



National Council for Human Rights

Subject: Preventable mortality and morbidity under 5 years of age as a human rights concern.

Introduction:

The Establishment of the National Council for Human Rights in Egypt is in fulfillment of one of the most important international criteria set by the United Nations (UN) Paris principles adopted in 1993.

In year 2003 the Egyptian legislator promulgated law no.94 of 2003 on the establishment of the National Council for Human Rights (NCHR) to enhance a world-wide public opinion towards more protection of rights and freedoms.

The Council has a legal personality, with its headquarters in greater Cairo in addition to some branches in the governorates of Egypt. The Council enjoys independence in the practice of its duties, activities and competence.

Actions taken by NCHR to reduce child mortality and morbidity under 5 years:

1- National plan of Action to promote Human Rights in Egypt:

NCHR has developed a 5 year National Action Plan for enhancing and developing human rights and suggesting the methods that would bring this plan to life.

The concept of the plan is based upon the fact that improving human rights should be an objective and a goal of the State's public policy, which could be put in consideration during the ordinary planning process and the process of allocating the state's resources. This in return would integrate the objectives of human rights within the State's goals for national development.

The plan has included four strategic goals: (1) Improving the status of the human rights, (2) protecting and promoting the culture of human rights, (3) Supporting protection mechanisms, (4) achieving the millennium developmental goals.

The time frame of the plan covers five years. The plan is divided into four strategic goals, and fifty sub-goals specifying the governmental institution associated with each goal that will need to participate in the implementation process.



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The plan has thus established a coordinating Unit at NCHR for the sole purpose of following up on the implementation of the goals with the Governmental Institutions, and Non-Governmental Organizations.

NCHR NPA Unit held regular meetings with the concerned governmental agencies such as ministry of Health and Non-Governmental organizations. The main aim was to follow up the implementation of the plan and its goals, such as achieving the MDGs that includes reducing child mortality. In coordination with NCHR, the Ministry of Planning included human rights components in the State economic and Social Development 5 year Plan that encompass objectives concerning reducing child mortality; providing housing; safe nutrition; safe drinking water and adequate sanitation.

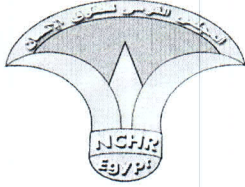
2- Draft law for Equal Opportunities and Non-Discrimination among Citizens:

NCHR has prepared a draft law for equal opportunities and non-discrimination among citizens (attached), that was submitted to the legislative authority, to insure that human rights standards and principles such as non-discrimination, participation, transparency and accountability, are systematically integrated in efforts to address and reduce under-five mortality and morbidity.

3- The awareness raising mechanisms of child rights:

With the aim of raising awareness on the necessity of ensuring underlying determinants, NCHR has organized conferences and workshops on the rights of adequate and safe nutrition, and safe drinking water and adequate sanitation, as well as NCHR field visits to slums characterized by substandard housing that has negative influences on their inhabitants including children. NCHR holds regular meeting with Ministry of Housing and the Informal Settlements Development Facility, in order to implement the comprehensive strategy to improve conditions of informal settlements in Egypt, and ensure providing good services to all citizens.

The NCHR established a Child Rights Unit at the beginning of 2013 to raise the awareness of child rights and follow up the implementation of the child rights convention and other child protection mechanisms with concerned agencies.



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Draft Law
**Towards a New Law for Equal Opportunities
and Non-Discrimination among Citizens**

The Egyptian constitution asserted on the principal of citizenship, based on which the Egyptian State system is built. The principle of citizenship –on its legal aspect- is based on two main principals; these are: the principal of equal opportunities of the constitution did not only declare as a constitutional principal, but obliged the State to guarantee its realization for all citizens. The second principal is the equality before the law and in all public rights and duties was substantiated by the Supreme Constitutional Court, by prohibiting any discrimination among citizens, based on gender, ethnic origin, language, religion, creed or on the basis of the social status, the economic conditions, the political and cultural opinions, or the health conditions like sickness, disability or any other forms of discrimination in its negative, illegitimate sense.

Even though the Egyptian constitution and the subsequent legislations in their entirety were committed to these principals, there still exists a huge gap between the texts enclosed in the constitution and the legislations, and what is actually witnessed in terms of the huge failure to execute the law on the one side, and the inefficiency of the procedures of equitability in front of the law on the other side, which led to a deteriorating respect of the sovereignty of the law and a striking upsurge in violence, bullying and extremism in general, and ethnic and religious violence in particular. A general mood of frustration and injustice prevailed, in particular among strata of Egyptian youth who have turned –unfortunately- to announcing feelings of not belonging and non-loyalty to their country, to the point of accepting to take the risk of dying drowning to escape the frustration and disappointment. Indeed, the last phenomenon is also related to the economic conditions and the rate of unemployment, the quality of education and vocational training provided by the state’s educational institutes. However, many of those youths state that equality in injustice is only fair, and that their main dilemma is the feeling of injustice for lacking any real chance to get employed and progress if you do not have a “back” to support you, and for not having any clear course to ease this unfairness and find justice.

Studies and roundtable discussions held by the National Council for Human Rights, along with the international experiences, whether in European countries or in some African and Arab countries, have underlined the need to issue a law that would convert the principals of equal opportunities and equality in its general sense to legislative regulations that entail particular obligations and inflict penalties upon their breach, which would ensure the execution of the principal of equal opportunities and prohibit discrimination among citizens in its negative sense, as barred by the constitution, through effective institutional mechanisms to supervise the

execution of the law, which does not only expose violations on the occasion of receiving complaints, but also play a positive role in obligating all public and private state institutions to set a plan comprising particular procedures and measures with declared time schedules and financial costs, to realize the principals of equality and equal opportunities as well as prohibiting illegitimate discrimination among citizens. It would have the right to oblige all private and public state institutions to present the information, reports and documents that prove their commitment to execute this plan and the rules of law. It would also have the right to receive the complaints, investigate them and issue notices of law violation for those proven guilty, and sue or join those who sue and obtain court rulings to halt the violations and demand compensation for the victims of law breaking.

Based on the above, the National Council for Human Rights presents its draft law to issue a new legislation for equal opportunities and the non-discrimination among citizens, based on the following tracks:

First: The Objectives of the Law

1. Setting detailed legislative regulations, specifying the commitments of all private and public state institutions concerning the respect of the principals of equal opportunities and non-discrimination among citizens, and setting the appropriate penalties for their breach, especially in the work fields, employment, assuming public office, promotion, training, rehabilitation, education and others fields.
2. Establishing institutional mechanisms to supervise the execution of the law, be it in a positive approach by obliging public and private state institutions to put and implement a plan to fulfill these principals in real terms, or negatively by revealing the violations and taking the deterring procedures to halt them while obtaining compensations for the victims.
3. Setting a procedural system that allows the obtainment of temporary orders to swiftly halt the violations and guarantees justice and fairness to the victims of the violations.
4. Enhancing and spreading the culture of equality and non-discrimination among citizens and the principal of equal opportunities through raising awareness of the rights emphasized by the law and supporting its execution, also through the educational, cultural and media institutions.

Second: The Principal of Equal Opportunities and Non-Discrimination among Citizens

1. Defining discrimination among citizens, which is prohibited by law, as the direct or indirect discrimination among citizens, in terms of their practice of any of their constitutional or legislative rights against governmental entities or any public or private person, based on gender, language, ethnic origin, religion, creed, social status or health conditions, especially disabled persons, without relying on legitimate objective measures.
2. The commitment of all public and private state institutions, including –and not limited to– the vocational syndicates, the political parties, and the non-governmental organizations, to execute the rules of this law in all their dealings with the citizens whether they are employees or job seekers, civil servants or applying for a government job, service providers

or recipients of services, commodities suppliers or buyers, applicants for membership or to receive vocational licenses or any other dealings.

3. The commitment of all public and private state institutions, concerning the competencies of the Ombudsman and the Equal Opportunities and non-Discrimination Committee, and perform an immediate investigation into any complaint concerned with law violation, and taking the necessary measures and procedures to bring justice to any citizen exposed to unfairness or to a violation of his rights, as well as to safeguard the repetition of these violations.

Third: Equal Opportunities and Non-Discrimination in some Specific Areas

(1) Equal opportunities and non-discrimination among citizens by violating the law in the work field and in assuming public offices:

- a. The commitment to the principal of equal pay for the jobs that are equivalent in quality and value without discriminating among citizens, with a pledge by the employer to hold an annual survey to evaluate the reasons behind the difference in pay between the jobs that are one and the same in quality and value, and to specify the reasons whether they are direct or indirect results of discrimination based on gender, ethnic origin, religion, creed, social status, political views or disabilities, and taking the necessary measures to address the discrepancies.
- b. Not permitting to publicize for vacancies or define criteria for fill those vacancies comprising, directly or indirectly, a discrimination against citizens, either on the basis of gender, ethnic origin, religion, creed, social status or disabilities.
- c. The job seeker, the applicant for promotion or for training, whose request has been rejected, has the right to receive a written account on the qualifications and the scope of training and professional experience and other details of the person who got that job, promotion or training.
- d. Requiring the employers to provide suitable working conditions and facilities for all citizens without discriminating between men and women, in order to enable them to carry out both their jobs and their motherhood and fatherhood duties.
- e. Requiring the employers to take the necessary precautions against the discrimination among working citizens or those with contracts, their persecution or harassment based on gender, religion, creed, social status, political views, or disabilities. This includes for example, the employment of an official for equal opportunities and non-discrimination in any institution where the number of employees reaches 100 or exceeds it.
- f. Requiring the employers not to discriminate against citizens with special needs or those with disabilities, while providing special conveniences to enable them to perform their work.
- g. Requiring the employers to respect the principles of equality and equal opportunities in distributing the various jobs amongst the different categories of employees be they males or females or those with special needs, and offering the opportunity to fill in the job vacancies.

- h. The commitment - in case of divergence- to represent all strata of society be it in terms of gender, ethnic origin, religion, creed or those with special needs, by bringing back the balance and fixing the divergence through the positive discrimination upon hiring within the limits of the new or vacant posts, only for a temporary period to allow the fixation of the discrepancy.
- i. The employer is not allowed to issue directives or set a policy for employment, promotion or training which comprises an illegitimate discrimination among citizens applying for jobs or the employees requesting training or promotion.
- j. The commitment to investigate any complaints concerning the violation of the principle of equal opportunities or the illegitimate discrimination among citizens or the persecution of an employee (male or female) or their harassment, while taking the necessary just and preventive procedures to protect against the repetition of the violation.
- k. Obliging the employer who breaches the law to compensate the employee or the job applicant who was subjected to illegal discrimination for the harm that has been inflicted upon him.

(2) Equal Opportunities and Non-Discrimination among citizens in Violating the Law in the Educational Field

1. The commitment of all private and public educational institutes not to discriminate among learners on the basis of gender, ethnic origin, religion, creed, social status or disabilities, especially concerning:
 - a. Conditions of admission
 - b. Conditions and criteria of evaluation and the passing tests
 - c. Conditions of eligibility to receive educational or scientific scholarships
 - d. The advantages; conveniences; services; and sports, cultural and artistic activities
 - e. The terms and conditions to discharge and expel
 - f. The terms and conditions of rewarding and giving incentives for excellence and the disciplinary sanctions
 - g. The terms and conditions of employing the new graduates or the applicants for staff teaching in private and public universities.
2. The commitment to investigate the complaints and to take the necessary measures to tackle the discrepancies while safeguarding against any violation of the principal of equal opportunities and non-discrimination among learners for reasons in breach of the law.
3. The commitment of the educational institutes to spread the culture of citizenship and human rights especially the principal of equality and equal opportunities, via the educational syllabus and the practical and applied educational methods.

Fourth: Mechanisms of Overseeing the Execution of the Law and the Responsibility of Violators:

(1) The system of Equal Opportunity and Non-Discrimination Commissioner/Ombudsman and the Equal Opportunity and Non-Discrimination Committee:

1.1 Establishing the Equal Opportunity and Non-Discrimination Committee

- Establishing an Equal Opportunity and Non-Discrimination Committee headed by a Commissioner/Ombudsman, comprising amongst its members a Deputy Commissioner charged with working on the adequate execution of the law and overseeing its implementation and practicing his duties according to the law.
- The Ombudsman system and its agents are common in a number of countries, especially the Scandinavian ones. It is enforced in the United Kingdom and Australia under the title of the Parliamentary Commissioner/Ombudsman, and is also applied in Tunisia and Morocco where they refer to it as the Administrative Commissioner, carrying functions very similar to the Ombudsman or "Diwan Al Madhalim," despite the different role played in each of these systems.
- It may be more appropriate if this system is established within the framework of the National Council for Human Rights where the Ombudsman would become one of its fulltime members dedicated to this responsibility. In his disposition, he would head a new special committee to be established according to the Equal Opportunity and Non-Discrimination law.
- What is suggested is that the committee would comprise from 11 up to 15 fulltime members and commissioners, headed by the Ombudsman. Members should meet certain criteria, including independence, objectivity, good reputation and experience in the field of human rights. It is recommended that they would be appointed by a Presidential Decree, whereby one quarter of the commissioners would be nominated by the People's Assembly, another quarter to be nominated by members of the Shu'ra Council, a third quarter to be selected by the Supreme Judicial Council and the last quarter of commissioners is to be designated by the National Council for Human Rights. The Ombudsman is to be appointed by a Presidential Decree.
- The Equal Opportunity and Non-Discrimination Committee is entitled to appoint one or more of its commissioned members as investigative commissioners to look into complaints and violations committed against the law, and to issue notices of such violations to public and private institutions under investigation.

1.2 Duties of the Ombudsman and Equal Opportunity and Non-Discrimination Committee:

(a) Overseeing the Proper Execution of the Law

It is entitled in this respect:

- In accordance with a written request from the Ombudsman, to oblige any private or public organization in the country to hand in a report or information on its activities with the aim of following up and evaluating the degree of its adherence to the rules of law, or in terms of any investigations carried out by the Ombudsman. This obligation is

not applicable on cases of confidential information that should not be disclosed according to the law or confidential information related to National Security.

- Allowing –upon the receipt of any presented complaints or reported violations- any commissioner or investigator, via a written request from the Ombudsman, to inspect the work facility and other places within the framework of the requirements of the investigation.
- Conducting investigations into the reported complaints or breaches of the law or to follow up on the adherence of the organizations to their commitments or the plan they had set to fix the deficiencies related to their execution of the rules of law. The investigations are conducted by the investigative commissioners or any of their deputies according to procedures specified by the law, depending on the circumstances.
- The committee has the right to launch an investigation, to evaluate the degree of adherence of any public organization to the rules of law, and to issue a report in this regard in case of observance or by reporting violations and taking the necessary procedures, according to the law.
- The investigative commissioner has the right to make a decision based on the investigation of a reported law violation, taking into account prior to the issuance of the judgment, to send a draft of the report to the person under grievance and give him the chance to answer in writing in a specific period that its not less than two weeks.
- The investigative commissioner is entitled to send a notice of law violation to the law breaker and has the right to oblige the offender to set a plan and implement a plan of action to fix the discrepancies within a certain time frame or suggest a plan of action to repair the harm.
- The Ombudsman can conclude conciliatory agreements with the parties to the investigation in case of any law violation, whereby the offender would vow to set and implement a plan to execute the law and prevent any future violations. The Ombudsman – for his part- agrees not to take any legal action against him in this regard. The signature of the offender on the agreement is not to be considered as an acknowledgment of committing a violation.

(b) Publishing an annual report on the development of the law execution. A copy of the annual report is to be sent to the Head of State and the Speaker of Parliament and the President of the Shu’ra Council, along with the Head of the Supreme Judicial Council, and the President of the National Council for Human Rights.

(2) Procedural Guarantees of Justice:

- It is suggested that the law comprises a new approach with reference to the burden of verification, where the victim would only refer to the circumstances and evidence that support his allegations, while the accused is compelled to communicate his defense and present the evidence that the discrimination did not occur on the complainer (Mostly government entities or the employer).

- The Equal Opportunity and Non-Discrimination Commissioner/Ombudsman is entitled to file lawsuits on behalf of the victims, where he would have the disposition and personal interest in filing lawsuits against the violations suffered by one or more of the citizens to the advantage of the law, to demand their halt, impose penalties and receive compensation for the sufferers.
- The deadline of filing a lawsuit before this right is dropped is three years from the date of informing the victim or the Equal Opportunity and Non-Discrimination Committee that a violation has occurred.
- The investigative commissioner has the right to go to court, where the competent judge issues a temporary ruling to terminate the violation according to a request from the Ombudsman, with an attached report on the investigations, while informing the law breaker that he committed a discrimination against the law. The Ombudsman is entitled to file a lawsuit on behalf of the complainer or to join the lawsuit filed by the complainer to demand the infliction of a penalty on the law violator and the compensation of the victim.
- The Ombudsman's report concerning the investigation into incidents of discrimination among citizens and his reporting of violations is considered an ultimate proof and a document of relevance and significance in the lawsuit. In cases where the court ruling goes against the conclusion of the report, it should include the answers to all what has been mentioned in the Ombudsman's report in terms of arguments, documents and results.
- Without prejudice against any harsher sentence in any other law, if the act breaking the law comprised more than one violation, including the violation of the Equal Opportunity and Non-Discrimination breach, priority goes to the Equal Opportunity and Non-Discrimination violation.
- The Ombudsman may offer legal or judicial assistance to the complainers or the victims of discrimination.

(2) Penalties:

- Fines which should be relatively high; no less than L.E 20.000 and no more than L.E 250.000 with the commitment to pay the fine. In addition to stipulating the penalty against those responsible for violating the law by imprisonment in the cases of extreme violations.
- Announcing and publishing the violation reports at the cost of the violator.
- Compensating for the damages suffered by the victims.

Finally, such ideas and proposals which we hope would be the basis for discussion to launch a national campaign to call for issuing the law on equal opportunities and illegal non-discrimination between citizens, which affirm the principles of Human Rights.