

**Response of the Egyptian Government**  
**To the Decision of the African Commission on Human Rights**  
**Regarding Complaint lodged no 323/2006**

On 28/2/2013, Egypt was informed of the decision of the African Commission on Human Rights regarding the subject complaint, citing that:

- 1- There were no violations and breaches with respect to Articles 7/1 and 16/2 of the African Charter;
- 2- It has been observed that the defendant state has violated articles 1,2,3,5 and 9/2, 16/1, and 18/3 and 26 of the Charter;
- 3- It is demanded that related laws be amended in conformity with the African Charter;
- 4- Individual victims must, upon their request, be compensated by an amount of money worth L.E. 57,000 for the emotional and physical harm done to them;
- 5- The defendant state is urged to investigate into the said violations and bring perpetrators to justice;
- 6- The State is urged to ratify the Women Protocol;

**The above mentioned decision was focused on three main issues:**

- 1- Request for re-examination of national laws for their amendment in line with the African Charter;



2- Re-examination of the facts of the subject complaint and determination of damages for women complainants;

3- Accession to Women Protocol;

**Concerning response to the First Issue:**

Long before the subject complaint facts were detected and in fulfilment of its commitments arising from its being party to international human rights charters, Egypt has been devoted to continued and all-inclusive reviews of any and all legislation relating to rights and freedoms enunciated in the Constitution and contained in international and regional human rights instruments, including the African Charter, to which Egypt had accessed. These reviews are usually undertaken by government agencies as well as scientific and research institutions concerned and with the effective participation of civil society organizations and specialized national institutions, primarily the National Council for Women (established in 2000) and the National Council for Human Rights (established in 2003).

Ceaseless efforts made by these entities have resulted in the production of several scientific theses in addition to field and statistical reports and researches which were favorably responded to on the part of the Egyptian government and the national law-maker. To this effect, an array of catalyst laws were promulgated and supportive decisions issued to press ahead with purposeful national action basically intended to raise awareness and enlighten further about rights and freedoms, to reinforce abidance thereby and to uphold defence thereof, with a view to incorporate the human rights culture into daily



life and narrow as much as possible practical gaps separating core values of human rights and freedoms from individual practices of falsified concepts and deceptive ideas. Egypt has previously forwarded to the august Commission the detailed review of these laws and decisions as articulated in its recent periodic report presented for examination and also discussion of national efforts in this regard.

No doubt this considerably augumentative momentum of relevant honest national efforts have subsequently engendered accelerated developements the country was destined to go through in the first decade of this century. Egypt had witnessed, over a couple of years, two great revolutions that its people have launched on 25 January 2011 and 30 June 2013 in assertion of their resolve on a way forward to achieve their legitimate aspirational goals for freedom, human dignity and social justice. As a consequence, a new constitution was formulated in 2012 in the wake of the first revolution which was later invalidated after the second revolution on account of its inclusion of trends that ran opposite to the targets of the mother revolution and which were proved to be in contravention with the civilizational and historical heritage of the Egyptian people.

A post-second revolution future roadmap, concurred on by the the people, is now under implementation. It begins with amendment of and referendum on the Constitution, followed by putting in place foundational constitutional institutions through parliamentary and presidential elections which will be tasked by necessity to continue the process of updating harmonized national legislation consistently with the new constitution and honoring commitment to international standards established in international and regional human rights conventions to which Egypt is a party.



**In this connection, we will bring up some laws of relevance that were issued during the past period:**

-- Law no 84/2002 on Non-Governmental Organizations (NGOs) has provided for diversity of activities and allowed non-governmental and international organizations to operate in Egypt in support of the civil society performance and whereby human rights organizations were registered. This Law is currently under review for the promulgation of a new more elaborate code that takes account of the changes Egypt is going through after the two 25 January and 30 June revolutions.

-- Amendment of a battery of laws blocking women participation such as Chamber of Commerce Election and Mayors and Elders Laws by nullifying the masculinity clause to give leeway to women to run for elections.

-- Labor Law no 12/2003 stipulating for and regulating the right to peaceful strike.

-- Law no 94/2003 on the establishment of the National Council for Human Rights in compliance with the internationally-acknowledged standards or the so-called Paris Principles in 1990.

-- Law no 154/2004 on the amendment of the Nationality Law that guarantees granting the Egyptian nationality to children born of Egyptian women married to foreigners.

-- Law no 64/2010 on Fighting Human Trafficking.

-- Law no 10/2011 on tightening penalties on charges of committing crimes of violence against women. This Law was issued after the first



revolution on 25 January 2011 for the purpose of protecting women who actively took part in the revolution and parallel demonstrations.

-- Law no 11/2011 on incrimination of acts of banditry and bullying practices in order to curb irregularities of groups of professional criminals and hired mercenaries who were pushed to the scene, storming revolutionary mass rallies to serve purposes of intimidation, threatening and terrorizing.

The above legislation were designed in the first place to ensure women safety and their optimal enjoyment of their basic freedoms and their empowerment to exercise their full political and social rights.

Although Egypt is currently experiencing variables and developments, the National Council for Women was authorized to carve out an integrated legislation to combat violence against women, which was, in fact, prepared this year, looking into and sorting out phenomena of violence women are likely to face. It is specifically drafted to provide protection for women against all forms of violence whether in terms of personal, economic, political and social rights or in connection with work particularly the right of body safety involving sexual violence and harassment, and also in regard of honor and integrity, prevalent ethics in the society, or still in perspective of the provision of social and legal means of protecting women, victims of violence, their rehabilitation and alleviation of their sufferings as well as their compensation for material and moral harm and securing fair trial for those accused of sinful acts listed as per this Law. Along this line, further interest is to be developed in explicitly defining the position of witnesses, experts and technicians, keeping evidences intact, and employing advanced proof technologies. This Law is meant to be one among others due to be



submitted upon finalization to the Legislative House for debate and approval, which undoubtedly meets the requirements of the solemn Commission as referred to in its decision subject of comment. This is also aligned with the goals of the revolution. The government is currently envisaging new laws on NGOs, legislative elections, regulation of exercising the right of peaceful gathering and demonstration and social insurance, to cope with international standards in these areas and within the framework of abidance by stipulations enshrined in the new Egyptian Constitution.

**Response to the second issue cited in the Commission decision:**

This issue relates to the reopening of investigation into the facts subject of complaint and the compensation of women complainants. Egypt needs to keep the solemn Commission updated about the following:

1- Pursuant to the Egyptian legal system, re-opening investigation into the facts of the subject complaint was not disputable, mindful of the legal nature of the findings concluded to the effect of dismissing accusation for not knowing the perpetrator. It was rather a matter that Egypt has been trying to make clear to the solemn Commission by requesting inacceptance of the complaint and since the litigation does not expire by virtue of this decision unless the legal limitation period of the accusation subject of investigation is exhausted without detection of any further evidence or the emergence of new facts entailing a second investigation. It is also to be admitted that notwithstanding fresh evidence extended and statements made by some witnesses that were indicated in the decision, none of the women complainants has demanded re-examination or hearing witnesses by judicial investigation



authorities in accordance with rules and norms applicable and legally established according to the Code of Criminal Procedure (Article 197).

Concerning indemnities, orders issued by the Public Prosecution in compliance with the Egyptian Law and judgments of the Egyptian Court of Cassation, whether conceding that there is no point of litigating for either default on knowing the perpetrator or insufficiency of evidence, or that it was issued in connection with a felony or a misdemeanor, acquires a temporary opposability exclusively with regard to criminal liability and the institution of the lawsuit, so long the crime is deemed imprescriptible and upon the expiration of the limitation period. These orders are not valid to gain opposability before civil courts for claim of damages for injuries inflicted, no matter the content of or reasons for the decision, which, contrary to the investigation authority decision, has to provide evidence of the commitment of the crime or adequate implication of its perpetrator. The civil court rather examines aspects of dereliction drawing due compensation, defines the responsible party and assesses indemnity according to the harm done to the respondent (claimant).

Briefly, it can be said that under the Egyptian legal system, it is imperative, in order to effectuate this part of the decision, that, as far as the criminal side of the action was concerned, women complainants will have to submit to the Public Prosecution fresh evidence of truer facts aimed to uncover truth so that the re-opening of investigation becomes tolerated. They as well need to have recourse to the civil court to submit claims for compensation for harms done them, no matter what. Therefore, it can be safely admitted that both cases were not substantiated so far by the complainants, thus emphasizing Egypt's previous stand as regards not accepting the complaint since women



complainants have not met the requirement of seeking remedies for redress at the national level by going to civil courts for claim of indemnity for injuries resulting from acts subject of complaint.

**Response to the third issue in the Commission Report:**

Regarding the request for ratification of the African Charter for Women, Egypt is currently conducting a study on the accession to the Protocol and other relevant international human rights instruments. The outcome of this study will be put forward upon the completion of constitutional procedures and the formation of the People's Assembly which is to approve it constitutionally.