

### Article 13

#### *ACCESS TO JUSTICE*

- 1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.*
- 2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.*

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<sup>217</sup> Convention on the Rights of Persons with Disabilities, 13 Dec. 2006, 2515 U.N.T.S. 3, entered into force May 3, 2008. [Hereinafter, CRPD] Egypt acceded to the Convention on 18 September 1981.

#### Reservation entered by Egypt

The Arab Republic of Egypt declares that its interpretation of article 12 of the International Convention on the Protection and Promotion of the Rights of Persons with Disabilities, which deals with the recognition of persons with disabilities on an equal basis with others before the law, with regard to the concept of legal capacity dealt with in paragraph 2 of the said article, is that persons with disabilities enjoy the capacity to acquire rights and assume legal responsibility ('ahliyyat al-wujub) but not the capacity to perform ('ahliyyat al-'ada'), under Egyptian law.

### **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families<sup>218</sup>**

#### Article 2

For the purposes of the present Convention:

1. The term "migrant worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.  
[...]

#### Article 3

The present Convention shall not apply to:

- (a) Persons sent or employed by international organizations and agencies or persons sent or employed by a State outside its territory to perform official functions, whose admission and status are regulated by general international law or by specific international agreements or conventions;
- (b) Persons sent or employed by a State or on its behalf outside its territory who participate in development programmes and other co-operation programmes, whose admission and status are regulated by agreement with the State of employment and who, in accordance with that agreement, are not considered migrant workers;
- (c) Persons taking up residence in a State different from their State of origin as investors;
- (d) Refugees and stateless persons, unless such application is provided for in the relevant national legislation of, or international instruments in force for, the State Party concerned;
- (e) Students and trainees;
- (f) Seafarers and workers on an offshore installation who have not been admitted to take up residence and engage in a remunerated activity in the State of employment.

#### Article 4

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

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<sup>218</sup> International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 18 Dec 1990, 2220 U.N.T.S. 3 (entered into force July 1, 2003). [Hereinafter, CMW]. Egypt's accession to the Convention occurred on 19 February 1993.

## Article 5

*For the purposes of the present Convention, migrant workers and members of their families:*

- (a) Are considered as documented or in a regular situation if they are authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party;*
- (b) Are considered as non-documented or in an irregular situation if they do not comply with the conditions provided for in subparagraph (a) of the present article.*

## Article 14

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

## Article 16

- 1. Migrant workers and members of their families shall have the right to liberty and security of person.*
- 2. Migrant workers and members of their families shall be entitled to effective protection by the State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions.*
- 3. Any verification by law enforcement officials of the identity of migrant workers or members of their families shall be carried out in accordance with procedure established by law.*
- 4. Migrant workers and members of their families shall not be subjected individually or collectively to arbitrary arrest or detention; they shall not be deprived of their liberty except on such grounds and in accordance with such procedures as are established by law.*
- 5. Migrant workers and members of their families who are arrested shall be informed at the time of arrest as far as possible in a language they understand of the reasons for their arrest and they shall be promptly informed in a language they understand of any charges against them.*
- 6. Migrant workers and members of their families who are arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that while awaiting trial they shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings and, should the occasion arise, for the execution of the judgement.*
- 7. When a migrant worker or a member of his or her family is arrested or committed to prison or custody pending trial or is detained in any other manner:*
  - (a) The consular or diplomatic authorities of his or her State of origin or of a State representing the interests of that State shall, if he or she so requests, be informed without delay of his or her arrest or detention and of the reasons therefor;*
  - (b) The person concerned shall have the right to communicate with the said authorities. Any communication by the person concerned to the said authorities shall be forwarded without delay, and he or she shall also have the right to receive communications sent by the said authorities without delay;*

*(c) The person concerned shall be informed without delay of this right and of rights deriving from relevant treaties, if any, applicable between the States concerned, to correspond and to meet with representatives of the said authorities and to make arrangements with them for his or her legal representation.*

*8. Migrant workers and members of their families who are deprived of their liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of their detention and order their release if the detention is not lawful. When they attend such proceedings, they shall have the assistance, if necessary without cost to them, of an interpreter, if they cannot understand or speak the language used.*

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

#### *Article 18*

*1. Migrant workers and members of their families shall have the right to equality with nationals of the State concerned before the courts and tribunals. In the determination of any criminal charge against them or of their rights and obligations in a suit of law, they shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.*

*2. Migrant workers and members of their families who are charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to law.*

*3. In the determination of any criminal charge against them, migrant workers and members of their families shall be entitled to the following minimum guarantees:*

*(a) To be informed promptly and in detail in a language they understand of the nature and cause of the charge against them;*

*(b) To have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing;*

*(c) To be tried without undue delay;*

*(d) To be tried in their presence and to defend themselves in person or through legal assistance of their own choosing; to be informed, if they do not have legal assistance, of this right; and to have legal assistance assigned to them, in any case where the interests of justice so require and without payment by them in any such case if they do not have sufficient means to pay;*

*(e) To examine or have examined the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;*

*(f) To have the free assistance of an interpreter if they cannot understand or speak the language used in court; (g) Not to be compelled to testify against themselves or to confess guilt.*

*4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.*

*5. Migrant workers and members of their families convicted of a crime shall have the right to their conviction and sentence being reviewed by a higher tribunal according to law.*

*6. When a migrant worker or a member of his or her family has, by a final decision, been convicted of a criminal offence and when subsequently his or her conviction has been reversed or he or she has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to that person.*

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

#### Article 19

1. No migrant worker or member of his or her family shall be held guilty of any criminal offence on account of any act or omission that did not constitute a criminal offence under national or international law at the time when the criminal offence was committed, nor shall a heavier penalty be imposed than the one that was applicable at the time when it was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, he or she shall benefit thereby.

2. Humanitarian considerations related to the status of a migrant worker, in particular with respect to his or her right of residence or work, should be taken into account in imposing a sentence for a criminal offence committed by a migrant worker or a member of his or her family.

#### Article 22

1. Migrant workers and members of their families shall not be subject to measures of collective expulsion. Each case of expulsion shall be examined and decided individually.

2. Migrant workers and members of their families may be expelled from the territory of a State Party only in pursuance of a decision taken by the competent authority in accordance with law.

3. The decision shall be communicated to them in a language they understand. Upon their request where not otherwise mandatory, the decision shall be communicated to them in writing and, save in exceptional circumstances on account of national security, the reasons for the decision likewise stated. The persons concerned shall be informed of these rights before or at the latest at the time the decision is rendered.

4. Except where a final decision is pronounced by a judicial authority, the person concerned shall have the right to submit the reason he or she should not be expelled and to have his or her case reviewed by the competent authority, unless compelling reasons of national security require otherwise. Pending such review, the person concerned shall have the right to seek a stay of the decision of expulsion.

5. If a decision of expulsion that has already been executed is subsequently annulled, the person concerned shall have the right to seek compensation according to law and the earlier decision shall not be used to prevent him or her from re-entering the State concerned.

6. In case of expulsion, the person concerned shall have a reasonable opportunity before or after departure to settle any claims for wages and other entitlements due to him or her and any pending liabilities.

7. Without prejudice to the execution of a decision of expulsion, a migrant worker or a member of his or her family who is subject to such a decision may seek entry into a State other than his or her State of origin.

8. In case of expulsion of a migrant worker or a member of his or her family the costs of expulsion shall not be borne by him or her. The person concerned may be required to pay his or her own travel costs.

9. Expulsion from the State of employment shall not in itself prejudice any rights of a migrant worker or a member of his or her family acquired in accordance with the law of that State, including the right to receive wages and other entitlements due to him or her.

#### Article 23

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

#### Article 24

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

#### Article 33

*1. Migrant workers and members of their families shall have the right to be informed by the State of origin, the State of employment or the State of transit as the case may be concerning:*

*(a) Their rights arising out of the present Convention;*

*(b) The conditions of their admission, their rights and obligations under the law and practice of the State concerned and such other matters as will enable them to comply with administrative or other formalities in that State.*

*2. States Parties shall take all measures they deem appropriate to disseminate the said information or to ensure that it is provided by employers, trade unions or other appropriate bodies or institutions. As appropriate, they shall co-operate with other States concerned.*

*3. Such adequate information shall be provided upon request to migrant workers and members of their families, free of charge, and, as far as possible, in a language they are able to understand.*

#### Reservations entered by Egypt

##### Reservation concerning article 4:

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

##### Reservation concerning Article 18, paragraph 6:

*When a migrant worker or a member of his or her family has, by a final decision, been convicted of a criminal offence and when subsequently his or her conviction has been reversed or he or she has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the nondisclosure of the unknown fact in time is wholly or partially attributable to that person.*

## **Protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime<sup>219</sup>**

### Article 3

#### *USE OF TERMS*

*For the purposes of this Protocol:*

- (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;*
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;*
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;*
- (d) "Child" shall mean any person under eighteen years of age.*

### Article 6

#### *Assistance to and protection of victims of trafficking in persons*

- 1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.*
- 2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:*
  - (a) Information on relevant court and administrative proceedings;*
  - (b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.*
- 3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:*
  - (a) Appropriate housing;*
  - (b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;*
  - (c) Medical, psychological and material assistance; and (d) Employment, educational and training opportunities.*
- 4. Each State Party shall take into account, in applying the provisions of this article, the*

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219 Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, Nov. 15, 2000, 2237 UNTS 319 (entered into force 25 December 2003). [Hereinafter, Trafficking Protocol]. Egypt ratified the Protocol on 5 March 2004.

age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.

5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.

6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

## **Vienna Convention on Consular Relations 1963<sup>220</sup>**

### Article 36

#### COMMUNICATION AND CONTACT WITH NATIONALS OF THE SENDING STATE

1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State:

(a) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State;

(b) if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this subparagraph;

(c) consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgement.

Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action.

2. The rights referred to in paragraph 1 of this article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under this article are intended.

## **2. Regional Legal Instruments**

### **African Charter on Human and Peoples' Rights<sup>221</sup>**

#### Article 3

1. Every individual shall be equal before the law.

2. Every individual shall be entitled to equal protection of the law.

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<sup>221</sup> African Charter on Human and Peoples' Rights, 27 June 1981, 1520 U.N.T.S. 217, (entered into force 21 October 1986). [Hereinafter, African Charter] Egypt ratified the Charter on 3 April 1984.

#### Article 5

*Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.*

#### Article 7

- 1. Every individual shall have the right to have his cause heard. This comprises:
  - (a) the right to an appeal to competent national organs against acts of violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force;*
  - (b) the right to be presumed innocent until proved guilty by a competent court or tribunal;*
  - (c) the right to defense, including the right to be defended by counsel of his choice;*
  - (d) the right to be tried within a reasonable time by an impartial court or tribunal.**
- 2. No one may be condemned for an act or omission which did not constitute a legally punishable offence at the time it was committed. No penalty may be inflicted for an offence for which no provision was made at the time it was committed. Punishment is personal and can be imposed only on the offender.*

#### Article 26

*States parties to the present Charter shall have the duty to guarantee the independence of the Courts and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter.*

### **African Charter on the Rights and Welfare of the Child<sup>222</sup>**

#### Article 2

*A child means every human being below the age of 18 years.*

#### Article 17

*Every child accused or found guilty of having broken the law should receive special treatment, and no child who is imprisoned or should be tortured or otherwise mistreated.*

#### Article 30

*States should provide special treatment to expectant mothers and to mothers of infants and young children who have been accused or found guilty of breaking the law.*

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<sup>222</sup> African Charter on the Rights and Welfare of the Child, 1 July 1990, CAB/LEG 24.9/49, (entered into force 29 November 1999). Egypt ratified the Charter on 9 May 2001. [Hereinafter, ACRWC]

## **African Youth Charter** <sup>223</sup>

### Article 18

#### Law Enforcement

1. Every young person accused or found guilty of having infringed the penal law shall have the right to be treated with humanity and with respect for the inherent dignity of the human person.

2. States Parties shall in particular:

- a) Ensure that youth who are detained or imprisoned or in rehabilitation centres are not subjected to torture, inhumane or degrading treatment or punishment;
- b) Ensure that accused minors shall be segregated from convicted persons and shall be subject to separate treatment appropriate to their status;
- c) Build rehabilitation facilities for accused and imprisoned youth who are still minors and house them separately from adults;
- d) Provide induction programmes for imprisoned youth that are based on reformation, social rehabilitation and re-integration into family life;
- e) Make provisions for the continued education and skills development of imprisoned young people as part of the restorative justice process.
- f) Ensure that accused and convicted young people are entitled to a lawyer.

### Article 23

#### Girls and Young Women

States Parties acknowledge the need to eliminate discrimination against girls and young women according to obligations stipulated in various international, regional and national human rights conventions and instruments designed to protect and promote women's rights. In this regard, they shall:

[...]

m) Develop programmes of action that provide legal, physical and psychological support to girls and young women who have been subjected to violence and abuse such that they can fully re-integrate into social and economic life;

[...]

## **Riyadh Arab Agreement for Judicial Cooperation**<sup>224</sup> (Applicable to Arab League States)<sup>225</sup>

### Article 3

#### Assurance of the Right of Litigation

Citizens of the Contracting Parties shall enjoy within the borders of each party the right of litigation before legal bodies to demand and defend their rights; and it is specifically prohibited to subject them to any form of security, personal or in kind, if they do not carry the nationality of the Contracting Party concerned or because they do not have a

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223 African Youth Charter, 2 July 2006, (entered into force 8 August 2009). Egypt ratified the Charter on 1 April 2015. [Hereinafter, AYC]

224 Riyadh Arab Agreement for Judicial Cooperation, League of Arab States, April 6, 1983. Signed by Egypt on August 19, 2014, ratified through Presidential Decree No. 278 of 2014, Al-Jarida Al-Rasmiyya, 4 Dec. 2014 (Egypt). (Unofficial translation provided by RefWorld)

225 Signatory parties: Algeria, Bahrain, Djibouti, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauretania, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Somalia, Sudan, Syria Tunisia, United Arab Emirates, Yemen. Egypt signed in 2014.

domicile or place of residence within the borders of the state where the litigation takes place. The provisions of the preceding paragraph shall apply to legal persons established or licensed in accordance with the laws of each of the Contracting Parties.

#### Article 4

##### *Legal Assistance*

Citizens of the Contracting Parties shall enjoy within the borders of each State Party the right to obtain legal assistance in the same manner as its own citizens and in accordance with legislation in force thereon.

Certificates of financial insufficiency shall be issued to applicants by the competent authorities at their chosen place of residence if they reside in the territories of one of the Contracting Parties; otherwise such certificate shall be delivered by the competent consul of his own country of the person substituting the consul.

If the person concerned resides in the country where the application was made, additional information can be obtained from the competent authorities in the Contracting Party whose citizenship he carries.

#### Article 41

##### *Crimes Not Subject to Extradition*

No extradition may be carried out in the following cases:

- a) If the crime for which extradition is requested is considered by the laws of the requested party as a crime of a political nature.
- b) If the crime for which extradition is requested is limited to a breach of military duties.
- c) If the crime for which extradition is requested was committed in the territory of the requested party, except when such crime has caused damage to the interests of the requesting party and its laws stipulate that perpetrators of such crime be prosecuted and punished.
- d) If the crime has been the subject of a final judgment in the requesting party.
- e) If the legal action, at the time of receipt of the request for extradition, had lapsed or had been revoked, or the penalty had lapsed by passage of time in accordance with the laws of the requesting party.
- f) If the crime had been committed outside the territories of the requesting party by a person not carrying its nationality, and the law of the requested party does not provide for prosecution of such person when this crime is committed outside its territory.
- g) If an amnesty has been issued by the requesting party.
- h) If charges relating to any crime have been made in the territory of the requested party, or if a judgment had been passed in respect of such crime in the territory of a third contracting party.

In the application of the provisions of this Agreement, the following crimes, even when they have a political purpose, shall not be considered crimes of a political nature in accordance with paragraphs (a) of this Article:

- 1) Assault on kings and presidents of the Contracting Parties of their wives or their ascendants or descendants.
- 2) Assault on heirs apparent or vice-presidents of the Contracting Parties.
- 3) Murder and robbery committed against individuals, authorities, or means of transport and communications.

### 3. Bilateral Legal Instruments

#### **Agreement Between the Arab Republic of Egypt and the Republic of Yemen Regarding the Transfer of Sentenced Persons Imprisoned in Execution of Criminal Judgments<sup>226</sup>**

##### Article 1

*In the application of this agreement, the following terms shall mean as follows:*

- a) The Convicting State: The state in which the accused was convicted, and from which the convicted is transferred.*
- b) The Executing State: The state to which the sentenced person is transferred for the execution of his sentence.*
- c) The Imprisoned Sentenced Person: Every person against who a guilty verdict was issued in the territory of either of the two states, under which he is obliged to serve a sentence of deprivation of liberty and is imprisoned.*

##### Article 2

*The two states undertake to reciprocate the transfer of Imprisoned Sentenced Persons based on the request of the state of which the sentenced person carries the nationality, in order to execute final criminal judgments issued by the courts of the Convicting State, according to the rules described in this agreement.*

##### Article 3

*The transfer request may be submitted:*

- a) By the Convicting State*
- b) The sentenced person or a legal representative may submit in this regards a request to either of the two states*

##### Article 4

*The provisions of this agreement apply if the following conditions are met:*

- a) that the crime on which the request is based, is punishable with a prison sentence<sup>227</sup> under the legislation of both countries*
- b) that the sentencing judicial judgement is final and to be enforced*
- c) that the Imprisoned Sentenced Person carries the nationality of the Executing State*
- d) that the sentenced person approves of his transfer*
- e) that the Convicting State and the Executing State approve of the transfer*
- f) that the remaining period of the to be executed prison sentence is not less than nine months at the time the request is submitted to the authorities of the requested state. It is permissible in exceptional situations that the two states agree on the transfer if the remaining period is less than this.*

##### Article 5

- 1) The Convicting State shall notify every sentenced person to whom the provisions of this agreement apply*
- 2) The sentenced person must be notified in writing of every decision*

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<sup>227</sup> A literal translation from the Arabic is "sentence depriving freedom".

issued by either of the two countries regarding the transfer request

#### Article 6

*The transfer of the sentenced person is inadmissible:*

- a) if either of the two countries considers the transfer to prejudice its sovereignty or security or public order*
- b) if the transfer request was linked to a punishable act that was deemed as such by a final sentence rendered in the Executing State, where such sentence got carried out, or its limitation period has expired (its limitation period) over time*
- c) if the criminal legal action has expired over time in the Executing State*
- d) if the same acts were judged non-guilty in the Executing State, or if a reservation decision was rendered in this regard, or an order to not initiate criminal proceedings*
- e) if the sentence was issued for a crime which is considered a breach of military obligations in the Executing State*

#### Article 7

*It is permissible to reject the transfer of the sentenced person:*

- a) if in the Executing State the crime is considered political, or connected to a political crime, or a crime of fees, taxes, customs, or money.*
- b) if the acts for which the judgment has been rendered, are subject to criminal proceedings initiated in the Executing State,*
- c) if the sentenced person does not settle the sums, fines, judicial expenses, compensation, and the financial fees of the governments, whatever their nature*
- d) if the maximum prison sentence stipulated in the law of the Executing State is much less than the prison sentence imposed in the Convicting State.*

#### Article 8

*Every rejection of the transfer must be well-founded.*

#### Article 9

*The sentenced person has to agree to the transfer and be fully aware of the legal effects on him, and in the case he is unable to express his consent properly, the consent shall be issued by a legal representative.*

### **4. Domestic Legal Instruments**

#### **Constitution of the Arab Republic of Egypt 2014<sup>228</sup>**

##### Article 53: EQUALITY IN PUBLIC RIGHTS AND DUTIES

*Citizens are equal before the law, possess equal rights and public duties, and may not be discriminated against on the basis of religion, belief, sex, origin, race, color, language, disability, social class, political or geographical affiliation, or for any other reason. Discrimination and incitement to hate are crimes punishable by law. The state shall take all necessary measures to eliminate all forms of discrimination, and the law shall regulate the establishment of an independent commission for this purpose.*

#### Article 54:

##### **PERSONAL FREEDOM**

*Personal freedom is a natural right which is safeguarded and cannot be infringed upon. Except in cases of in flagrante delicto, citizens may only be apprehended, searched, arrested, or have their freedoms restricted by a causal judicial warrant necessitated by an investigation.*

*All those whose freedoms have been restricted shall be immediately informed of the causes therefor, notified of their rights in writing, be allowed to immediately contact their family and lawyer, and be brought before the investigating authority within twenty-four hours of their freedoms having been restricted.*

*Questioning of the person may only begin once his lawyer is present. If he has no lawyer, a lawyer will be appointed for him. Those with disabilities shall be provided all necessary aid, according to procedures stipulated in the law.*

*Those who have their freedom restricted and others possess the right of recourse before the judiciary. Judgment must be rendered within a week from such recourse, otherwise the petitioner shall be immediately released.*

*The law shall regulate preventive detention, its duration, causes, and which cases are eligible for compensation that the state shall discharge for preventative detention or for execution of a penalty that had been executed by virtue of a judgment that is overruled by a final judgment. In all cases, the accused may be brought to criminal trial for crimes that he may be detained for only in the presence of an authorized or appointed lawyer*

#### Article 55:

##### **DUE PROCESS**

*All those who are apprehended, detained or have their freedom restricted shall be treated in a way that preserves their dignity. They may not be tortured, terrorized, or coerced. They may not be physically or mentally harmed, or arrested and confined in designated locations that are appropriate according to humanitarian and health standards. The state shall provide means of access for those with disabilities.*

*Any violation of the above is a crime and the perpetrator shall be punished under the law. The accused possesses the right to remain silent. Any statement that is proven to have been given by the detainee under pressure of any of that which is stated above, or the threat of such, shall be considered null and void.*

#### Article 80:

##### **RIGHTS OF THE CHILD**

*A child is considered to be anyone who has not reached 18 years of age. Children have the right to be named and possess identification papers, have access to free compulsory vaccinations, health and family care or an alternative, basic nutrition, safe shelter, religious education, and emotional and cognitive development.*

*The state guarantees the rights of children who have disabilities, and ensures their rehabilitation and incorporation into society.*

*The state shall care for children and protect them from all forms of violence, abuse, mistreatment and commercial and sexual exploitation.*

*Every child is entitled to early education in a childhood center until the age of six. It is prohibited to employ children before they reach the age of having completed their*

primary education, and it is prohibited to employ them in jobs that expose them to risk. The state shall establish a judicial system for child victims and witnesses. No child may be held criminally responsible or detained except in accordance with the law and the time frame specified therein. Legal aid shall be provided to children, and they shall be detained in appropriate locations separate from adult detention centers. The state shall work to achieve children's best interest in all measures taken with regards to them.

Article 81:

RIGHTS OF THE DISABLED

The state shall guarantee the health, economic, social, cultural, entertainment, sporting and education rights of dwarves and people with disabilities. The state shall provide work opportunities for such individuals, and allocate a percentage of these opportunities to them, in addition to equipping public utilities and their surrounding environment. The state guarantees their right to exercise political rights, and their integration with other citizens in order to achieve the principles of equality, justice and equal opportunities.

Article 94:

RULE OF LAW

The rule of law is the basis of governance in the state.

The state is subject to the law, while the independence, immunity and impartiality of the judiciary are essential guarantees for the protection of rights and freedoms.

Article 95:

PUNISHMENT

Penalties are personal. Crimes and penalties may only be based on the law, and penalties may only be inflicted by a judicial ruling. Penalties may only be inflicted for acts committed subsequent to the date on which the law enters into effect.

Article 96:

DUE PROCESS

The accused is innocent until proven guilty in a fair court of law, which provides guarantees for him to defend himself.

The law shall regulate the appeal of felony sentences.

The state shall provide protection to the victims, witnesses, accused and informants as necessary and in accordance with the law.

Article 97:

RIGHT TO LITIGATE

Litigation is a safeguarded right guaranteed to all. The state shall bring together the litigating parties, and work towards speedy judgment in cases. It is forbidden to grant any act or administrative decision immunity from judicial oversight. Individuals may only be tried before their natural judge. Extraordinary courts are forbidden.



Article 98:

**RIGHT TO DEFENSE**

*The right of defense either in person or by proxy is guaranteed. The independence of lawyers and the protection of their rights are ensured as a guarantee for the right of defense. For those who are financially incapable, the law guarantees the means to resort to justice and defend their rights.*

Article 99:

**VIOLATION OF PERSONAL FREEDOM**

*Any assault on the personal freedoms or sanctity of the life of citizens, along with other general rights and freedoms guaranteed by the Constitution and the law, is a crime with no statute of limitations for both civil and criminal proceedings. The injured party may file a criminal suit directly. The state guarantees just compensation for those who have been assaulted. The National Council for Human Rights shall inform the prosecutor's office of any violation of these rights, and also possesses the right to enter into an ancillary civil lawsuit on the side of the injured party at its request. This is as specified within the law.*

Article 100:

**IMPLEMENTATION OF COURT DECISIONS**

*Court decisions shall be issued and implemented in the name of the people. The state guarantees the means of implementing them as regulated by the law. Refraining from implementing or impeding implementation by the competent public servants is a crime that is punishable by law. The prevailing party in such a case may file a criminal suit directly with the competent court. Upon the request of the prevailing party, the public prosecution must raise criminal proceedings against the public servant who refrained from implementing the decision or impeded it.*

Article 154:

**STATE OF EMERGENCY**

*The President of the Republic declares, after consultation with the Cabinet, a state of emergency in the manner regulated by law. Such proclamation must be submitted to the House of Representatives within the following seven days to consider it.*

*If the declaration takes place when the House of Representatives is not in regular session, a session is called immediately in order to consider the declaration.*

*In all cases, the declaration of a state of emergency must be approved by a majority of members of the House of Representatives. The declaration is for a specified period not exceeding three months, which can only be extended by another similar period upon the approval of two-thirds of House members. In the event the House of Representatives is dissolved, the matter is submitted to the new House in its first session.*

*The House of Representatives cannot be dissolved while a state of emergency is in force.*

## Law No. 13 of the year 1968, promulgating the Civil & Commercial Code of Procedures<sup>229</sup>

### Article 3<sup>230</sup>

Any lawsuit, plea or claim based upon the provisions of this Law or any other law shall not be accepted, if the party concerned does not have a personal, direct or existing interest therein provided for by the law.

However, probable interest is sufficient if the object of the claim is a precautionary motion to avoid an imminent harm or to protect a right the evidence of which is feared to dissipate when a dispute arises thereon.

Whatever the status of the case may be, in the event that the conditions provided for in the two previous paragraphs are not available, the court shall decide ipso fact not to accept the case.

The court may, upon issuing a judgment as to non-acceptance of the case due to non-existence of the interest condition, adjudge a procedural fine for the plaintiff not exceeding five hundred pounds if it is proved that the plaintiff has misused his right of action.

## International Jurisdiction of the Courts

### Article 28

The courts of the Republic shall have jurisdiction to examine the cases brought against Egyptians even if he/she does not have a domicile or place of residence in the Republic, with exception of real estate cases related to real estate abroad.

### Article 29

The courts of the Republic shall have jurisdiction to examine cases filed against a foreigner who has a domicile or place of residence in the Republic, except for real estate cases related to real estate abroad.

### Article 30

The courts of the Republic shall have jurisdiction to examine the cases filed against a foreigner who has no domicile or place of residence in the Republic, in the following cases:

- 1) If he/she has an elected domicile in the Republic.
- 2) If the case is related to money existing in the Republic or related to an established or expired obligation or related to a bankruptcy in which he/she was defamed.
- 3) If the case is contesting a marriage contract and the contract requires to be concluded at an Egyptian notary.
- 4) If the case is related to a request for the abrogation of a marriage or a divorce or separation and it is filed by a wife who has, by marriage, lost the nationality of the Republic, whenever she has a domicile in the Republic. Or if the case is filed by a wife who has a domicile in the Republic, against her husband who had had a domicile thereto, when the

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229 Law No. 13 of 1968 (Promulgating the Civil & Commercial Code of Procedures), Al-Jarida Al-Rasmiyya, 9 May 1968 (Egypt).

230 Replaced by Law No. 81 of 1996, Al-Jarida Al-Rasmiyya, 22 May 1996.

husband had abandoned his wife and made a domicile abroad after establishing the reason for abrogation, divorce, separation or has left the Republic.

5) If the case is related to a request for alimony for the mother or the wife whenever they have a domicile in the Republic or for the infant who resides thereat.

6) If the case concerns the kinship of an infant residing in the Republic or negation of guardianship on himself/herself or restricting it or stopping it or redeeming same.

7) If the case was related to a matter of personal status and the plaintiff was a national or was a foreigner and has a domicile in the Republic, and that is if the defendant's domicile abroad is unknown or if the law of the state is applicable to the case.

8) If the case is related to one of the matters dealing with guardianship on money whereby the immature or the person required to be placed under guardianship or to be judicially helped, has a domicile or place of residence in the Republic or if it comprises the last domicile or place of residence of the absentee.

9) If one of the defendants has a domicile or place of residence in the Republic.

#### Article 31

The courts of the Republic have jurisdiction over inheritance issues and cases related to the legacy once such legacy has been opened in the Republic, or if the testator is an Egyptian or if all the money of the legacy or part of it is in the Republic.

#### Article 32

If the adversary accepts expressly or inclusively its jurisdiction, the courts of the Republic shall have jurisdiction to settle cases even if such cases are not within its jurisdiction in accordance to the previous articles.

#### Article 33

If a case is brought to the courts of the Republic within its jurisdiction, such courts shall have jurisdiction in the settlement of the principal matters and in the claims opposing the original case. As also it shall have jurisdiction in the settlement of each claim related to said case and the good progress of justice to examine the case is mandatory.

#### Article 34

The courts of the Republic shall have jurisdiction by order in temporary and precautionary procedures which are in the Republic even if it does not have jurisdiction in the original cases.

#### Article 35

If the defendant does not attend and if the courts of the Republic do not have jurisdiction to examine the case according to the previous articles, the court shall automatically rule lack of its jurisdiction.

### **Local Jurisdiction**

#### Article 49

Jurisdiction shall rest with the court of the circuit where the defendant's domicile exists unless otherwise stipulated by the law.

If the defendant does not have a domicile in the Republic, jurisdiction shall therefore rest

with the court of the circuit of his/her place of residence.

Should the defendants be multiple then jurisdiction shall rest with the court at the circuit where the domicile of one of them exists.

## **Attendance & Empowering Others to Continue the Litigation**

### Article 72

On the date set for examining the case the adversaries attend themselves or the attorney whom they have empowered to attend. It is for the court to accept persons whom they have empowered to represent them from their spouses, relatives or in-laws up to the third degree.

### Article 73

The representative should declare his attendance on behalf of the principal and his representation must evidence thereof, according to the provisions of the Law concerning Law Practice. The court, when necessary, shall allow the principal to evidence his representation at the time set by the court, provided that this is concluded, at most, during the pleadings session.

### Article 74

Upon issuance of a power of attorney by one of the adversaries, the elected domicile of the attorney thereof shall be considered to be such litigant's domicile when serving the necessary papers for the continuation of the case at the litigation level in which the attorney is empowered to act thereat.

The litigant who does not have an attorney at the location where the court is located must acquire an elected domicile thereat.

### Article 75

The power of attorney for the litigation vests the attorney with the authority to carry out the necessary work and procedures for filing the lawsuit, follow up and defense. To also take the precautionary measures until the judgment is issued in the subject matter at the litigation level at which the attorney was empowered, and serve said judgment and receive the fees and expenses thereof. That shall be without prejudice to where the law imposes a special delegation.

Every limitation contained in the power of attorney contradicting the foregoing may not be used against the other litigant.

### Article 79

All decisions taken by the representatives in the presence of the principal shall be as if the principal himself/herself decided unless the principal negates

### Article 80

The withdrawal or removal of the representative does not prevent the advancement of the procedures in opposition except if the litigant announces the appointment of another or the principal conducts the case him/herself. It is not possible for the representative to withdraw from such representation at an unsuitable time.

## **Absence**

### Article 82

*If the claimant and the defendant do not attend before the court, the court shall render a judgment in the case if it is valid for a judgment to be rendered thereon, otherwise it shall decide to strike off the case. In the event of the lapse of sixty days without one of the adversaries applying for the continuance of the case or if the two parties do not attend after the continuance of the case, then the case shall be considered null and void. The court shall issue its judgment if the defendant attends and the claimant/s or some of them are absent in the first hearing.*

### Article 84

*If the defendant in person does not attend the first session and had been served in person<sup>231</sup> with the writ of summons, the court shall issue its judgment in that case. But if he was not served in person with the writ of summons, the court, for cases other than urgent, shall postpone examining the case to the following session which the claimant shall serve the absent litigant notice with. The court judgment in both cases shall be considered rendered in the presence of the party.*

*If the defendants are multiple and some were served in person and the others were not and all were absent, or those who had not been personally notified were absent, the court, in cases other than the urgent ones, shall postpone examining the case to the following session which the claimant will notify the absentees, who had not been notified in person, with. The court judgment shall be considered a judgment rendered in the presence of the parties against all the defendants.*

*In application of this article serving the general legal entity or private legal entity at the place of their administration, or at the State's Judicial Authority as the case may be, shall be considered a notice to his person.*

## **Organization of the Hearings**

### Article 101

*Pleadings are public unless the court automatically, or based upon the request of the adversaries, deems to conduct pleadings privately for preservation of public order, for consideration of vice or for family privacy.*

### Article 102

*Statements of the adversaries at the time of pleadings must be heard, and should not be interrupted unless they have diverted from the topic of the lawsuit or requirements of the defense thereon, and the defendant shall be the last to be heard.*

### Article 211

*Judgments cannot be challenged except by the party against whom the judgment was issued, and also cannot be challenged by the party accepting the judgment or the party*

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231 The English translation reads "and has not been served in person", however after reverting to the Arabic original, it was confirmed that the correct version speaks of the case that the defendant had been served.

whose claims were all realized, unless the law stipulates otherwise.

#### Article 219

*Litigants, in cases other than those excluded by a law provision, may appeal the judgments of the courts of first instance issued in its original jurisdiction.*

*It may be agreed, even before filing a case, that the judgment of the court of first instance shall be conclusive.*

#### Article 220

*Judgments issued in urgent matters may be appealed whatever the court that has issued it may be.*

#### Article 221

*Decisive judgments issued by the courts of first instance for reason of violation of the jurisdiction rules related to public order or if nullity has occurred to the judgment or to the procedures thus affecting the judgment, may be appealed.*

*In such cases, the appellant shall deposit as a bail in the amount of EGP 50 at the court of appeal's treasury upon submitting the appeal. It is sufficient to deposit one amount in the event of multiple challenging parties if they filed their challenge in one petition regardless of the reasons for challenge. The party exempted from depositing the bail is the person who has been exempted from paying the judicial fees.*

*The clerks' office shall not accept the challenge petition if it is not accompanied with evidence of that deposit. Bail shall be confiscated by force of law whenever a judgment is issued stating the non-permissibility of the appeal for non-violation of the jurisdiction rules or elimination of nullity.*

### **Petition for Judicial Review**

#### Article 241

*Litigants may plea for a judicial review of final issued judgments, in the following events:*

- 1) If fraud was used by the litigant to affect the judgment*
- 2) If, following judgment, a declaration that the papers upon which the judgment was built were forged or were adjudged as forged*
- 3) If the judgment is based on the testimony of a witness which after issuing judgment was rendered false*
- 4) If, after issuance of the judgment, the petitioner obtains conclusive papers in the case which his/her litigant had failed to submit.*
- 5) If something was adjudged that was not requested by the litigant or was more than that requested by the litigants.*
- 6) If the pronounced judgments contradicted one another*
- 7) If the judgment is issued upon a natural or juridical person who was not correctly represented in the case, unless consensual mandate was agreed*
- 8) Whoever considers the judgment to be valid against such party and when such party was not adjoined to the case or did not intervene therein provided that it is proven that the representative of such party was complicit or was grossly negligent*

#### Article 242

*Time for petition is 40 days, and does not start in the cases stipulated in the first four paragraphs of the previous article, except on the day fraud was discovered or when the offender confessed forgery or judgment evidenced same or on which the false witness was adjudged or on the day the retained paper appeared.*

*Time shall start in the case stipulated in the seventh paragraph on the day the judgment is announced to whoever is correctly representing the adjudged person.*

*In the case stipulated in the eighth paragraph, the time starts, on the day fraud, complicity, or gross negligence appears.*

#### Article 243

*The petition is presented before the court which issued the judgment in a writ to be deposited at said court's clerks' office in accordance with the conditions stipulated for filing the case.*

*The writ should include a statement of the petitioned judgment, date and reasons of petition otherwise it is invalid.*

*The person filing the petition in the two cases stipulated in (7, 8) of Article (241) of this law, should deposit an amount of EGP 100 at the court's treasury as bail. The clerks' office shall not accept the petition writ if it is not accompanied by evidence of said deposit.*

*Whoever was exempted from judicial fees shall also be exempted from depositing bail.*

*The court examining the petition may be formed by the same judges who issued the judgment.*

### **Cassation**

#### Article 248

*Litigants may challenge the judgments issued by the appeal courts before the Court of Cassation in the following cases:*

- 1) If the challenged judgment is based on violation of the law or error in application or interpretation thereof.*
- 2) If an invalidity occurs in the judgment or nullity in the procedures affecting the judgment.*

#### Article 254

*The challenging party must deposit at the treasury of the court where he submitted his/her writ of challenge, the amount of one hundred twenty-five pounds as security, if the challenged judgment is issued by a court of appeal or seventy-five pounds if it is issued by a court of first instance or summary.*

*It is sufficient to deposit one amount for security in the event the challenging parties are many, if they filed their challenge in one writ, even if the reasons for challenge differed.*

*The clerk's office will not accept the writ unless accompanied by evidence of said deposit, whoever is exempted from payment of fees will be exempted from depositing said security.*

## **Law Number 1 of the year 2000 on Reorganization of Certain Matters and Procedures of Litigation in Personal Status Issues<sup>232</sup>**

### Article 2

*The legal capacity for litigation in personal status matters for guardianship shall be established for a person who has attained the age of fifteen and enjoys his mental faculties.*

*A person who is legally incapacitated or legally incompetent shall be acted for by his legal representative. If there is no one representing him, or if there is a reason for proceeding with litigation contrary to his representative's view or vis-à-vis his representative, the court shall appoint a guardian for litigation, ex officio or upon request of the Public Prosecution or a third party.*

### Article 3

*A lawyer's signature shall not be necessary on personal status initiatory pleadings before the summary courts. If an action is initiated without a lawyer's signature on its initiatory pleading, the court, in case of necessity, may delegate a lawyer to defend the claimant. The ruling pronounced in the action shall determine the delegated lawyer's fees to be sustained by the public treasury, without derogation to the commitment of subordinate bar associations boards to extend judicial aid as prescribed in Law No. 17 of the year 1983 promulgating the Law on Legal Profession.*

*Alimony and maintenance actions and all kinds of like fees, and expenses lawsuits shall be exempted from all judicial fees in all stages of litigation.*

### Article 4

*The court – within the context of preparing the action for judgment – shall acquaint the litigants with the demands for a proper process of the case, and grant them an adequate time to submit their defenses.*

*The court may also delegate one or more social workers to submit a report on the case tabled before it or on any matter therein, and may determine a time limit not exceeding two weeks for submission of the report.*

*Such delegation shall be made from the social workers lists which shall be issued by decree of the Minister of Justice based on a nomination by the Minister of Insurance and Social Affairs.*

### Article 5

*The court may decide examining the personal status related matters – for public order or moral considerations – in a session in camera and in the presence of a member of the Public Prosecution in case it is represented in the case, and shall pronounce the judgments and decisions in open court.*

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232 Issued in Law No. 1 of 2000 (Promulgating the Law on Reorganization of Certain Matters and Procedures of Litigation in Personal Status Issues), as amended by Law No. 91/2000, Al-Jarida Al-Rasmiyya, 29 January 2000 (Egypt). English translation provided by MELES (Middle East Library for Economic Services) in Set of Laws on Personal Status, June 2012.

## Law Number 12 of the year 1996 promulgating the Child Law<sup>233</sup>

### Article 94

*Criminal responsibility shall not apply to the child who has not reached the age of twelve (12) years at the time of committing the crime.*

*Yet, if the child is at or above seven (7) years and below twelve (12) calendar years, and has committed a felony or a misdemeanor, only the Child Court being the competent court, may rule in accordance with any of the measures set forth in Article 101 Items 1, 2, 7, and 8 of this Law.*

*Appeals against rulings placing a child under institutional care are permissible in accordance with Items 7 and 8 before the Appellate Court concerned with child cases, and in accordance with Article 132 of this Law.*

### Article 95

*Subject to the provisions of Article 111 of this Law, the provisions found in this chapter, shall apply to a child who has not reached the age of eighteen (18) calendar years at the time of committing the crime, or if the child is in an at-risk situation.*

### Article 101

*The verdict for a child who has not reached fifteen (15) years of age, in case he commits a crime shall include one of the following interventions:*

- 1- Reproach/censure*
- 2- Delivery to parents, guardians, or custodians*
- 3- Training and rehabilitation*
- 4- Committing to certain obligations*
- 5- Judicial probation*
- 6- Community service activities not harmful to the child's health or mental state. The By-laws shall determine the nature of this work and restrictions thereof.*
- 7- Placement in one of the specialized hospitals*
- 8- Placement in one of the social care institutions*

*With the exception of confiscation, closing stores, and returning the place to its original state, the child shall not be subjected to any other penalty or intervention stated in any other law.*

### Article 111

*No accused person shall be sentenced to death, life imprisonment, or forced labor if, at the time of committing the crime, he did not reach the age of eighteen (18) years.*

*Without prejudice to the provision of Article 17 of the Penal Code, if the child who has reached the age of fifteen (15) years commits a crime punishable by a death sentence, or life imprisonment, or forced labor, he shall be sentenced to imprisonment. Furthermore,*

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<sup>233</sup> Law No. 12 of 1996 (Child Law), Al-Jarida Al-Rasmiyya, 28 March 1996 (Egypt). As amended by Law No. 126 of 2008 and Law No. 6 of 2015. English translation provided by the National Council for Childhood and Motherhood (an entity established by Presidential Decree under the Ministry of State for Family and Population), amended version of 2008. Retrieved from [http://www.nccmegypt.org/e7/e2498/e2691/infoboxContent2692/ChildLawno126english\\_eng.pdf](http://www.nccmegypt.org/e7/e2498/e2691/infoboxContent2692/ChildLawno126english_eng.pdf)

*if the crime committed is punishable by imprisonment, he shall be placed in custody for a period not less than three (3) months.*

*The Court, instead of placing the child in custody, may sentence him with the measure stated in Article 101, Item 8 of this Law.*

*However, if the child who has reached fifteen (15) years of age commits a misdemeanor punishable by placing him in custody, the Court may, instead of sentencing the child to the penalty decreed for it, sentence the child to one of the measures set forth in Article 101, Items 5, 6, and 8 of this Law.*

#### Article 112

*Children may not be detained, placed in custody, or imprisoned with adults in one place. In detention, it should be observed that children are to be classified according to their age, sex, and nature of their crime.*

*Shall be sentenced to jail for a period not less than three (3) months, and not exceeding two (2) years, and a fine not less than one thousand (1,000) Egyptian pounds, and not more than five thousand (5,000) Egyptian pounds, or by one of the two penalties, any public official or in charge of a public service who detains, places in custody, or imprisons a child with one or more adults in one place.*

#### Article 116-bis (d)

*Child victims and witnesses of crime, at all stages of arrest, investigation, trial, and implementation, shall have the right to be heard, and to be treated with dignity and sympathy with full respect for their physical, psychological, and moral safety, and shall have the right to protection, to health, social and legal assistance, to rehabilitation, and integration in the society, in accordance with the United Nations Guidelines on Justice for Child Victims and Witnesses of Crime.*

#### Article 120<sup>234</sup>

*In the seat of each Governorate, one or more Child Court shall be established. The Minister of Justice may issue a decree to establish child courts in other places. Their areas of jurisdiction shall be determined in the decree establishing them.*

*The tasks of public prosecution for these courts shall be assumed by Specialized Child Prosecution to be established by a decree from the Minister of Justice.*

#### Article 121<sup>235</sup>

*The Child Court shall be composed of three (3) judges, and shall be assisted by two specialized experts one of whom at least (1) shall be a woman. The attendance of the two (2) experts during the proceedings is compulsory, and they shall submit their report to the Court after studying the circumstances of the child in all respects before the Court passes its ruling.*

*The said two (2) experts shall be appointed by a decree of the Minister of Justice in agreement with the Minister responsible for social affairs. The conditions to be fulfilled by those who shall be appointed as experts shall be determined by a decree of the Minister responsible for social affairs.*

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234 The term "Juvenile Court" was replaced with "Child Court" in Law No. 126 of 2008.

235 The term "Juvenile Court" was replaced with "Child Court" in Law No. 126 of 2008.

*Appealing the judgment passed by the Child Court shall be done before an of Appellate Court to be established in each Court of First Instance, composed of three (3) judges where at least two (2) of them shall have the rank of Court President. The provision of the two (2) previous paragraphs shall be observed in the composition of this Court.*

#### Article 122<sup>236</sup>

*The Child Court shall exclusively deal with issues concerning the child when accused of a crime or in case of his delinquency. The Court shall also be entitled to pass judgments regarding criminal cases set forth in Articles 113 to 116 and in Article 119 of this Law.*

*As an exception to the provision of the previous paragraph, the Criminal Court or the Supreme State Security Court, according to each case, shall have jurisdiction over criminal cases where the accused – at the time of committing the crime – is a child above fifteen (15) years of age while the accomplice is not a child and the case necessitated bringing the criminal action against the accomplice jointly with the child. In this case, the Court – prior to passing its judgment – shall examine the circumstances of the child from all aspects and may seek the assistance of experts if it so wishes.*

#### Article 125

*The child has the right to legal assistance; he shall be represented in criminal and misdemeanor cases whose penalty is placing him in custody by lawyer to defend him in both the investigation and trial phases. If no lawyer has been selected by the child, the public prosecution or the Court shall appoint one, in accordance with the rules and regulation of the Criminal Procedure Code.*

#### Article 126

*Nobody is allowed to attend the trial of the child before the Child Court except his relatives, witnesses, lawyers, social observers, and any other person having the permission of the Court to attend with a special permit.*

*The Court – if it deems it necessary – may order the child to leave the session after questioning him, or send away any of those mentioned in the previous paragraph. In case the child leaves the session, the Court may not order sending away the lawyer or the social observer.*

*Furthermore, the Court may not pass a judgment convicting the child except after explaining to him the procedures that have taken in his absence. The Court may exempt the child from attending the trial in person, if it is in his best interests, and shall content itself with the attendance of the child's guardian or custodian on his behalf, in which case the judgment shall be considered issued in his presence.*

#### Article 131

*All procedures required by the law that the child be notified with, and all judgments passed concerning him, shall be notified to one of his parents, or his guardian, or the one responsible for him. Every one of the aforementioned shall have the right, for the interest of the child, to contest in accordance with the procedures stipulated by the Law.*

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<sup>236</sup> The term "Juvenile Court" was replaced with "Child Court" in Law No. 126 of 2008.

#### Article 140

*Children shall not to pay any fees or expenses before all courts in connection with cases related to this Part.*

#### Article 141

*Penalties restricting freedom to which the children are sentenced shall be implemented in special punitive institutions to be organized by a decree of the Minister responsible for social affairs in agreement with the Minister of Interior.*

*If the child reaches twenty-one (21) years of age, the penalty or the remaining period of the sentence shall be carried out in one of the public jails. However, carrying out the penalty may continue in the punitive institutions if there is no danger from this, and the remaining period of the penalty does not exceed six (6) months.*

### **Law No.10 of the year 2004 promulgating the Law on Establishing Family Courts<sup>237</sup>**

#### Article 2

*The Family Court shall consist of three judges, at least one of them shall be of the rank of a chief judge of the Court of first instance, in the cases referred to in Article 11 of this law, the Court shall be assisted by two experts, one of them from the social workers, the other from the psychologists, at least one of them shall be a woman.*

*The Appeals Circuit shall consist of three judges of the Courts of Appeal, at least one of them shall be of the rank of a chief judge of the Court of Appeal, and the circuit may be assisted by any of the experts.*

*The two experts referred to shall be appointed from among the list issued with a decision by the Minister of Justice in agreement with the Minister of Social Solidarity or the Minister of Health, as the case may be.*

#### Article 3

*The Family Courts are exclusively concerned with all matters of Personal Status which are subject to the jurisdiction of the Magistrate Courts and the Courts of first instance in accordance with the provisions of the law regulating certain matters and procedures of litigation in personal status issues, promulgated by Law No. 1 of 2000.*

*[...]*

#### Article 6

*In cases other than personal status cases where conciliation is not permitted, urgent cases, enforcement disputes, and temporary orders, a person who wishes to initiate proceedings concerning personal status matters in the jurisdiction of Family Courts, must present a request for settlement of the dispute to the competent Family Dispute Settlement Office. The office shall meet with the parties to the conflict, and after hearing their statements, they shall review the various aspects, the effects, the consequence of their persistence, and give them advice and guidance in an attempt to resolve it in order to preserve the family.*

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237 Law No. 10 of 2004 (Establishing Family Courts), Al-Jarida Al-Rasmiyya, 18 March 2004 (Egypt). (Unofficial translation by the research team.)

## Ministry of Social Affairs Decree No. 130 of the year 1996<sup>238</sup>

### Article 2

*The conditions to be met by those appointed as experts in the juvenile court<sup>239</sup> are the following:*

- 1) Obtaining a higher degree in social services and the department of social affairs in the faculty of arts.*
- 2) Having experience of not less than five years in the field of social work, preferably with previous experience in juvenile care.*
- 3) To be recognized for their good behavior, good reputation and their desire for this type of work.*

## Law No. 119 of the year 1952 on the Custodianship of Money<sup>240</sup>

### Article 70<sup>241</sup>

*If a person is deaf and mute, or blind and deaf, or blind and mute, and is therefore unable to express his will, the court may appoint a judicial assistant who shall assist him in the decisions provided for in Article 39.<sup>242</sup> The court may also do so if it is afraid of the person disposing directly of his money, due to a severe physical disability.*

## Law No. 150 of the year 1950 promulgating the Criminal Procedure Law<sup>243</sup>

### Article 1

*Only the Public Prosecution is competent to file a criminal lawsuit and to carry it out, nobody else may file except in the cases provided for by the law. No criminal law suit may be abandoned, suspended or delayed except in the cases provided for by law*

### Article 3

*No criminal lawsuit may be filed unless on the grounds of an oral or written complaint made by the victim, or his personal representative, to the Public Prosecution or to a judicial officer for crimes set out in Articles 185, 274, 277, 279, 292, 293, 303, 306, 307 and 308 of the Penal Code, and for all other cases provided for by law. The complaint shall not be accepted three months after the victim's knowledge of the offense and the perpetrator, unless the provides otherwise.*

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<sup>238</sup> Ministry of Social Affairs Decree No. 130 of 1996 (on determining the conditions to be met by those appointed as social observers or experts in the juvenile court), Al-Jarida Al-Rasmiyya, 25 August 1997 (Egypt). (Unofficial translation by the research team.)

<sup>239</sup> According to the Child Law, *supra* note 127, the term juvenile court was replaced with the term Child Court by Law No. 126 of 2008.

<sup>240</sup> Law No. 119 of 1952 (Provisions on the Custodianship of Money), Al-Jarida Al-Rasmiyya, 30 July 1952 (Egypt). (Unofficial translation by the research team.) This law addresses the custodianship over money or property of minors by their parents or legal guardians, as well as for persons with mental disabilities if necessary.

<sup>241</sup> Article 70 of this law deals with situations other than custodianship for minors or mentally disabled, where judicial assistance might be necessary.

<sup>242</sup> Article 39 of this law lists a number of legal transactions which the custodian may not perform except with the permission of the court.

<sup>243</sup> Law No. 150 of 1950 (promulgating the Criminal Procedure Law), Al-Jarida Al-Rasmiyya, 15 October 1951 (Egypt). (Unofficial translation by the research team.)

#### Article 4

*In the event there is more than one victim, it is sufficient for one of them to file the complaint. In the event there is more than one accused and the complaint is filed against one of them, it is considered filed against the rest.*

#### Article 5

*If the victim of a crime has not reached fifteen years of age, or has a mental illness, the complaint shall be filed by their guardian. If the crime is directed on money, the complaint shall be accepted from the guardian or the caretaker and shall, in both events, be subject to all relevant provisions on complaints.*

#### Article 15<sup>244</sup>

*Criminal lawsuits under the felony articles expire after 10 years from the day the crime was committed, under the articles for misdemeanors after 3 years, in the articles of fines after 1 year, unless the law provides otherwise.*

*With respect to crimes stated under articles 117, 126, 127, 282, 309-bis and 309-bis-a and for crimes stated under Section I of Chapter II of Book II of the Penal Code, which take place after the date of this law, the criminal lawsuit arising therefrom does not expire after time. Without prejudice to the provisions of the previous two paragraphs, the time for expiry of the criminal lawsuit does not start for crimes set forth in Sections 3 and 4 of Book II of the Penal Code which are committed by a public official, until the date of termination of service or termination of status, unless an investigation began before that.*

#### Article 17<sup>245</sup>

*The period of prescription shall be interrupted with investigation, indictment or trial procedures, as well as with criminal orders or procedures of gathering evidence if taken before the accused or if he was officially notified thereof. The period of prescription starts again from the date of interruption. If there are numerous procedures interrupting in the period of prescription are numerous, the period of prescription shall commence as of the date of the last procedure.*

#### Article 27

*Any person claiming to have been harmed from a crime may appoint themselves as a civil rights plaintiff in the complaint made thereby to the Public Prosecution or to any judicial officer. In the latter event, the judicial officer shall refer the complaint to the Public Prosecution along with the report written. The Public Prosecution shall, upon referral of the case to the investigating magistrate, forward the aforementioned complaint therewith.*

#### Article 110

*The investigating magistrate shall hear the testimony of witnesses requested by the litigants, except if hearing their testimony was seen unbeneficial for the case. The investigating magistrate may hear the testimony of witnesses deemed necessary on the*

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244 As amended by Law No. 16 of 2015, Al-Jarida Al-Rasmiyya, 12 March 2015 (Egypt).

245 As amended by Law No. 74 of 2007, Al-Jarida Al-Rasmiyya, 1 October 2007 (Egypt).

*facts that prove or lead to the proof of the commission of the crime and the circumstances thereof, and its attribution to the accused or his innocence thereof.*

Article 124<sup>246</sup>

*In cases of crimes and misdemeanors to be punished with imprisonment, the investigator may not question the accused or confront him with other accused or witnesses, until after his lawyer is invited to attend, except in the case of in flagrante delicto or the cause of urgency due to the fear of losing evidence, as evidenced by the investigator in the record. The accused shall state the name of his lawyer in a report written at the court registry or to the warden of the prison, or notify the investigator of it, also his lawyer may make such declaration or announcement.*

*If the accused does not have a lawyer, or his lawyer does not attend after being invited, the investigator must, on his own initiative, assign him a lawyer. The lawyer may evidence in the record any defenses, or requests, or observations.*

*After the final acts of the investigation, the investigator shall issue, based on the request of the assigned lawyer, an order with due fees, while being guided by the fee estimation table, issued by decree of the Minister of Justice after taking the opinion of the General Council of lawyers, and these fees shall be in the judicial fee decision.*

Article 237

*An accused in a misdemeanor punishable with imprisonment, which the law requires to be enforced immediately upon judgment, to attend in person. And if the present accused in a misdemeanor punishable with imprisonment does not have a lawyer, the court must appoint a lawyer to defend him.*

*In other misdemeanors and fines, he may appoint a representative to present his defense, without prejudice to the right of the court to order the accused to attend in person.<sup>247</sup>*

Article 238

*In cases where the litigant ordained to attend in person by law, fails to appear on the day specified in the summons paper, and does not send a representative in the cases so permitted, a judgment in absentia may be rendered after reviewing the files. Unless the summons paper was delivered to the person and the court finds that there is no excuse for not attending, then the judgment shall be considered to be in attendance.*

*The court may, instead of a judgment in absentia, adjourn the case to a later hearing and order the re-notification of the opponent in his domicile, with the warning that if he fails to attend this hearing, the judgment which is issued will be in attendance. Thus, if he does not attend and not present to the court a justification for his absence, the judgment shall be considered in attendance.*

Article 239

*The judgment shall be deemed to have been made in the presence of every litigant present in the court, upon calling for the case, and if he leaves the hearing afterwards, or fails to appear at the hearings to which the case is adjourned without presenting an acceptable excuse.*

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<sup>247</sup> As amended by Law No. 145 of 2006, Al-Jarida Al-Rasmiyya, 27 July 2006 (Egypt).

#### Article 241

*In the above-mentioned cases where the judgment is considered in attendance, the court must investigate the case as if the litigant was present.*

*In such cases, the judgment rendered may not be opposed, unless the convicted person provides proof that there was an excuse that prevented his attendance, which he was not able to present before the judgment, and such judgment is not appealable.*

#### Article 242

*If the litigant appears before the end of the hearing during which the judgment in absentia was rendered, the case must be re- heard in his presence.*

#### Article 268

*The court hearing must be public; however, the court may, in consideration of public order and observation of morals, order the entire case or parts of it to be heard in a secret hearing, or to prevent specific groups from attending the hearing.*

#### Article 313

*Every accused who is convicted of a crime may be charged with the costs, wholly or partially.*

#### Article 314

*If the judgment in the appeal upheld the first instance judgment, the appellant may be charged with all or some of the appeal costs.*

#### Article 375

*Except for excuses or hindrances proven to be valid, the attorney, whether commissioned by the investigating judge, the Public Prosecution, the president of the criminal court, or appointed by the accused, must defend the accused in the hearing, or appoint a person to take his place; otherwise, he shall be sentenced by the criminal court to a fine not exceeding fifty pounds, without prejudice to a disciplinary trial, if necessary. The court may exempt from the fine if he proves to them that it was impossible for him to attend the session in person or to appoint a replacement.*

#### Article 376

*The lawyer appointed by the investigating judge, or the Public Prosecution or the President of the Criminal Court, may request an assessment of his fees to be paid from the Public Treasury, if the accused was poor. The Court shall assess these fees in its judgment in the case, and no appeal may be made on this assessment in any way. When the poverty of the accused is lifted, the Public Treasury may issue an order to him to pay the mentioned fees.*

## **Law No. 64 of 2010 regarding Combating Human Trafficking<sup>248</sup>**

### Article 23

*In all stages of evidence collection, investigation or trial of the crimes of human trafficking, efforts shall be made to identify the victim, to classify him, to determine his identity, nationality, and age to ensure that he is far removed from his perpetrators.*

*In addition, the following rights of the victim shall be guaranteed:*

- a) The right to physical, psychological and mental safety;*
- b) The right to protect his inviolability and identity;*
- c) The right to inform him of relevant administrative, legal and judicial procedures and access to information related thereto;*
- d) The right to be heard and to have his views and interests considered during all stages of criminal proceeding without prejudice to the rights of the defense;*
- e) The right to legal assistance, in particular the right to counsel in the investigation and trial stages; if he has not chosen a lawyer, the public prosecutor or the court, whichever the case, may assign him a lawyer in accordance with the rules prescribed in the Criminal Procedures Code regarding assigning a lawyer to the accused;*
- f) In all cases, the competent court shall take measures to ensure that protection is provided to the victims and witnesses to avoid any influence upon them and shall take whatever measures required to conceal their identity, all without prejudice to the rights of the defense and the requirements of the principle of confrontation between adversaries.*

### Article 24

*The State shall provide appropriate premises to host the victims of the crimes of human trafficking, which shall be separate from those of the perpetrators and shall allow them to receive their families and lawyers, as well as representatives of the competent authorities, a without prejudice to the various safeguards set forth in this regard in the Child Law or any other law.*

### Article 27

*A fund shall be established to assist victims of human trafficking, which shall have a public juristic personality under the Prime Minister to provide financial assistance to the victims who have suffered harm resulting from any of the crimes stipulated in this law.*

*A decision by the President of the Republic shall regulate this fund and determine its jurisdiction, resources and the sources of its funding.*

*The proceeds of the fines sentenced for the crimes stipulated in this law, as well as the properties, objects, and means of transportation forfeited shall be allocated directly to the fund, which may also accept contributions, grants, and donations from national and foreign entities.*

## **Emergency Law No. 162 of the year 1958<sup>249</sup>**

### Article 1

*The state of emergency may be declared whenever security or public order in the*

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<sup>248</sup> Law No. 64 of 2010 (regarding Combating Human Trafficking), Al-Jarida Al-Rasmiyya, 9 May 2010 (Egypt).

<sup>249</sup> Law No. 162 of 1958 (Concerning the State of Emergency), Al-Jarida Al-Rasmiyya, 28 September 1958 (Egypt). (Unofficial translation by the research team.)

territories of the Republic or in any area thereof are exposed to risk, whether due to a state of war, or a situation threatening the breakout of war, or internal disturbances, or public disasters or the spread of epidemics.

Article 3 (amended by Constitutional Court)

Whenever the state of emergency is declared the President of the Republic may take the appropriate measures to preserve security and public order, in particular he may:

1- Set restrictions on the freedom of persons to meet, move, reside or pass in certain places or time, to detain and arrest the suspects among them or those representing danger to the security and the public order; the authorization to search persons and places without complying with the provisions of the Criminal Procedural Law.<sup>250</sup>  
[...]

Article 3-bis<sup>251</sup>

Any person arrested or detained according to the preceding Article, shall immediately be informed in writing of the reasons for his arrest or detention. He shall have the right to call anyone he considers should be informed of what happened, including the signing and use of a lawyer, and the detainee shall be treated as a precautionary prisoner.

The detainee and others concerned may file a grievance against arrest or detention if thirty days have elapsed from the date of issue without being released.

The grievance shall be made by a request submitted without fees to the Supreme State Security Court, established in accordance with the provisions of this law.

The Court shall adjudicate the grievance with a reasoned decision within fifteen days from the date of filing the grievance, after hearing the statements of the arrested or the detained, or otherwise he shall be released immediately.

The Minister of Interior may, in case a decision to release was issued or in case of nonadjudication of the grievance within the time provided in the preceding paragraph, challenge the decision to release within fifteen days from the date of issuance of the decision or the expiry of the said date.

If the Minister of Interior challenges the decisions, the challenge shall be referred to another circuit within fifteen days from the date of its submission, to be adjudicated within fifteen days from the date of the referral. Otherwise, the detainee must be released immediately, and the decision of the Court shall be enforceable.

And in all cases, who's grievance was rejected shall have the right to submit a new grievance whenever thirty days have elapsed since the date of rejection of the grievance.

Article 3-bis c<sup>252</sup>

The Emergency State Security Courts may, based on the request of the Public Prosecution, detain persons who are evidenced to be a danger to public security, for a renewable period of one month.

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250 What was included in the first paragraph of this Article: "that the President of the Republic is authorized to permit the arrest and detention, and inspection, of persons and places without complying with the provisions of the Criminal Procedural Law", was judged unconstitutional in the judgment issued on 2 June 2013 in the case registered under Number 15 of Judicial Year 17 "Constitutional".

251 As amended by Law No. 50 of 1982, Al-Jarida Al-Rasmiyya, 28 June 1982 (Egypt).

252 As amended by Law No. 12 of 2017, Al-Jarida Al-Rasmiyya, 27 April 2017 (Egypt).

#### Article 5<sup>253</sup>

*Without prejudice to any severer penalty provided by the applicable laws, any person who contravenes the orders issued by the President of the Republic or his substitute shall be punished by the penalties prescribed in such orders, provided that such penalty shall not exceed strict imprisonment or a fine of four thousand Pounds or forty thousand Lira. And if such orders did not mention the punishment for violating their provisions, the violator shall be punished with imprisonment for a period not exceeding six months, and a fine not exceeding fifty Pounds or five hundred Syrian Lira or one of these two punishments.*

#### Article 6<sup>254</sup>

*Violators of orders issued in accordance with the provisions of this law and the crimes defined by these orders may be arrested immediately.*

*The arrested person may file a grievance against the arrest order to the competent State Security Court, which shall adjudicate the grievance within 30 days from the date of the grievance, otherwise the arrested shall be released immediately.*

*The competent court, whether during the adjudication of the grievance or during the proceedings, may issue a decision on the provisional release of the accused. The decision of the court shall be enforceable unless the Minister of Interior challenges it within fifteen days from the date of its issuance and the accusation attributed to the accused is a crime of internal or external state security.*

*If the Minister of Interior challenges the decision to release in this case, the challenge shall be referred to a different circuit within fifteen days from the date of its submission, so that it shall be adjudicated within fifteen days from the date of the referral. Otherwise, the accused shall be released immediately. The decision of the court in this case shall be enforceable. In all cases, who's grievance was rejected may file a new grievance whenever thirty days have elapsed since the date of rejection of the grievance.*

#### Article 12

*The verdicts issued by the State Security Courts may not be challenged in any way, and these verdicts are not final except after being ratified by the President of the Republic.*

#### Article 14

*The President of the Republic may, upon presentation of the verdict to him, alleviate the decided penalty, replace it by a lesser penalty, cancel the penalties in whole or partially of whatever type they may be whether, original, supplementary or consequential, or he may suspend the enforcement of the whole or part of the penalty and he may cancel the verdict together with keeping the case or ordering re-trial before another chamber, and in this latter case the decision must be substantiated.*

*If the issued verdict after re-trial is an acquittal, it must be ratified in all cases. And if the judgment is a conviction, the President of the Republic may reduce the penalty, suspend its execution, or cancel it, pursuant to the stipulation of paragraph one, or he may cancel the verdict together with keeping the case.*

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253 Even though this Article surprisingly mentions Syrian Lira as a currency of punishment, the legal database Eastlaws states this Article in exactly this wording as the final version as of 19 June 2003.

254 As amended by Law No. 50 of 1982, Al-Jarida Al-Rasmiyya, 28 June 1982 (Egypt).

## **Constitutional Court Decision on 2 June 2013, Case Number 17 of the Judicial Year 15<sup>255</sup>**

### Ruling

The Court ruled unconstitutional the contents of item 1 in Article 3 of Presidential Decree on Law No. 162 of the year 1958<sup>256</sup> which allow the President of the Republic to authorize the arrest or detention, the search of persons and places without complying with the provisions of the Criminal Procedural Law; and ordered the government to cover the expenses and the amount of two hundred pounds for lawyer fees.

## **Law No. 47 of the year 1972 on the State Council <sup>257</sup>**

### Article 1

The State Council is an independent judicial body.

### Article 10

State Council courts shall have exclusive jurisdiction over the following matters:

- 1) Appeals concerning elections to municipal bodies.
- 2) Disputes concerning salaries, pensions and bonuses payable to public officials or their heirs.
- 3) Appeals submitted by concerned parties to challenge final administrative decisions issued on appointment to public office, or promotion, or granting bonuses.
- 4) Appeals submitted by public officials concerning the annulment of administrative decisions ordering their retirement or dismissal without disciplinary procedures.
- 5) Appeals submitted by individuals or authorities for annulment of final administrative decisions.
- 6) Appealing final decisions issued by the administrative authorities in disputes of taxes and fees in accordance with the law governing how these disputes are considered before the State Council.
- 7) Claims of nationality.
- 8) Appeals against final decisions issued by administrative bodies with judicial jurisdictions, except for decisions issued by conciliation and arbitration bodies in employment disputes, where the grounds to the appeal are lack of jurisdiction, or defect in legal form, or violation of laws and regulations, or an error in their application or interpretation.
- 9) Appeals by public officials for the annulment of final decisions of disciplinary authorities.
- 10) Requests for compensation on the decisions mentioned in the preceding articles, whether raised in original or subordinate manner.<sup>258</sup>
- 11) Disputes relating to contracts of obligation, public works, procurement or any other administrative contract.
- 12) Disciplinary proceedings provided for in this Law.
- 13) Appeals against sanctions imposed on public sector employees within the limits prescribed by law.

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255 Constitutional Court Decision on 2 June 2013, Case Number 17 of the Judicial Year 15, Al-Jarida Al- Rasmiyya, 3 June 2013 (Egypt). (Unofficial translation by the research team.)

256 Emergency Law No. 162/1958, supra note 249.

257 Law No. 47 of 1972 (State Council Law), Al-Jarida Al-Rasmiyya, 1 October 1972 (Egypt). (Unofficial translation by the research team.)

258 It is not clear how to translate these terms into English. Probably they refer to whether the case was filed directly to the State Council Court or transferred to it



14) All administrative disputes.

*Requests to cancel final administrative decisions require to be on the following grounds: a lack of jurisdiction, defect in form, violation of laws or regulations, error in their application or interpretation, or abuse of authority.*

*An Administrative authority's refusal or abstention from making a decision it had to make in accordance to the laws and regulations, is considered an administrative decision.*

## ANNEX I

### DOCUMENTATION

#### 1. International Legal Instruments

##### Convention Relating to the Status of Refugees 1951<sup>259</sup>

###### Article 2

###### GENERAL OBLIGATIONS

*Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.*

###### Article 12

###### PERSONAL STATUS

- 1. The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.*
- 2. Rights previously acquired by a refugee and dependent on personal status, more particularly rights attaching to marriage, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the law of that State, provided that the right in question is one which would have been recognized by the law of that State had he not become a refugee*

###### Article 25

###### ADMINISTRATIVE ASSISTANCE

- 1. When the exercise of a right by a refugee would normally require the assistance of authorities of a foreign country to whom he cannot have recourse, the Contracting States in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by an international authority.*
- 2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to refugees such documents or certifications as would normally be delivered to aliens by or through their national authorities.*
- 3. Documents or certifications so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities, and shall be given credence in the absence of proof to the contrary.*
- 4. Subject to such exceptional treatment as may be granted to indigent persons, fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.*
- 5. The provisions of this article shall be without prejudice to articles 27 and 28.*

###### Article 27

###### IDENTITY PAPERS

*The Contracting States shall issue identity papers to any refugee in their territory who*

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<sup>259</sup> Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137 (entered into force Apr. 22, 1954). [Hereinafter, Refugee Convention]. Egypt acceded to the Convention and its Protocol on 22 May 1981.

does not possess a valid travel document.

#### Article 28

##### TRAVEL DOCUMENTS

1. The Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other refugee in their territory; they shall in particular give sympathetic consideration to the issue of such a travel document to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence.

2. Travel documents issued to refugees under previous international agreements by parties thereto shall be recognized and treated by the Contracting States in the same way as if they had been issued pursuant to this article.

#### Article 35

##### CO-OPERATION OF THE NATIONAL AUTHORITIES WITH THE UNITED NATIONS

1. The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.

2. In order to enable the Office of the High Commissioner or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with information and statistical data requested concerning:

- (a) The condition of refugees,
- (b) The implementation of this Convention, and;
- (c) Laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

#### Annexed Schedule:

##### Paragraph 1

1. The travel document referred to in article 28 of this Convention shall be similar to the specimen annexed hereto.

2. The document shall be made out in at least two languages, one of which shall be English or French.

##### Paragraph 2

Subject to the regulations obtaining in the country of issue, children may be included in the travel document of a parent or, in exceptional circumstances, of another adult refugee.

##### Paragraph 3

The fees charged for issue of the document shall not exceed the lowest scale of charges for national passports.

##### Paragraph 4

Save in special or exceptional cases, the document shall be made valid for the largest possible number of countries.



Paragraph 5

*The document shall have a validity of either one or two years, at the discretion of the issuing authority.*

Paragraph 6

*1. The renewal or extension of the validity of the document is a matter for the authority which issued it, so long as the holder has not established lawful residence in another territory and resides lawfully in the territory of the said authority. The issue of a new document is, under the same conditions, a matter for the authority which issued the former document.*

*2. Diplomatic or consular authorities, specially authorized for the purpose, shall be empowered to extend, for a period not exceeding six months, the validity of travel documents issued by their Governments.*

*3. The Contracting States shall give sympathetic consideration to renewing or extending the validity of travel documents or issuing new documents to refugees no longer lawfully resident in their territory who are unable to obtain a travel document from the country of their lawful residence.*

Paragraph 7

*The Contracting States shall recognize the validity of the documents issued in accordance with the provisions of article 28 of this Convention.*

Paragraph 8

*The competent authorities of the country to which the refugee desires to proceed shall, if they are prepared to admit him and if a visa is required, affix a visa on the document of which he is the holder.*

Paragraph 9

*1. The Contracting States undertake to issue transit visas to refugees who have obtained visas for a territory of final destination.*

*2. The issue of such visas may be refused on grounds which would justify refusal of a visa to any alien.*

Paragraph 10

*The fees for the issue of exit, entry or transit visas shall not exceed the lowest scale of charges for visas on foreign passports.*

Paragraph 11

*When a refugee has lawfully taken up residence in the territory of another Contracting State, the responsibility for the issue of a new document, under the terms and conditions of article 28, shall be that of the competent authority of that territory, to which the refugee shall be entitled to apply.*

Paragraph 12

*The authority issuing a new document shall withdraw the old document and shall return it to the country of issue if it is stated in the document that it should be so returned; otherwise it shall withdraw and cancel the document.*

Paragraph 13

*1. Each Contracting State undertakes that the holder of a travel document issued by it in accordance with article 28 of this Convention shall be re-admitted to its territory at any*

time during the period of its validity.

2. Subject to the provisions of the preceding sub-paragraph, a Contracting State may require the holder of the document to comply with such formalities as may be prescribed in regard to exit from or return to its territory.

3. The Contracting States reserve the right, in exceptional cases, or in cases where the refugee's stay is authorized for a specific period, when issuing the document, to limit the period during which the refugee may return to a period of not less than three months.

#### Paragraph 14

Subject only to the terms of paragraph 13, the provisions of this Schedule in no way affect the laws and regulations governing the conditions of admission to, transit through, residence and establishment in, and departure from, the territories of the Contracting States.

#### Paragraph 15

Neither the issue of the document nor the entries made thereon determine or affect the status of the holder, particularly as regards nationality.

#### Paragraph 16

The issue of the document does not in any way entitle the holder to the protection of the diplomatic or consular authorities of the country of issue, and does not confer on these authorities a right of protection.

#### Reservation

Egypt formulated a reservation to Article 12 (1) because it is in contradiction with the internal laws of Egypt. This article provides that the personal status of a refugee shall be governed by the law of the country of his domicile or, failing this, of his residence. This formula contradicts article 25 of the Egyptian Civil Code, which reads as follows:

"The judge declares the applicable law in the case of persons without nationality or with more than one nationality at the same time. In the case of persons where there is proof, in accordance with Egypt, of Egyptian nationality, and at the same time in accordance with one or more foreign countries, of nationality of that country, the Egyptian law must be applied."<sup>260</sup>

### **International Covenant on Civil and Political Rights<sup>261</sup>**

#### Article 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

3. No marriage shall be entered into without the free and full consent of the intending spouses.

4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution.

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<sup>260</sup> Reservation retrieved from the UN Treaty Collection website at [https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg\\_no=V-2&chapter=5&Temp=mtdsg2&clang=\\_en#EndDec](https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-2&chapter=5&Temp=mtdsg2&clang=_en#EndDec)

<sup>261</sup> International Covenant on Civil and Political Rights, Dec. 19, 1966, 999 U.N.T.S. 171 (entered into force March 23, 1976). [Hereinafter, ICCPR]. Egypt ratified the Covenant on 14 January 1982 with the following reservation: "Taking into consideration the provisions of the Islamic Sharia and the fact that they do not conflict with the text annexed to the instrument, we accept, support and ratify it."

*In the case of dissolution, provision shall be made for the necessary protection of any children.*

#### Article 24

- 1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.*
- 2. Every child shall be registered immediately after birth and shall have a name.*
- 3. Every child has the right to acquire a nationality.*

### **International Covenant on Economic, Social and Cultural Rights<sup>262</sup>**

#### Article 2

- 1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.*
- 2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*
- 3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.*

#### Article 4

*The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.*

#### Article 10

*The States Parties to the present Covenant recognize that:*

- 1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.*
- 2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.*
- 3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other*

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<sup>262</sup> International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3 (entered into force January 3, 1976). [Hereinafter, ICESCR]. Egypt ratified the Covenant on 14 January 1982 with the following declaration: "Taking into consideration the provisions of the Islamic Sharia and the fact that they do not conflict with the text annexed to the instrument, we accept, support and ratify it."

conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

### **Convention on the Rights of the Child<sup>263</sup>**

#### Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

#### Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

### **Convention on the Elimination of All Forms of Discrimination against Women<sup>264</sup>**

#### Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

#### Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
  - (a) The same right to enter into marriage;
  - (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
  - (c) The same rights and responsibilities during marriage and at its dissolution;
  - (d) The same rights and responsibilities as parents, irrespective of their marital status,

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<sup>263</sup> Convention on the Rights of the Child, 20 Nov. 1989, 1577 U.N.T.S. 3 (entered into force Sept. 2, 1990). [Hereinafter, CRC]. Egypt ratified the Convention on 6 July 1990.

<sup>264</sup> Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1248 UNTS 13 (entered into force Sept. 3, 1981). [Hereinafter, CEDAW]. Egypt ratified the Convention on 18 October 1981.

in matters relating to their children; in all cases the interests of the children shall be paramount;

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

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

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

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

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

## **International Convention on the Elimination of All Forms of Racial Discrimination<sup>265</sup>**

### Article 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(a) The right to equal treatment before the tribunals and all other organs administering justice;

(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;

(c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;

(d) Other civil rights, in particular:

(i) The right to freedom of movement and residence within the border of the State;

(ii) The right to leave any country, including one's own, and to return to one's country;

(iii) The right to nationality;

(iv) The right to marriage and choice of spouse;

(v) The right to own property alone as well as in association with others;

(vi) The right to inherit; [...]

## **Convention on the Rights of Persons with Disabilities<sup>266</sup>**

### Article 18

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<sup>265</sup> International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965, 660 UNTS 195 (entered into force Jan. 4, 1969). [Hereinafter, ICERD]. Egypt ratified the Convention on 1 May 1967.

<sup>266</sup> Convention on the Rights of Persons with Disabilities, Jan. 24, 2007, 2515 UNTS 3 (entered into force May 3, 2008). [Hereinafter, CRPD]. Egypt acceded to the Convention on 18 September 1981.

#### *Liberty of movement and nationality*

*1. States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities:*

- (a) Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability;*
- (b) Are not deprived, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement;*
- (c) Are free to leave any country, including their own;*
- (d) Are not deprived, arbitrarily or on the basis of disability, of the right to enter their own country.*

*2. Children with disabilities shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by their parents.*

#### Article 23

##### *Respect for home and the family*

*1. States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:*

- (a) The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;*
- (b) The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;*

*[...]*

### **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families<sup>267</sup>**

#### Article 1

*1. The present Convention is applicable, except as otherwise provided hereafter, to all migrant workers and members of their families without distinction of any kind such as sex, race, color, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.*

*2. The present Convention shall apply during the entire migration process of migrant workers and members of their families, which comprises preparation for migration, departure, transit and the entire period of stay and remunerated activity in the State of employment as well as return to the State of origin or the State of habitual residence.*

#### Article 2

*For the purposes of the present Convention:*

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<sup>267</sup> International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 18 Dec 1990, 2220 U.N.T.S. 3 (entered into force July 1, 2003). [Hereinafter, CMW]. Egypt acceded to this Convention on 19 February 1993.

1. The term "migrant worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national. [...]

### Article 3

The present Convention shall not apply to:

- (a) Persons sent or employed by international organizations and agencies or persons sent or employed by a State outside its territory to perform official functions, whose admission and status are regulated by general international law or by specific international agreements or conventions;
- (b) Persons sent or employed by a State or on its behalf outside its territory who participate in development programmes and other co-operation programmes, whose admission and status are regulated by agreement with the State of employment and who, in accordance with that agreement, are not considered migrant workers;
- (c) Persons taking up residence in a State different from their State of origin as investors;
- (d) Refugees and stateless persons, unless such application is provided for in the relevant national legislation of, or international instruments in force for, the State Party concerned;
- (e) Students and trainees;
- (f) Seafarers and workers on an offshore installation who have not been admitted to take up residence and engage in a remunerated activity in the State of employment.

### Article 5

For the purposes of the present Convention, migrant workers and members of their families:

- (a) Are considered as documented or in a regular situation if they are authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party;
- (b) Are considered as non-documented or in an irregular situation if they do not comply with the conditions provided for in subparagraph (a) of the present article.

### Article 21

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

### Article 29

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

## **Protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime<sup>268</sup>**

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<sup>268</sup> Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, Nov. 15, 2000, 2237 UNTS 319 (entered into force 25 December 2003). [Hereinafter, Trafficking Protocol]. Egypt ratified the Convention on 5 March 2004.

### Article 3

#### USE OF TERMS

For the purposes of this Protocol:

- (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) "Child" shall mean any person under eighteen years of age.

### Article 8

[...] 4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.

## **Protocol against the Smuggling of Migrants by Land, Sea, and Air, Supplementing the United Nations Convention against Organized Crime <sup>269</sup>**

### Article 3

#### USE OF TERMS

For the purposes of this Protocol:

- (a) "Smuggling of migrants" shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident;
- (b) "Illegal entry" shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State; [...]

### Article 18

[...] 4. In order to facilitate the return of a person who has been the object of conduct set forth in article 6 of this Protocol and is without proper documentation, the State Party of which that person is a national or in which he or she has the right of permanent residence shall agree to issue, at the request of the receiving State Party, such travel documents or

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<sup>269</sup> Protocol against the Smuggling of Migrants by Land, Sea, and Air, Supplementing the United Nations Convention against Organized Crime, 15 Nov 2000, 2241 U.N.T.S. 507 (entered into force Jan. 28, 2004). [Hereinafter, Smuggling Protocol] Egypt acceded to the Protocol on 1 March 2005.

other authorization as may be necessary to enable the person to travel to and re- enter its territory.

5. Each State Party involved with the return of a person who has been the object of conduct set forth in article 6 of this Protocol shall take all appropriate measures to carry out the return in an orderly manner and with due regard for the safety and dignity of the person.

## **2. Regional Legal Instruments**

### **OAU Convention Governing the Specific Aspects of Refugee Problems in Africa<sup>270</sup>**

#### Article 1

##### **DEFINITION OF THE TERM "REFUGEE"**

1. For the purposes of this Convention, the term "refugee" shall mean every person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

2. The term "refugee" shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.

[...]

#### Article 6

##### **TRAVEL DOCUMENTS**

1. Subject to Article III, Member States shall issue to refugees lawfully staying in their territories travel documents in accordance with the United Nations Convention relating to the Status of Refugees and the Schedule and Annex thereto, for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require.

Member States may issue such a travel document to any other refugee in their territory.

2. Where an African country of second asylum accepts a refugee from a country of first asylum, the country of first asylum may be dispensed from issuing a document with a return clause.

3. Travel documents issued to refugees under previous international agreements by States Parties thereto shall be recognized and treated by Member States in the same way as if they had been issued to refugees pursuant to this Article.

### **African Charter on Human and Peoples' Rights<sup>271</sup>**

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<sup>270</sup> Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa, 10 Sept. 1969, 1001 U.N.T.S. 45 (entered into force June 20, 1974). Egypt acceded to the Convention on 12 June 1980. [Hereinafter, OAU Refugee Convention]

<sup>271</sup> African Charter on Human and Peoples' Rights, 27 June 1981, 1520 U.N.T.S. 217 (entered into force October 21, 1986). [Hereinafter, African Charter] Egypt ratified the Charter on 3 April 1984.

## Article 18

1. *The family shall be the natural unit and basis of society. It shall be protected by the State which shall take care of its physical health and moral.*
2. *The State shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community.*
3. *The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.*
4. *The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs.*

## **African Charter on the Rights and Welfare of the Child<sup>272</sup>**

### Article 2

*A child means every human being below the age of 18 years.*

### Article 6

*Every child has the right to be named and registered at birth.*

## **African Youth Charter 273**

### Article 8

#### *Protection of the Family*

- 1) *The family, as the most basic social institution, shall enjoy the full protection and support of States Parties for its establishment and development noting that the structure and form of families varies in different social and cultural contexts.*
- 2) *Young men and women of full age who enter into marriage shall do so based on their free consent and shall enjoy equal rights and responsibilities.*

## **Charter on the Rights of the Arab Child<sup>274</sup>**

### Article 10

*Confirming and ensuring the child's right to have a name and a certain nationality from birth.*

## **Protocol for the Treatment of Palestinians in Arab States ("Casablanca Protocol")<sup>275</sup>**

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272 African Charter on the Rights and Welfare of the Child, 1 July 1990, CAB/LEG 24.9/49 (entered into force Nov. 29, 1999). Egypt ratified the Charter on 9 May 2001. [Hereinafter, ACRWC]

273 African Youth Charter, July 2, 2006 (entered into force Aug. 8, 2009). [Hereinafter, AYC]. Egypt ratified the Charter on 1 April 2015.

274 Charter on the Rights of the Arab Child, 6 June 1983, (entered into force on Jan. 11, 1994). Egypt ratified the same day. [Hereinafter, Arab Child Charter] (Unofficial translation by the research team.)

275 Protocol for the Treatment of Palestinians in Arab States (Casablanca Protocol), 11 September 1965. Egypt ratified the Protocol on 11 September 1965. [Hereinafter, Casablanca Protocol] Unofficial translation retrieved from <https://www.refworld.org/docid/460a2b252.html>.

*On the basis of the Charter of the League of Arab States and its special annex pertaining to Palestine, and of the LAS Council resolution concerning the Palestinian issue, and, in particular, of the Special resolution pertaining to safeguarding Palestinian existence,*

*The Council of Foreign Ministers of Member states agreed, in its meeting in Casablanca on 10 September 1965, upon the following regulations, and called upon member states to take the necessary measures to put them into the sphere of implementation:  
[...]*

#### Article 2

*Palestinians residing at the moment in \_\_\_\_\_<sup>276</sup> in accordance with the dictates of their interests, have the right to leave and return to this state.*

#### Article 3

*Palestinians residing in other Arab states have the right to enter the land of \_\_\_\_\_ and to depart from it, in accordance with their interests. Their right of entry only gives them the right to stay for the permitted period and for the purpose they entered for, so long as the authorities do not agree to the contrary.*

#### Article 4

*Palestinians who are at the moment in \_\_\_\_\_, as well as those who were residing and left to the Diaspora, are given, upon request, valid travel documents. The concerned authorities must, wherever they be, issue these documents or renew them without delay.*

#### Article 5

*Bearers of these travel documents residing in LAS states receive the same treatment as all other LAS state citizens, regarding visa, and residency applications.*

### **3. Bilateral Legal Instruments**

#### **Four Freedoms Agreement<sup>277</sup>**

##### Article 1

*For the purpose of this Agreement, the following words and phrases shall have the meaning stated in front of them:*

*“The Two Countries”: means the Arab Republic of Egypt and the Republic of Sudan.*

*“The High Committee”: means the Egyptian-Sudanese joint high committee.*

*“The Ministerial Committee”: means the ministerial preparatory committee for the Egyptian- Sudanese High Committee.*

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<sup>276</sup> The English translations of the Casablanca Protocol found online all include these empty spaces. Presumably it is for the signing states to enter the name of their country respectively. Thus, in the case of Egypt Article 2 would read for example: Palestinians residing at the moment in Egypt in accordance with the dictates of their interests, have the right to leave and return to this state.

<sup>277</sup> Agreement on the Freedom of Movement, Residence, Work, and Property between the Government of the Arab Republic of Egypt and the Government of the Republic of Sudan (“Four Freedoms Agreement”), Apr. 4, 2004, ratified by Egypt and entered into force 8 September 2004. [Hereinafter, Four Freedoms Agreement] (unofficial translation) The Agreement was published in the Official Gazette through Decree No. 76 of 2004 by the Foreign Minister, Al-Jarida Al-Rasmiyya, 9 September 2004 (Egypt).

*“The Citizen”:* means every natural person belonging through his nationality to either of the Two Countries.

#### Article 2

*The residence, movement and entry of Citizens and their exit from and into either country shall be by valid passport or document, or other documents to be agreed upon by both parties in the territories of both states, and through the ports of land, sea and air officially approved by the Two Countries.*

#### Article 4

*The rights acquired by any of the Citizens of the Two Countries under this Agreement shall not be affected if terminated for any reason.*

#### Article 7

*[...]*

*2) This Agreement shall be valid for a period of five years, and shall be renewed automatically for the same period or similar periods, unless one of the Two Parties notifies in writing of its desire to terminate it before the end of its period by three months.*

*[...]*

### **Memorandum of Understanding between the Egyptian Government and the United Nations High Commissioner for Refugees<sup>278</sup>**

#### Article 7

*The Egyptian Government will grant to said refugees, when they will have to travel abroad, travel documents with return visa, of a limited, but sufficient, duration, except if reasons of public security prevent it.*

## **4. Domestic Legal Instruments**

### **Constitution of the Arab Republic of Egypt 2014<sup>279</sup>**

#### Article 10

*Family is the basis of society and is based on religion, morality, and patriotism. The state protects its cohesion and stability, and the consolidation of its values.*

#### Article 93

*The state is committed to the agreements, covenants, and international conventions of*

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<sup>278</sup> Translation retrieved from Tarek Badawy, The Memorandum of Understanding between Egypt and the Office of the United Nations High Commissioner for Refugees: Problems and Recommendations, CARIM AS 2010/07, 4 (2010). [Hereinafter, MoU Egypt UNHCR]

<sup>279</sup> Constitution of the Arab Republic of Egypt, 18 January 2014. [Hereinafter, Egyptian Constitution] Retrieved from [https://www.constituteproject.org/constitution/Egypt\\_2014.pdf](https://www.constituteproject.org/constitution/Egypt_2014.pdf)

human rights that were ratified by Egypt. They have the force of law after publication in accordance with the specified circumstances.

**Law No. 89 of the year 1960 concerning Entry and Residence of Aliens in the Territories of the United Arab Republic and their Departure therefrom<sup>280</sup>**

Article 1

Whoever does not hold the nationality of the Arab Republic of Egypt shall be considered an alien under the provisions of the present law.

Article 2

The entry to and exit from the Arab Republic of Egypt shall not be allowed except those holding a passport or document issued from the competent authorities in their countries or any other recognized authority, entitling them to return to the country from which the said passport or document is issued.

The passport or document shall be officially stamped by the Ministry of Interior or one of the diplomatic missions or anybody delegated for such purpose by the government of the Arab Republic of Egypt.

Article 3

The entry to or exit from the Arab Republic of Egypt shall only be from the places that the Minister of Interior will determine by a decree to be issued by him, and with the permission from the competent official, by virtue of endorsing<sup>281</sup> the passport or the document standing for it.

Article 4

The alien may be exempted from the provisions of the two previous articles by virtue of a special permission from the Director of the Passports, Immigration and Nationality Administration.

Article 5

The Minister of Interior may issue a decree exempting the nationals of certain Arab and foreign countries or a special section thereof, from obtaining an entry visa or carrying a passport.

Such exemption may be limited to a defined area in the Arab Republic of Egypt.

Article 8

The Minister of Interior may issue a decree committing the nationals of certain countries to submit personally within seven days from the day following their arrival in the Arab Republic of Egypt an entry or transit visa to the aliens registrations office of the police

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280 Law No. 89 of 1960 (Entry and Residence of Aliens in the Territories of the United Arab Republic and their Departure Therefrom), Al-Jarida Al-Rasmiyya, 24 March 1960 (Egypt). English translation provided by MELES (Middle East Library for Economic Services) in Foreigners Laws, October 2017.

281 The Arabic original version uses the word تاشيرة (tashera), which should be translated as visa. Thus, the requirements for entering Egypt are to go through an official point of entry, and to receive a visa in the passport or travel document by the competent official.

station in the district where they exist, and sign a declaration on their personal status, the purpose of their trip, their authorized residence period, their home address, the domicile they elect for their normal residence, the starting date of their residence, and the other data and identification papers.

The nationals of these countries, before changing their place of residence, shall notify their new address to the aliens registration office or the police station within the area of which they shall stay. If they move to another city, they shall submit, within two days from the time of their arrival at their new place of residence, a declaration to the aliens registration office or the concerned police station in the city where they have moved.

#### Article 16

All aliens residing in the Arab Republic of Egypt shall obtain a permit for residence in it, and shall depart from the Arab Republic of Egypt upon termination of his residence.

#### Article 17

Aliens are divided, from the residence point of view, into three categories:

1. Aliens with special residence.
2. Aliens with ordinary residence.
3. Aliens with temporary residence.

#### Article 18

Aliens with special residence shall be the following:

[...] C) Aliens whose residence in the Arab Republic of Egypt has continued for more than five years, which was regularly renewed up to the effective date of the present law, providing they had entered the country in a legal way, as well as the aliens whose residence lasted for more than five years with the same conditions, if they have been, in both cases, carrying out works beneficial to the national economy, or performing scientific, cultural, or technical services to technical services to the country. [...]

Individuals of this category shall be authorized to stay and reside for a period of ten years, renewable upon request, unless they fall within any of the cases prescribed in Article (26) of the present law.

#### Article 19

Aliens with ordinary residence shall be the following:

Aliens whose residence in the Arab Republic of Egypt lasted without interruption for fifteen preceding years ad up to the date of publishing decree-law No. 74 of the year 1952, providing they had entered the country in a legal way.

Individuals of this category shall be authorized to stay and reside for a period of five years which period may be renewed.

#### Article 20

Concerning Aliens with temporary residence, who do not fulfill the foregoing conditions, the Director of the Passports, Emigration and Nationality department may issue a decree granting the members of this category a residence license for a maximum period of one renewable year.

However, a decree of the Minister of Interior may be issued granting a residence license for a maximum period of five renewable years, according to the conditions and terms whereby a decree is issued thereby.

#### Article 21

*The Minister of Interior shall determine by decree, issued by him, the procedures for obtaining of a residence permit, and its renewal and the date of applying for it.*

#### Article 22

*None of the two categories referred to in articles 18 and 19 of the present law shall be authorized to stay abroad for a period exceeding six months, unless he has obtained, before his travel or before expiry of this period, an authorization therefor from the Director of the Passports, Immigration and Nationality Administration, for reasons acceptable to him, providing the period of staying abroad shall not exceed two years.*

*Violating the foregoing provisions shall result in abating the right of residence authorized to the alien.*

*Aliens remaining abroad, seeking education in foreign schools and universities, or for obligatory service or other excuses acceptable to the Director of the Passports, Immigration and Nationality Administration shall be excepted from the foregoing provisions if they submit evidence justifying their excuse.*

#### Article 23

*An alien authorized to enter to or reside in the Arab Republic of Egypt for a specific purpose shall not contravene that purpose except after obtaining permission for that from the Director of the Passports, Immigration and Nationality Administration.*

#### Article 24

*Only the person authorized for special residence, his minor children living under his protection until reaching the legal age, and his wife who has been legally living in the Arab Republic of Egypt for two years from the date of marriage is notified to the Director of the Passports, Immigration and Nationality Administration, so long as the matrimony has existed, shall benefit by the special residence permit.*

#### Article 32

*A decree shall be issued from the Minister of the Interior subject to approval of the Minister of Foreign Affairs, to determine the types of visas, their validity period, the conditions and procedures of granting them and exempting therefrom, the fees to be collected therefor, at an amount not exceeding five hundred Egyptian pounds, and the cases of full or partial exemption from such fines.*

#### Article 33

*A decree of the Minister of Interior shall be issued determining the forms and conditions of the travel documents given to certain categories of aliens and refugees, the conditions and procedures of granting them, the fees to be collected for them provided they shall not exceed thirty pounds, and cases of exemption from them wholly or partially.*

#### Article 34

*A decree of the Minister of Interior shall be issued including the rules and procedures of determining those banned from leaving the country or entering thereto and the method of recording their names in and removing the same from the special lists.*

*A decree of the Minister of Interior shall be issued forming the committee concerned with such an issue, and determining their powers as well as the methods of complaining against their decisions.*

#### Article 35

*The Minister of Interior shall issue a decree on the shapes and forms of the residence card and licenses and other forms and declarations provided for, in the present law, and data comprised in these forms and declarations.*

#### Article 36

*A decree of the Minister of Interior shall be issued on determining the fees to be collected for the residence permits and cards, provided that they shall be of no less than five hundred Egyptian Pounds, and no more than five thousand Egyptian Pounds per annum, as well as defining the cases of full or partial exemption from such fees.*

#### Article 37

*The provisions of the present law shall not apply, with regard to the residence permits and registration, to the following:*

*[...] 3) Nationals of the neighboring countries to the Arab Republic of Egypt concerning their entry to the border areas adjacent to these countries providing a special permit, called "borders permit", is obtained, within the limits of the provisions prescribed in the agreements concluded in this respect with those countries.*

*4) Those exempted by virtue of international agreement to which the Arab Republic of Egypt is a party, and within the limits of those agreements.*

*5) The aliens that the minister of interior considers exempting them by means of special permission for considerations of international courtesies.*

### **Ministry of Interior Decree No. 31 of the year 1960<sup>282</sup>**

#### Article 1

*The visas are two sections:*

*First: Diplomatic visas and the like.*

*Second: Ordinary visas.*

#### Article 11

*Ordinary visas are of two kinds:*

*1) Entry visa*

*2) Transit visa*

*These visas are valid for entering the United Arab Republic or transit for one trip unless it is stipulated therein that its validity is made for more than one trip during six months at maximum from the date of it is granted; and it is permissible for exceptional circumstances to make it validity for a period of one year.*

*Nevertheless, it is permissible, by a permission of the Ministry of Interior, in other than the*

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282 Ministry of Interior Decree No. 31 of 1960, Al-Jarida Al-Rasmiyya, 2 July 1960 (Egypt). English translation provided by MELES (Middle East Library for Economic Services) in Foreigners Laws, October 2017.

cases stipulated upon in this Decree, that the entry or transit visa shall be made valid for several trips or for a period not exceeding one year.

#### Article 12

*It is not permissible to grant entry or transit visa, except on a correct valid passport, or on official document to serve as the passport, and valid for renewal; and conceding its holder the right to return to his country, or at least to the destination from which he came; and provided the name of the United Arab Republic should be among the names of countries included in the passport.*

*It is provided that the validity period of the passport, or the official document replacing it, should exceed two months as of the expiry date of the total validity period of entry or transit visa, and the period of authorized residence therein.*

#### Article 13

*It is permissible that the passport of the foreigner shall include the spouse of its owner and his minor children, if they are accompanying him; provided their names and ages are recorded in the passport, and in the space allocated for that, and that the photograph of the passport owner, and photograph of the spouse and children are stuck on it and stamped with the seal of the competent authority.*

*In case of authorizing one person of those, there must be stipulated in the visa that it is restricted for the authorized person without the others.*

### **Ministry of Interior Decree No. 7067 of the year 1996<sup>283</sup>**

#### Article 1

*The nationals of the countries states thereafter shall follow the registration procedures stipulated upon in Article 8 of Law No. 89/1960 as amended by Law No. 99/1996; "Israel, Somalia, Iraq, Sudan, Yemen, Palestine, Lebanon, Zaire, Chad, Nigeria, Ghana, Liberia, Burundi, Eritrea, Pakistan, Afghanistan, Sri Lanka, Philippines, Bangladesh, India, Honduras, Belize, Barbados, Trinidad & Tobago, Iran, Bosnia, the Islamic countries gained independency from the former Soviet Union and Ethiopia".*

### **Ministry of Interior Decree No. 180 of 1964, enforcing certain provisions of Law No. 89 of 1960, in Respect of Admittance and Residence of Foreigners in the Territories of the United Arab Republic and Exit therefrom<sup>284</sup>**

#### Article 2

*The foreigner who wants to extend his period of residence in the territories of the United Arab Republic, beyond the period authorized for him, has to submit – to the Emigration, Passports and Nationality Department, or one of its branches, or the Investigation Office in the Security Precinct – an application for that, annexed with the documents justifying*

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283 Ministry of Interior Decree No. 7067 of 1996, Al-Jarida Al-Rasmiyya, 13 October 1996 (Egypt). English translation provided by MELES (Middle East Library for Economic Services) in Foreigners Laws, October 2017.

284 Ministry of Interior Decree No. 180 of 1964, enforcing certain provisions of Law No. 89 of 1960 (In Respect of Admittance and Residence of Foreigners in the Territories of the United Arab Republic and Exit therefrom), Al-Jarida Al-Rasmiyya, 26 November 1964 (Egypt). English translation provided by MELES (Middle East Library for Economic Services) in Foreigners Laws, October 2017.

it; and the submission of application shall be within fifteen days at least before the end of the authorized period for him; unless this period is less than one month, the submission of application shall be within three days at least before It ends.

### Article 3

Each foreigner – who resided in the territories of the United Arab Republic for a period exceeding six months and his age passed sixteen years – should obtain a visa for residence, or a residence card according to the following two articles; and if he does not exceed this age, his private particulars (data) shall be marked out collateral to one of his parents, and if that is impossible, the one entrusted with his affairs in the United Arab Republic, ought to obtain an independent visa for him, or a private card. If his residence did not exceed a period of six months, the residence authorized for him shall be marked out on his passport or the travel document substituting it.

### Article 13

The following categories shall be exempted from the fee of residence card. Also, it is permissible to grant them one re-entry visa annually free of charge:

- a) Employees of the Arab League.
- b) Canceled.<sup>285</sup>
- c) Monks, nuns, and foreign men of religious Professions.
- d) Foreign employees joining the service of the United Arab Republic government.
- e) Foreign newsmen.
- f) Non-diplomatic foreign employees in the political authorities and foreign consulates.
- g) The one whose poverty is established.
- h) Fathers, brothers and matured children of the members of foreign political and consular missions in the United Arab Republic, as well as their follows of the categories of nurses, and servants, provided reciprocation.
- i) The foreigners whom the Minister of Interior thinks it proper to exempt them for considerations concerning international courtesy.
- j) the Palestinian refugees.

Also, the spouses of the mentioned and their minor children shall enjoy this exemption. In addition to that, the Director of Emigration, Passports and Nationality Department is allowed to make the validity of the re-entry visa for more than one trip.

## **Ministry of Interior Decree No. 344 of the year 2017, amending certain articles of the two Decrees<sup>286</sup>**

### Article 2

Replacing Articles 4, 5, 6, and 9 of Ministry of Interior Decree Number 180 of the year 1964 with the following Articles:

### Article 4

The foreigner with special residence is given a residence card valid for ten years, based on the annexed specimen number 3. The foreigner with ordinary residence is given a

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<sup>285</sup> Cancelled as per Decree No. 1154/1968.

<sup>286</sup> Ministry of Interior Decree No. 344 of 2007, Al-Jarida Al-Rasmiyya, 15 February 2017 (Egypt).

residence card valid for five years, based on the annexed specimen number 4. If the foreigner is of the concerned nationality he must, in the two previous cases, have a correct passport valid for the duration of the residence permit issued for him, and pay for the special or ordinary residence permit a fee of five hundred Egyptian Pounds for one year.

#### Article 5

The issuance of a temporary residence for a foreigner is through a separate residence card or a sticker or stamp on the passport or the document which is used in lieu of the passport, under the condition that either of them is correct and valid for a period at least two months longer than the duration of the residence permit issued for him. If he does not have a passport or travel document and both are difficult to obtain. He is given a residence card based on the annexed specimen number 5 and the visa is given on it for the duration of the residency granted to him.

An amount of five hundred Egyptian Pounds for one year has to be paid for the residence visa and for the issuance of the granted residence card.

#### Article 6

An amount of five hundred Egyptian Pounds for one year has to be paid at the renewal of the residence permit. In case of loss or damage to the document the residency is issued on, or the residence permit card, its owner must inform the authority referred to in Article 2 of the Decree Number 180 of the year 1964 within three days from the loss or damage, and obtain a residence card or residence permit on a new travel document. And this after the payment of a new fee for the same amount referred to.

### **Ministry of Interior Decree No. 8180 of the year 1996, Reorganizing Foreigners' Residence Inside the Arab Republic of Egypt<sup>287</sup>**

#### Article 1

Licensing the temporary residence shall be for a period of five years, and it may be renewed for foreigners of the following categories:

1) Investors

[...]

5) Foreigners that the international conventions provide for licensing a five-year residence for them. [...]

7) Wives of foreigners who are licensed for an ordinary residence.

8) Wives and children of foreigners who are licensed for a temporary residence for a period of five years in the foregoing cases.

#### Article 2


Authorizing the temporary residence shall be for a period of three renewable years, for foreigners of the following categories:

1) Foreigners who are husbands of Egyptian wives.

2) Children, namely:

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<sup>287</sup> Ministry of Interior Decree No. 8180 of 1996, (Reorganizing Foreigners' Residence Inside the Arab Republic of Egypt), Al-Jarida Al-Rasmiyya, 10 November 1996 (Egypt). English translation provided by MELES (Middle East Library for Economic Services) in Foreigners Laws, October 2017.

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- a) Minor children, who are licensed for a special or ordinary residence, similar to their father, in case of his decease.
  - b) Children of full age whose parents are licensed for a special, ordinary, or three-years residence, providing they have a source of living for them.
  - c) Male Palestinian children of full age, who are children of those working with the Gaza Sector's General Ruler Department, or those among them who have been pensioned off, and completed their studies but not working in the country.
- 3) Civil Servants of the Government and workers of Public Authorities, the Public Sector Companies and the Public Business Sector.
  - 4) The Palestinians who work with the Gaza Sector's General Ruler Department and those of them who have been pensioned off.
  - 5) The Palestinians holding passports issued only by the Egyptian Authorities whose situations and residence have been settled for a period of ten previous years in the Arab Republic of Egypt.
  - 6) Foreigners receiving a monthly pension from the National Social Insurance and Pensions Authority.
  - 7) Foreigners who are resident of orphanages among the incapacitated and old age categories.
  - 8) Refugees registered with the United Nations Refugees Office.<sup>288</sup>
  - 9) Political Refugees.
  - 10) Widow of a foreigner licensed for special or ordinary residence.
  - 11) An Egyptian female who forfeits her Egyptian Nationality by marrying a foreigner and acquiring his nationality.
  - 12) Wives and children of foreigners who are exempted from residence restrictions or permits.
  - 13) Foreigners who have right to special or ordinary residence and such right is forfeited for any reasons.
  - 14) Foreigners working for the Swiss Institute for Ancients Architectural and Antiquities Research in the Arab Republic of Egypt.
  - 15) Foreigners that the International Conventions provide for licensing them with a three-year period.
  - 16) Those the Minister of Interior approves granting them a residence for a three-year period.
  - 17) Wives and children of foreigners who are licensed a three-year residence period in the foregoing cases.

#### Article 2-bis<sup>289</sup>

Temporary Residence License for Non-Tourist purpose may be provided to foreigners for five years on a renewable term, for those who possess one property or more in the Arab Republic of Egypt, the price of which is not less than four hundred thousand US Dollars. Foreigners may also obtain Temporary Residence License for Non-Tourist purpose for three years on a renewable term, for those who possess one property or more in the Arab Republic of Egypt, the price of which is not less than two hundred thousand US Dollars. Head of the Administration of Passports, Immigration and Nationality shall identify the regulations and the documents necessary for granting the residence license according to the provisions of this article.

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<sup>288</sup> "United Nations Refugees Office" is the term used in the provided translation, refers to refugees registered with UNHCR.

<sup>289</sup> Added as per Decree No. 828/2017.

## **Ministry of Interior Decree No. 179 of the year 1964, in Respect of Travel Documents Which Are Issued to Certain Categories of Foreigners (Transit Cards)<sup>290</sup>**

### Article 1

*Emigration, Passports and Nationality Department in Cairo, Branch Offices, and the Consular Missions of the United Arab Republic abroad shall be concerned with issuing transit cards, and their renewal.*

### Article 3

*Issuance or renewal of transit cards shall be for the following categories:*

- a) Persons who have no nationality or without an established nationality.*
- b) Refugees who are recognized with this description.*
- c) Persons who have an established nationality, but it is impossible for them to obtain travel documents of the countries of which they are subjects, or to be present therein, for reasons estimated by the Ministry of Interior.*
- d) Wives of persons of the categories mentioned in three previous items, and their minor children below sixteen years old, if they have no established nationality.*

### Article 4

*The transit card shall not licence its holder to enter the United Arab Republic, or to transit therefrom, unless he obtains an entry, transit or re-entry visa.*

### Article 5

*The transit cards shall be valid for a period of five years as of its issuing date, unless a less period is stipulated therein on issuance, and it is not permissible to extend its validity after the expiry of five years from its date of issue.*

## **Ministry of Interior Decree No. 181 of the year 1964, on Travel Documents for Palestinian Refugees<sup>291</sup>**

### Article 1

*Palestinian refugees residing in the United Arab Republic are given temporary travel documents upon their demand, on the condition that they have acquired refugee status and have a residency proving this.*

### Article 2

*The travel document referred to in the previous article shall contain thirty-six pages, no new pages may be added to it, and it shall be in accordance with the attached specimen.*

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<sup>290</sup> Ministry of Interior Decree No. 179 of 1964 (In Respect of Travel Documents Which Are Issued to Certain Categories of Foreigners, Transit Cards), Al-Jarida Al-Rasmiyya, 26 November 1964 (Egypt). English translation provided by MELES (Middle East Library for Economic Services) in *Foreigners Laws*, October 2017.

<sup>291</sup> Ministry of Interior Decree No. 181 of 1964 (Travel Documents for Palestinian Refugees), Al-Jarida Al-Rasmiyya, 26 November 1964 (Egypt). (Unofficial translation by the research team.)

#### Article 4

*The ordinary travel document of Palestinian refugees shall be valid for five years from the date of issuance unless a shorter period is specified therein upon issuance. The validity may be extended once for a period of two years, to become valid for a period of seven years from the date of issuance.*

*Travel documents for Palestinian refugees which are electronically read are valid for five years from the date of issuance and may not be extended after end of this period.*

#### Article 7

*Those travel documents include the wife of the refugee and his children who are below sixteen years of age on the condition of mentioning their names and birth dates on the documents.*

### **Egyptian Civil Code<sup>292</sup>**

#### Article 12

*With regard to the requirements set for the validity of marriage, the law to which each of the two spouses is subject shall be consulted.*

#### Article 13

*1. The law of the state to which the husband belongs at the time of contracting the marriage shall apply to the results entailed by the contraction of that marriage, including the resultant effect with regard to property and funds.*

*2. As to divorce, the law of the state to which the husband belongs at the time of divorce shall apply. For dissolution of marriage and separation, the law of the state to which the husband belongs at the time of instituting the case shall be applicable*

#### Article 14

*In the cases prescribed in the two previous articles, if either party is Egyptian at the time of contracting the marriage, the Egyptian law shall exclusively be applicable, with the exception of eligibility requirement for marriage.*

### **Law No. 143 of the year 1994, on Civil Status<sup>293</sup>**

#### Article 1

*The Civil Status Department of the Ministry of the Interior shall implement the provisions of this law. The Minister of the Interior may issue the necessary decisions for the establishment of civil status information centers, stations for the issuance of automatic identification cards, civil status documents and civil registry sections and units in the designated bodies.*

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<sup>292</sup> Law No. 131 of 1948 (Promulgating the Civil Code), Al-Waqa'i' al Misriyah, 29 July 1948 (Egypt). English translation provided by MELES (Middle East Library for Economic Services) in Foreigners Laws, October 2017.

<sup>293</sup> Law No. 143 of 1994 (Civil Status), Al-Jarida Al-Rasmiyya, 9 November 1994 (Egypt). (Unofficial translation by the research team.)

## Article 2

*The Civil Status Department establishes a national database for citizens' data that includes a special register for every citizen who is distinguished by a national number from birth and throughout his life, and is not repeated even after his death. All parties are committed to deal with the citizen through this number.*

## Article 3

*In the application of the provisions of this Law, the following terms shall have the meanings indicated hereunder:*

- (a) Chronicle of civil status: events of birth and death, marriage and divorce.*
- (b) Health authorities: Health Offices or bodies and persons designated by a decision of the Minister of Health.*
- (c) Records: Paper or electronic records stored on a computer and its accessories, whether electronically, magnetically or by any other means*

## Article 4

*The Health Offices are competent to receive notification of the birth and death events that occur within the Arab Republic of Egypt for citizens and resident foreigners. It also provides a certificate of immunization against diseases that allows the child to be followed up in the event of birth.*

*The Minister of Health may specify the body and person who receives the birth and death notifications in the non-Health Offices. These bodies shall send the notifications to the Health Offices within seven days from the date of receipt of the notification.*

## Article 5

*Court clerks in the Family Courts are concerned with recording the events of marriage and divorce if the parties to the relationship are citizens who share the same religion and sect. The documentation offices of the Notary Public are related to the conditions of marriage and divorce if one of the parties to the relationship is foreign or the parties are Egyptian and they differ in religion or sect.*

## Article 6


*The Civil Status Department and its branches shall be responsible for recording the events of civil status referred to in the two preceding articles, in the corresponding records for these events, as well as issuing birth and death certificates, identification cards, family records and copies of all the civil status records registered with them, as set forth in this Law and its Executive Regulation.*

## Article 19

*The event of birth must be reported within fifteen days from the date of the occurrence of the event. The notification shall be from the authorized persons in two copies of the form prepared for this and shall include the data and documents specified by the Executive Regulation, confirming the authenticity of the event.*

## Article 20

*Persons responsible for reporting birth are:*

- 
1. The father of the child if present.
  2. The mother of the child provided that the marital relationship is proven as defined in the Executive Regulations.
  3. Directors of hospitals, penal institutions, quarantine and other places where births occur.
- [...]

#### Article 31

The people who are concerned shall present the relevant documents on the events stated in paragraph 2 of Article 5 of this law shall be provided to the Documentation Office of the Notary Public in whose area of jurisdiction the event took place within 15 days from the date of their registration, on the forms prepared for that purpose.

The competent employee in the Documentation Office of the Notary Public shall verify the identity card number and place of its issuance, or the national number, and date and place of birth of each of the two parties, or the passport number and place of its issuance if one of the parties is a foreigner. The registration shall be in accordance with the procedures stipulated in the Executive Regulations.

#### Article 32

The court clerks of the Family Courts shall register the events for which final judgments were rendered in matters of marriage, divorce, physical separation, invalidity or annulment. These events are included in the weekly notification sent to the Civil Registry Section concerning events of marriage and divorce.

#### Article 33

In addition to the provisions of Article 17 of this law, marriage and divorce documents shall be issued for the first time by the court clerks of the Personal Status Courts <sup>294</sup> and the Documentation Offices of the Public Notary. The Department of Civil Status is competent to issue copies of the registration of these events. The Minister of Interior determines per Decree the procedures and fees of issuance, not exceeding twenty pounds.

#### Article 34

The Department of Civil Status records the family's data and follows up on any changes that come up concerning the civil status. It also issues copies of the registrations of the family to those concerned.

The Executive Regulations shall determine the head of the family and the procedures of registration. The Minister of Interior shall determine by Decree the fees for the issuance of a copy of the registration of the family, not exceeding twenty pounds.

#### Article 35

Deaths must be reported to the Health Office in the area where the death occurred, or to the health authorities determined by the Minister of Health by Decree in the areas not having Health Offices, or the mayor or the sheikh in other areas, within 24 hours from the

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<sup>294</sup> After the establishment of the Family Courts, the Civil Status law was amended in 2004 and the term "Personal Status Courts" was replaced with "Family Courts". In this provisions the old term was kept, but it seems like an oversight. For reasons of consistency it is to be assumed that Article 33 also refers to Family Courts as the competent authority.

date of death or its confirmation.

And the notification shall be from the authorized persons in two copies of the forms prepared for this, and containing the data documents specified by the Executive Regulations and which confirm the truth of the event.

#### Article 36

Persons authorized for reporting death are respectively:

- 1) Ascendants, descendants and spouses of the deceased;
- 2) those relatives of the deceased who attended the death;
- 3) those living in the same household with the deceased adult;
- 4) the Doctor in charge for confirming death,
- 5) the owner of a place or its director or the person managing it, if the death occurred in a hospital, private clinic, shelter/home, hotel, school, or penal institution; or the captain of a ship, pilot of a plane, supervisor of any other means of travel or another place. A report by those who are not authorized is not accepted.

#### Article 38

Health offices and health authorities must issue a permit for burial immediately after receipt of the report of the event of death accompanied by the medical examination declaring the death issued by the health inspector or the doctor in charge of confirming the death.

#### Article 43

In the event the event of death or birth is not reported within the period specified by the law, the event of birth or death is considered "not-registered".

#### Article 44

The Director of the Civil Status Department shall examine any requests concerning "notregistered" births or deaths and issue a decision for registration if the request is submitted within one year from the date of the event. The Executive Regulations shall specify the form the request has to follow, the documents to be attached thereto, and the procedures to be followed.

The Minister of Interior determines per Decree the research fees, according to the date of submitting the request, not exceeding ten pounds.

#### Article 45

In the event of loss or damage of specified records, the Director of the Civil Status Department will be responsible for issuing a decree to re-register the events without fees. The followed executive regulations will govern such process.

#### Article 66

Violation of the provisions of Articles 19, 21, 22, 24, 31 first paragraph, 35, 41, 51 first paragraph, 53, 54 first paragraph, 58, 60, is punishable with a fine not less than one hundred pounds, and not exceeding two hundred pounds.

Law Number 12 of the year 1996 promulgating the Child Law, as amended by Law Number 126 of the year 2008<sup>295</sup>

#### Article 5

*Each child shall have the right from birth to a name with which to be characterized. The name shall be registered immediately after birth in the births' registers according to the provisions of this Law.*

*The name shall not connote any degradation or humiliation to the dignity of the child. Nor shall it be incompatible with religious beliefs.*

#### Article 14

*Reporting the birth of a child must take place within fifteen (15) days from the date of birth, on the form provided for such purpose, to the Health Office located in the area where the birth has taken place, if such office exists there, or to the health department in the districts with no Health Offices, or to the Umda (chief magistrate or the mayor of the village) in other sectors, as indicated in the Executive Regulations.*

*The Umda shall forward the birth report to the Health Office or to the health department within seven (7) days from the date of reporting the birth.*

*The Health Office or the health department shall forward the birth report to the concerned civil registry office within three (3) days from the date it has been informed, for recording it in the births registry.*

#### Article 15

*The persons responsible for reporting the birth shall be the following:*

- 1. The father of the child, if present.*
- 2. The mother of the child, provided that the marital relationship is confirmed as stipulated in the Executive Regulations.*
- 3. The directors of hospitals and corrective facilities as well as health quarantine houses and other places where births occur.*
- 4. The Umda or the sheikh.*

*Reporting the birth may also be accepted from adult relatives and in-laws up to the second degree, as stipulated in the Executive Regulation.*

*Those responsible – according to the foregoing order – with reporting the birth shall held accountable in case of failing to report the birth. Reporting the birth of a child shall not be accepted from anyone other than the foregoing persons.*

*Physicians and those licensed to exercise the obstetrical profession shall give a certificate for birth cases they performed thereby confirming the event, the date of birth, the name of the newborn's mother and his sex. Health unit physicians and health inspectors shall issue certificates including the same foregoing data and contents. This birth certificate shall be issued after performing the medical examination relevant thereto, if asked to do so in other cases of births.*

*Without prejudice to the provisions of Articles 4, 21, and 22 of the present Law, the mother shall have the right to report the birth of her newborn, register him at the birth registry, and*

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<sup>295</sup> Law No. 12 of 1996 (Child Law), Al-Jarida Al-Rasmiyya, 28 March 1996 (Egypt). English translation provided by the National Council for Childhood and Motherhood (an entity established by Presidential Decree under the Ministry of State for Family and Population), amended version of 2008. Retrieved from [http://www.nccm-egypt.org/e7/e2498/e2691/infoboxContent2692/ChildLawno126english\\_eng.pdf](http://www.nccm-egypt.org/e7/e2498/e2691/infoboxContent2692/ChildLawno126english_eng.pdf)

apply for a birth certificate in which her name as mother is recorded. This birth certificate is to be used only as a proof of the birth and for no other purposes.

#### Article 16

The following information and data must be included when reporting the birth:

- Date of birth;
- Gender (male/female), name and surname of the newborn;
- Name, surname, nationality, religion, home address and profession of the parents;
- Civil registry location of parents, if known to the person reporting the birth; and
- Any other additional information required by a decree of the Minister of Interior in agreement with the Minister of Health.

#### Article 17

The Registrar of the Civil Registry shall issue the birth certificate on the form provided for such purpose, after recording the birth. The Birth Certificate shall include the data and particulars as stipulated in Article 16 of this Law, and the first birth certificate shall be delivered, free of all charges including insurance, to the head of the newborn's family, after confirming his identity. The Executive Regulations shall determine the individuals, other than the head of the family, to whom the birth certificate may be delivered. Issuing an official copy of the birth certificate, for the first time only, shall be in accordance with Article 2 of the Law on Family Insurance Fund, issued by virtue of Law No. 11 of 2004.

#### Article 22

Notwithstanding the provisions of the preceding article, the Secretary of the civil registry shall not record the name of the father or the mother or both, even if he is so requested, in the following cases:

1. If the parents are forbidden to marry under Islamic Law, their names shall not be recorded.
2. If the mother is married and the newborn child is born to a father other than her husband, her name shall not be recorded.
3. With regard to non-Muslims, if the father is married, and the child is born to a mother other than his legitimate wife, his name shall not be recorded, unless the child was born either before marriage or after annulling the marriage, except for those persons whose religion permits polygamy.

The Executive Regulation shall determine the data and information to be recorded in the birth certificate, in the foregoing cases.

### **Executive Regulation for the Law of the Child Number 12 of the year 1996, issued by Prime Minister Decree Number 2075 of the year 2010<sup>296</sup>**

#### Article 1

In the application of the provisions of the Law of the Child and this Executive Regulation, each of the following words and phrases in question shall mean:

[...] The Child: All those who have not attained the age of 18 years in accordance to the

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<sup>296</sup> Executive Regulation to Law No. 12 of 1996 (Child Law), Prime Minister Decree No. 2075 of 2010, Al- Jarida Al-Rasmiyya, 22 July 1996 (Egypt). [hereinafter, Executive Regulation to Law 12/1996] (Unofficial translation by the research team.)

Gregorian calendar, according to the means of evidence established in Article 2 of this law.  
[...]

### **Law Number 68 of the Year 1947, regarding documentation<sup>297</sup>**

#### *Article 5<sup>298</sup>*

*The registrar<sup>299</sup> must examine the legal capacity of the contracting parties, their consent, their legal status and authority, before the registration procedures. If what was being documented is a marriage contract between a foreigner and an Egyptian woman, or the authentication thereof, then the registrar must make sure the following conditions apply before documenting it:*

- 1) The presence of the foreigner in person in the documentation procedures.*
- 2) That the age difference between the contractors does not exceed twenty-five years.*
- 3) The foreigner must present two documents issued from the competent authority in the country of his nationality or from his Consulate in the Arab Republic of Egypt. One of the documents attests that the foreigner is allowed to marry, the other document stipulates his date and place of birth, religion, profession, country of residence, marital status (Whether or not he was married before, the number of wives, children, his financial status and sources of income). Both the records must be authenticated by the competent Egyptian authority.*
- 4) The birth certificates of both contracting parties. If not possible, the foreigner must present a similar official document in its place, and the Egyptian must present a true copy of her birth certificate.*

*It is possible, based on a decree from the Minister of Justice or who is in his place, to wave some or all of the previously stipulated conditions in the documentation process.*

*It is also, possible to limit the documentation of marriage contracts, or contracts endorsing a marriage, or divorce agreements, or contracts endorsing a divorce between foreigners and Egyptian women to one or more than one documentation office.*

#### *Article 6<sup>300</sup>*

*If it came clear to the registrar that the capacity or consent or the legal status and authority of the contractors was nonexistent or if other conditions stipulated in paragraph 2 of Article 5 were not-fulfilled, or if the document intended for registration was null, then the registrar must refuse the documentation and must notify the those concerned by a written notice stipulating the reasons behind the rejection of documentation.*

#### *Article 7*

*Any person whose documentation process was rejected can appeal to the ad hoc judge in the court circuit where the registrar's office is located, within 10 days from the day the person was notified of the rejection. The judge's decision could be appealed in the primary court Judge's chamber. The decision of the judge or the chamber does not have*

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297 Law No. 68 of 1947, Al-Jarida Al-Rasmiyya, 29 June 1947 (Egypt). (Unofficial translation by the research team.)

298 As amended by Law number 103 of 1976, Al-Jarida Al-Rasmiyya, 9 September 1976 (Egypt).

299 This term refers to the competent civil servant in the Public Notary responsible for registering marriages between foreigners.

300 As amended by law Number 103 of 1976, Al-Jarida Al-Rasmiyya, 9 September 1976 (Egypt).

*a res judicata effect in the subject matter of the document.*

**Executive Regulation promulgated by Royal Order year 1948, on the Documentation Law Number 68 of the year 1947<sup>301</sup>**

Article 3

*A registrar will not document a paper unless the payment of fees owed is made.*

Article 5<sup>302</sup>

*To prove the legal capacity of the contracting parties, the registrar could request [from them] official documents such as their birth certificate or a copy of it. If that which is being documented is a marriage between a foreigner and an Egyptian woman, or the authentication thereof, then the registrar could request their birth certificates to prove the age of the contracting parties. If birth certificates were not available, the foreigner may present any other document proving his age, and the Egyptian woman is to present a copy of her birth certificate*

Article 7<sup>303</sup>

*The registrar must verify the identity of the contracting parties not known to him through their civil or family identification cards, or through any other document, and if not available, then through the testimony of two adult sane witnesses who have identification documents. If that which is being documented is a marriage between a foreigner and an Egyptian woman, then the registrar must ensure the foreigner's presence during the documentation procedures, and that all the conditions stipulated in paragraph 2, article (5) of the documentation law are met, whilst taking in to consideration how to overcome them in certain situations according to paragraph 2 of this article.*

Article 8<sup>304</sup>

*A marriage contract will not be documented without the presence of two adult sane witnesses. The two present witnesses, along with those concerned and the registrar shall sign the official marriage certificate after it was read aloud.*

**Minister of Justice Decree Number 9200 of the year 2015, amending the Executive Regulation of Documentation Law Number 68 year 1947<sup>305</sup>**

Article 1

*A foreigner requesting to marry an Egyptian woman must present an investment certificates with periodic revenue/ Group (b) in the National Bank of Egypt, with the*

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301 Executive Regulation on Documentation Law No. 68 of 1947, Al-Jarida Al-Rasmiyya, 3 November 1947 (Egypt). (Unofficial translation by the research team.)

302 As amended by Justice Minister Decree No. 1532 of 1976, Al-Jarida Al-Rasmiyya, 1 May 1977 (Egypt).

303 As amended by Justice Minister Decree No. 1532 of 1976, Al-Jarida Al-Rasmiyya, 1 May 1977 (Egypt).

304 As amended by Presidential Decree No. 820 of 1963, Al-Jarida Al-Rasmiyya, 30 April 1963 (Egypt).

305 Minister of Justice Decree No. 9200 of 2015, Al-Jarida Al-Rasmiyya, 12 November 2015 (Egypt). (Unofficial translation by the research team.)

equivalent of 50,000 Egyptian Pounds in the name of the Egyptian bride, completing the documents required at the registrar's office, and this is if the age difference was more than twenty-five years at the time of registration.

### **Law Number 25 of the year 1929 regarding Personal Status matters<sup>306</sup>**

#### Article 5 bis<sup>307</sup>

*A divorcing husband has to document his announcement of divorce with the competent registrar within 30 days from the day he divorced his wife.*

*A wife is considered aware of the divorce if she attended the documentation process. If she did not attend, then the registrar has to serve her with a notice of the divorce by court bailiff, to be accepted in person. The registrar has to hand a copy of the divorce papers to the wife or to who is in her place in accordance with the procedures determined by a decree from the Minister of Justice.*

*The effects of a divorce are in place from the day the divorce was made, unless the husband concealed it from his wife, then its effects –pertaining inheritance, and other financial rights—are only in place from the date she has knowledge of the divorce.*

#### Article 23 bis<sup>308</sup>

*A divorcing husband is punished by a prison sentence not exceeding 6 months and not more than 200 Egyptian pounds fine, or by one of those two sentences, if he violated any of the provisions stipulated in Article 5 bis of this law.*

*The divorcing husband shall be punished by the same sentence if he provided, to the registrar, false information or data on his marital status or the place of residency of his wife or wives, or his divorcee in contradiction to what is stipulated in article 11 bis.*

*The registrar is punishable by a prison sentence that does not exceed one month and a 50 Egyptian pound fine if they if they did not fulfill their obligations stipulated in the law, and it is also permissible to dismiss or suspend them from work for a period not exceeding one year.*

### **Law Number 1 of the year 2000, Regulating the Litigation Procedures in Personal Status Matters<sup>309</sup>**

#### *Article (1) issuance: <sup>310</sup>*

*The provisions of the attached law are applicable to litigation procedures in personal status matters and endowments. When there is no special provision, the regulations laid down in the Law of Civil and Commercial Procedures and in the Law of Evidence in Civil and Commercial Matters apply, as well as the provisions of the Civil Law civil code provisions in matter of management and liquidation of estates.*

*If falls under the jurisdiction of –only- the chief judge of the family court to issue an order regarding a writ on petition in the following personal status matters:*

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306 Law Number 25 of 1929 (Personal Status Matters), Al-Jarida Al-Rasmiyya, 25 March 1929 (Egypt). (Unofficial translation by the research team.)

307 As amended by Law number 44 of 1979, Al-Jarida Al-Rasmiyya 4 July 1985 (Egypt).

308 As amended by Law number 44 of 1979, Al-Jarida Al-Rasmiyya 4 July 1985 (Egypt).

309 Law No. 1 of 2000 (Litigation Procedures in Personal Status Matters), Al-Jarida Al-Rasmiyya 29 January 2000 (Egypt). (Unofficial translation by the research team.)

310 As amended by Law No. 10 of 2004, Al-Jarida Al-Rasmiyya 18 March 2004 (Egypt).

1) Appealing the registrar's refusal to document a marriage contract, or to issue an official certificate of refusal for both Egyptians or foreigners.  
[...]

Article (9)<sup>311</sup>

Matters mentioned in this article fall under the jurisdiction of the family court. Taking into account the provisions of Article 52 of this law, its judgments are appealable unless the law states otherwise, in the following matters:

First - matters related to personal agency:

[...]

6- registering/documenting before the court what is legitimately agreed upon between parties.

[...]

**Minister of Justice Decree on the Marriage Officiant Regulation promulgated in 1955**<sup>312</sup>

Article 19:

A marriage officiant is not allowed to document a marriage contract if one of the two contracting parties is a non-Muslim or of foreign nationality.

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311 As amended by Law No. 91 of 2000, Al-Jarida Al-Rasmiyya 18 March 2004 (Egypt).

312 Minister of Justice Decree of the year 1955, on the Marriage Officiant Regulation, Al-Jarida Al-Rasmiyya 4 January 1955 (Egypt).  
(Unofficial translation by the research team.)