



## **Egypt: National Council for Human Rights**

### **Egypt's national human rights institution before the Global Alliance of NHRIs**

**Alkarama Foundation – 7 January 2018**

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## 2. Introduction and background

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The Egyptian National Council for Human Rights (NCHR) was established by Law No. 94/2003 and was reviewed by the Sub-Committee on Accreditation of the Global Alliance of NHRIs (SCA) in 2006, for its initial accreditation. The SCA decided to recommend the NCHR be granted with status B and requested the institution to provide further “detailed assurances of its independence”.<sup>1</sup> In October 2006, following new information received from the NCHR, the SCA recommended that the NCHR be accredited with status A.

### 2.1 Background of the NHRI’s review

In light of the internal circumstances in Egypt and the resignation of all NCHR members following the 2011 revolution, the SCA deferred the NCHR’s re-accreditation for one year in October 2011.<sup>2</sup> At its November 2012 session, the SCA deferred its re-accreditation again, underlining that the envisaged amendments to the NCHR enabling law had failed to be adopted.<sup>3</sup> The SCA made recommendations to the NCHR, citing “concerns about the selection and appointment process, the duration of appointment of members, security of tenure, appropriately defining the grounds and process for dismissal of members, access to places of detention and confinement and a broader mandate to promote and protect human rights.”<sup>4</sup>

Similarly, the NCHR’s re-accreditation was deferred in May 2013<sup>5</sup> and in November 2015, the SCA stated that the re-accreditation would take place at its second session of 2016.<sup>6</sup> In its report of March 2017, the SCA decided that its consideration on the re-accreditation of the NCHR would be deferred to its first session of 2018.<sup>7</sup>

Alkarama believes that, to ensure an efficient and transparent review of Egypt’s NCHR, inputs from independent civil society organisations are crucial. Hence, we would like to provide information that could serve to assist in the evaluation of the legal and practical compliance of the Egyptian NCHR with the Paris Principles.<sup>8</sup> In this report, Alkarama makes an in-depth analysis of the mandate, activities and achievements of the Egyptian NCHR. In order to provide the SCA with the most accurate information, Alkarama’s report includes both observations on the current Law No. 94/2003 and on its recent amendments, as well as on the recent developments in Egypt.

### 2.2 Political developments

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<sup>1</sup> ICC, Report and Recommendations of the Sub-Committee on Accreditation, Geneva, 12 April 2006, p. 3.

<sup>2</sup> ICC, Report and Recommendations of the Sub-Committee on Accreditation, Geneva, 25-28 October 2011, point. 3.5.

<sup>3</sup> ICC, Report and Recommendations of the Session of the Sub-Committee on Accreditation, Geneva, 19-23 November 2012, point 3.4.

<sup>4</sup> Ibidem.

<sup>5</sup> ICC, Report and Recommendations of the Session of the Sub-Committee on Accreditation, Geneva, 13-16 May 2013, point 3.3.

<sup>6</sup> ICC, Report and Recommendations of the Session of the Sub-Committee on Accreditation, Geneva, 16-20 November 2015, point 5.1.

<sup>7</sup> GANHRI, Report and Recommendations of the Session of the Sub-Committee on Accreditation, Geneva, 13-17 March 2017, point 4.1 (hereinafter “GANHRI Sub-Committee on Accreditation Report – March 2017”).

<sup>8</sup> Adopted by General Assembly resolution 48/134 of 20 December 1993.

Since the NCHR's initial accreditation in 2006, many political and social changes took place in Egypt. In 2011, the Egyptian people took the streets to protest against police brutality, state of emergency laws, corruption, poverty and more generally, against the authorities. After the turmoil of the military takeover of July 2013, the new parliamentarians opened their first session at the House of Representatives, in January 2016. In the meantime, General Abdelfattah El Sisi was elected President in June 2015.

Throughout this period of political unrest, the human rights situation worsened, particularly after July 2013, leading to unprecedented human rights violations. Thousands of individuals were summarily executed, dozens of thousands others have been arrested and often charged under the restrictive law No. 107 of 2013 on the Right to Public Meetings, Processions and Peaceful Demonstrations<sup>9</sup> before being sentenced to harsh prison sentences following mass unfair trials,<sup>10</sup> in some cases before military courts. Moreover, enforced disappearances became a matter of serious concern, and numerous individuals have reported having been tortured and ill-treated during periods of secret detention. This practice remains generalised across the country and favoured by a culture of impunity for authors of such crimes. While the authorities continue to deny the magnitude of the phenomenon as well as their own involvement, as of May 2017, 434 cases had been reported to the UN Working Group on Enforced or Involuntary Disappearances (WGEID).<sup>11</sup> In its latest annual report, the WGEID expressed its concern over the fact that in the past year, "it has had to transmit to the Government 101 new cases under its urgent action procedure".<sup>12</sup>

In addition, space for free expression in Egypt has been progressively restricted through several laws designed to ensure that fundamental freedoms<sup>13</sup> are virtually emptied of their substance in the country. On 26 December 2016, Law No. 92/2016 on the Institutional Regulation of the Press and the Media<sup>14</sup> was passed. This law directly threatens journalists and media outlets by undermining the right to freedom of expression and opinion guaranteed under article 65 of the Egyptian Constitution. As a consequence, dozens of journalists have been subjected to harassment and many were sentenced to

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<sup>9</sup> Human Rights Watch, [Egypt: Deeply Restrictive New Assembly Law](#), 26 November 2013. See for example : Alkarama, "Egypt: Repeatedly Tortured by Security Forces for Taking Part in Peaceful Demonstration", February, 25, 2015, <https://www.alkarama.org/en/articles/egypt-repeatedly-tortured-security-forces-taking-part-peaceful-demonstration> (accessed on December 10, 2017) ; "Egypt: UN Urges Release of Civilians Tried Before Military Courts for Participating in Demonstration", September, 12, 2014, <https://www.alkarama.org/en/articles/egypt-un-urges-release-civilians-tried-military-courts-participating-demonstration> , (accessed on December 10, 2017) ; "Egypt: hundreds of peaceful demonstrators arrested and detained in renewed wave of repression", <https://www.alkarama.org/en/articles/egypt-hundreds-peaceful-demonstrators-arrested-and-detained-renewed-wave-repression> , April 28, 2016 (accessed on December 10, 2017);

<sup>9</sup> See for example the cases of April 6 activists : United Nations Working Group on Arbitrary Detention, Opinion No.49/2015 concerning Ahmed Saad Douma Saad, Ahmed Maher Ibrahim Tantawy, and Mohamed Adel (Egypt), 3 February 2016, UN.Doc A/HRC/WGAD/2015; See also: Alkarama Foundation, "Egypt: torture and continuous detention of 10 young women for peacefully demonstrating", <https://www.alkarama.org/en/articles/egypt-torture-and-continuous-detention-10-young-women-peacefully-demonstrating> , (accessed on December 10, 2017)

<sup>10</sup>OHCHR, *Egypt: Mass death sentences – a mockery of justice*, March 31, 2014, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14457> (accessed on January 7, 2017). OHCHR, *Egypt: UN Experts "outraged" at confirmation of 183 death sentences*, June 30, 2014, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14801&LangID=E> (accessed on January 7, 2017); and more recently OHCHR, *Press briefing notes on Egypt and the Democratic Republic of the Congo*, Spokesperson for the UN High Commissioner for Human Rights: Liz Throssell, 5 January 2018 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22573&LangID=E> (accessed on January 7, 2017).

<sup>11</sup> Report of the Working Group on Enforced or Involuntary Disappearances, 31 July 2017, UN Doc. A/HRC/36/39, p. 28.

<sup>12</sup> *Ibid.*, para. 79.

<sup>13</sup> Such as the right to peaceful assembly and association, the right to freedom of opinion and expression and the right to information.

<sup>14</sup> The law, which falls within the government's broader crackdown on media workers, created three regulatory bodies to supervise all of Egypt's media outlets, granting President Al-Sisi the power of nomination over the majority of the members of these bodies under article 32. Such power of nomination violates article 72 of the Egyptian Constitution.

prison or death following unfair trials.<sup>15</sup> The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression himself noted “an increasing trend of criminalization of expression and imprisonment of journalists.”<sup>16</sup>

Regarding freedom of association, numerous organisations were closed under accusations of being affiliated with banned groups and without being given the opportunity to challenge these procedures<sup>17</sup>. On 24 May 2017, the Parliament passed Law No. 70/2017 regulating the activities of Associations, Foundations and Other Entities Working in the Civil Sphere. This law severely restricts the work of all civil society organisations, from those working on civil and political rights to those working in development and relief. In June 2017, the UN High Commissioner for Human Rights affirmed that: “[t]he new legislation places such tight restrictions on civil society that it effectively hands administration of NGOs to the Government”.<sup>18</sup>

Lastly, the Anti-Terrorism Law No. 95/2015 approved by President Al-Sisi on August 16, 2015<sup>19</sup>, raised strong criticism among Egyptian civil society, and was denounced by international organisations as not only one of the most oppressive anti-terrorism laws issued to date, but also an additional tool for the government to repress dissenting voices. The promulgation of the law was also described as a “big step toward enshrining a permanent state of emergency as the law of the land” in Egypt.<sup>20</sup>

### 3. NHRC’s Constitutional and legislative legal basis

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#### 3.1 Constitutional provisions

It was only in 2012 with the adoption of a new Constitution that the NCHR was first referenced, granting it the power to inform the General Prosecution’s office of violations of constitutional rights. The NCHR retained this power with the adoption of the new Constitution in February 2014<sup>21</sup> and was

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<sup>15</sup> Alkarama, *Egypt: UN Working Group Calls for the Release of 9 Journalists Sentenced in “Raba’a Operations Room” Case*, 3 June 2016, <http://en.alkarama.org/egypt/2140-egypt-un-working-group-calls-for-the-release-of-9-journalists-sentenced-in-raba-a-operations-room-case>.

<sup>16</sup> OHCHR, Mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Reference: AL EGY 14/2015, 6 October 2015; see more recently OHCHR, Egypt extends its assault on freedom of expression by blocking dozens of websites, August 30, 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22008&LangID=E> (accessed January 7, 2018).

<sup>17</sup> Alkarama, *Egypt: Alkarama Condemns Closure Procedure Against Nadeem Center for the Rehabilitation of Victims of Violence and Torture*, 22 February 2016, <http://en.alkarama.org/reports/2052-egypt-alkarama-condemns-closure-procedure-against-nadeem-center-for-the-rehabilitation-of-victims-of-violence-and-torture>.

<sup>18</sup> OHCHR, “Repressive new NGO law deeply damaging for human rights in Egypt – Zeid”, 1 June 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21678&LangID=E>, (accessed January 7, 2018).

<sup>19</sup> An English and Arabic version of the law is available here : <http://www.atlanticcouncil.org/blogs/menasource/egypt-s-anti-terror-law-a-translation> (accessed on December 10, 2017)

<sup>20</sup> Human Rights Watch, *Egypt: Counterterrorism Law Erodes Basic Rights Broad ‘Terrorist Acts’ List May Criminalize Civil Disobedience*, August 19, 2015 <https://www.hrw.org/news/2015/08/19/egypt-counterterrorism-law-erodes-basic-rights> (accessed on December 4, 2017).

<sup>21</sup> Article 99 of the 2014 Constitution provides that: “Any violation of personal freedom, or the sanctity of the private life of citizens, or any other public rights and freedoms which are guaranteed by the Constitution and the Law is a crime. The criminal and civil lawsuit arising of such crime shall not abate by prescription. The affected party shall have the right to bring a direct criminal action.

The State shall guarantee fair compensation for the victims of such violations. The National Council for Human Rights may file a complaint with the Public Prosecution of any violation of these rights, and it may intervene in the civil lawsuit in favour of the affected party at its request. All of the foregoing is to be applied in the manner set forth by Law” (emphasis added).

constitutionally guaranteed independence under article 214.<sup>22</sup> No further changes have been incorporated in its constitutional basis since.

### 3.2. Legislative provisions

On 2 August 2017, NCHR's enabling Law No. 94 has been amended for the first time since its adoption in 2003. In April 2016, the head of the House of Representatives' Human Rights Committee presented a draft to amend the NCHR's enabling Law No. 94/2013.<sup>23</sup> On 2 August 2017, following the parliamentary approval of the draft on 4 July 2017, President Al Sisi issued a decree enacting Law No. 197/2017 on the amendments of some provisions of Law No. 94/2003.

It is important to note that the NCHR's new law has to this day not been published, which raises the issue of transparency and publicity of the legislative basis of the NHRI. Moreover, while the revision of the law officially aimed at enhancing the NCHR's independence from the executive, the amendments did not guarantee effectively the independence of the NHRC from the executive and parliamentary powers.

While the NCHR expressed satisfaction over the amending Law No. 197/2017, stating that it "helps the Council play its role in an impartial and independent manner as well as maintain its international standing",<sup>24</sup> the new law failed to take into account all recommendations and concerns of the SCA,<sup>25</sup> particularly over the independence of the NCHR and the means of implementing its mandate.<sup>26</sup>

Alkarama considers that despite its revision, amended Law No. 94/2003 still does not guarantee the absolute independence of the NCHR from the executive and legislative branches. On the contrary, the amendments strengthen the control of both powers on the NHRC.

With regards to the NCHR's independence from the legislative, article 1 of the law provides in its new wording that "the NCHR is an independent Council which aims to promote, develop and protect human rights and public freedoms in accordance with the provisions of the Constitution and in the light of the international conventions, covenants and covenants ratified by Egypt". However, the new law also specifies in a new article 2 *bis* (a) that the NCHR's board must be formed within 60 days by the Human Rights Committee of the House of the Representatives in coordination "with other institutions, including

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<sup>22</sup> Article 214 of the 2014 Constitution provides that: "The law shall specify the independent national councils, including the National Council for Human Rights, the National Council for Women, the National Council for Childhood and Motherhood, and the National Council for Disabled Persons. The law shall state the composition, mandates, and guarantees for the independence and neutrality of their respective members. Each council shall have the right to report to the competent authorities any violations pertaining to their fields of work.

These councils shall have legal personalities and shall be technically, financially, and administratively independent. They shall be consulted with respect to the bills and regulations pertaining to their affairs and fields of work."

<sup>23</sup> Parlmany, "حصرى... قانون استقلال حقوق الإنسان", <http://www.parlmany.com/News/7/78930/%D8%AD%D8%B5%D8%B1%D9%89-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%A7%D8%B3%D8%AA%D9%82%D9%84%D8%A7%D9%84-%D8%AD%D9%82%D9%88%D9%82-%D8%A7%D9%84%D8%A5%D9%86%D8%B3%D8%A7%D9%86->, 12 May 2016. (accessed on January 7, 2018)

<sup>24</sup> Ahram Online, *Egypt's National Council for Human Rights says new law 'cements its independence'*, 8 August 2017, <http://english.ahram.org.eg/NewsContent/1/64/275002/Egypt/Politics-/Egypst-National-Council-for-Human-Rights-says-new-.aspx>. (accessed on January 7, 2018)

<sup>25</sup> GANHRI Sub-Committee on Accreditation Report – March 2017.

<sup>26</sup> Daily News Egypt, *NCHR files draft law demanding more freedom, facilitation in its work*, 14 May 2016, <http://www.dailynewsegypt.com/2016/05/14/nchr-files-draft-law-demanding-more-freedom-facilitation-in-its-work/>. (accessed on January 7, 2018)

the High Council for Universities, the High Council for Culture, the Egyptian General Federation of Trade Unions and professional syndicates”.

In addition, under article 2 *bis* (a), the Parliament is also granted power to “select the President of the Council, his deputy and the members with the approval of the majority of its members”. As such, the Parliament has not only been granted the authority to approve or reject the formation of the Council, but also to select the NCHR’s President and Deputy. We therefore consider that this newly established nomination process contravenes the Paris Principles as it undermines the necessary independence of the Council and of its members.<sup>27</sup>

Moreover, with regards to the independence from the executive branch, while article 1 of the new law provides that the Council “shall enjoy technical, financial and administrative independence in the exercise of its functions, activities and competences”, the NCHR however remains State-funded according to articles 11 and 12 of the new law.<sup>28</sup>

These provisions are contrary to what the SCA noted in its General Observations namely that: “the Paris Principles require an NHRI to be independent from government in its structure, composition, decision-making and method of operation. It must be constituted and empowered to consider and determine the strategic priorities and activities of the NHRI based solely on its determination of the human rights priorities in the country, free from political interference”<sup>29</sup>.

#### **4. Mandate and attributions of the NHRC**

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The SCA highlighted in its General Observations that an NHRI’s mandate should be interpreted in a broad, liberal and purposive manner to promote a progressive definition of human rights which includes all rights set out in international, regional and domestic instruments, including economic, social and cultural rights. Specifically, the mandate should:

- extend to the acts and omissions of both the public and private sectors;

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<sup>27</sup> Particularly paragraph 1 on the Composition and guarantees of independence and pluralism.

<sup>28</sup> Article 11 of Law 197/2017 amending Law 94/2013 on the establishment of the NCHR provides that: “The Council shall have an independent budget, which shall be in the form of the general budget of the State, including its detailed revenues and expenses. The fiscal year shall begin with the beginning and end of the fiscal year of the State and shall be subject to the control of the Central Auditing Organization.”

Article 12 of Law 197/2017 amending Law 94/2013 on the establishment of the NCHR provides that:

“The Council’s resources consist of the following:

1. The resources allocated to the Council in the general budget of the State.
2. Grants, donations and endowments that the Council decides to accept by a majority of its members in accordance with the laws and procedures governing it. If submitted by a foreign body, it must be approved by the majority of its members unless it has mutual obligations or is submitted in the form of an international agreement.
3. The State shall allocate grants or endowments to the Council, which shall decide upon international agreements with which it shall be directed to the fields of human rights.

A special account shall be established for the proceeds of these resources in one of the banks subject to the supervision of the Central Bank of Egypt. The surplus of this account shall be taken into account at the end of each financial year to the budget of the Council for the following fiscal year.”

<sup>29</sup> GANHRI Sub-Committee on Accreditation, General Observations of the Sub-Committee on Accreditation, (hereinafter “General Observations of the Sub-Committee on Accreditation”), Adopted by the GANHRI Bureau at its Meeting held in Geneva, Switzerland, 6 March 2017, p. 29., “G.O. 1.9 Political representatives on NHRIs”.

- vest the NHRI with the competence to freely address public opinion, raise public awareness on human rights issues and carry out education and training programs;
- provide the authority to address recommendations to public authorities, to analyse the human rights situation in the country, and to obtain statements or documents in order to assess situations raising human rights issues;
- authorize unannounced and free access to inspect and examine any public premises, documents, equipment and assets without prior written notice;
- authorize the full investigation into all alleged human rights violations, including the military, police and security officers.

In this regard the Law No. 197 of 2017 details in its article 3 the attributions of the NHRC as follow<sup>30</sup>:

"Without prejudice to the provisions of the applicable laws, the Council shall, in order to achieve its objectives:

1. To give an opinion on the draft laws and regulations related to its field of work;
2. Study allegations of violations of human rights and make the necessary recommendations to the competent authorities in the State;
3. Develop a national plan of action for the promotion and protection of human rights in Egypt and propose ways to achieve this plan;
4. Submit proposals and recommendations to the competent authorities in anything that might protect and support human rights and strengthen them;
5. Comment and make the necessary proposals and recommendations on matters raised by the competent authorities in respect of matters relating to the promotion and protection of human rights;
6. Receive complaints concerning human rights, studying them, and transmit what the Council considers to be referred to the competent authorities with their follow-up, give advice those concerned on the procedures to be followed, assist them in doing so and help resolve complaints with the authorities concerned;
7. Follow up the implementation of the international conventions, covenants, and covenants related to human rights ratified by Egypt and to present to the concerned parties the proposals, observations, and recommendations necessary in this regard;
8. Cooperation with international organizations and bodies concerned with human rights in matters contributing to the achievement of the objectives of the Council and developing its relations with them, in coordination with the Ministry of Foreign Affairs;
9. Contribute with its opinion to reports which the State is obliged to submit periodically to the Human Rights Committees and Bodies in accordance with international conventions and in response to their inquiries in this regard;
10. Coordinating with the state bodies concerned with human rights and cooperation in this field with the National Council for Women, the National Council for Childhood and Motherhood, the National Council for Persons with Disabilities and other relevant national councils and bodies;
11. Promote a culture of human rights in cooperation with specialized agencies in the fields of teaching, upbringing, and information and education and to assist in the preparation of human rights education programs;

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<sup>30</sup> Translation provided by the author.



12. Hold conferences, symposia and panel discussions on human rights issues or events related to them;
13. To make the necessary proposals to support institutional and technical capacities in the fields of human rights, including through technical development and training for staff working in state institutions related to public freedoms and economic, social and cultural rights;
14. Publish newsletters, magazines and other publications related to human rights and to the objectives and competence of the Council, in accordance with the relevant laws;
15. Issue reports on the situation and development of human rights;
16. Visit the prisons and other places of detention and institutions for rehabilitation or treatment, and hearing of prisoners and inmates of the places and institutions mentioned in order to ascertain their good treatment and enjoyment of their rights. The Council shall prepare a report on each visit, including the most important observations and recommendations with a view to improving the conditions of prisoners and inmates of these places and institutions. The council shall submit its reports to both the Attorney General and the House of Representatives;
17. Where the council finds that the freedoms or the rights of citizens enshrined in the constitution and law and international conventions and treaties which Egypt ratified, the Council should report it to the public prosecution based on reliable information that they have on the violation or its perpetrator, in addition to notifying the competent authorities and the council can join in a civil claim upon the request of the victim and in accordance with applicable laws.

#### **4.1 Commenting and providing opinions on national legislation**

While article 3 of the new law gives power to the NCHR to “give an opinion on the draft laws and regulations related to its field of work”, the obligation under article 214 of the Constitution to consult the NCHR for every law “pertaining to [its] affairs and fields of work” has not been respected by the authorities in practice. Alkarama stresses the crucial importance for an NHRI not only to be vested with such power but also to fully implement such obligation in order to ensure promotion and effective protection of human rights.

Indeed, since July 2013, the authorities have adopted numerous legislations that restricted Egyptians’ fundamental rights. Law No. 107 of 2013 on the Right to Public Meetings, Processions and Peaceful Demonstrations is illustrative in this sense. Prior to its adoption, the NCHR had received a version of the draft and had not made any observations at the time. It is only after the civil society voiced concerns about the draft provisions and pressured the NCHR to ask for amendments that the members eventually made insufficient recommendations to the authorities. The law was adopted in November 2013, leading the United Nations High Commissioner for Human Rights urging the authorities to put it in line with Egypt’s international obligations – however the law was not amended despite this public call.<sup>31</sup>

Additionally, if some members of the NCHR on few occasions voiced concerns regarding specific legislations during interviews with media, it is rare for the NCHR to publish formal on such issues and it is therefore impossible for the public to be aware the official position of the NCHR in this regard.

We recommend the authorities not only to seek the opinion of the NCHR for every law impacting human rights but also to draft these laws with its assistance and to implement its recommendations. On its side, the NCHR should take the initiative of proposing new legislations regarding human rights and

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<sup>31</sup> OHCHR, *New law on demonstrations in Egypt seriously flawed and must be amended – Pillay*, 26 November 2013, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=14029&LangID=E>.

advocate for their adoption in order to ensure that every piece of legislation meet Egypt's international obligations.

Finally, under article 3(14) of the new law, the NCHR is granted power to "publish newsletter, magazines and other publications related to human rights and to the objectives and competence of the Council, in accordance with the relevant laws". Alkarama however underlines that considering the serious restrictions on the right to freedom of expression in Egypt, which have worsened since the enactment of Law No. 92/2016 on the Institutional Regulation of the Press and the Media, the impact of such restrictions on the freedom of the NHRC to criticise publicly laws and executive decisions is extremely limited.

#### **4.2 Information and education in human rights**

Under article 3(11) of the new law, the NCHR is entitled to "promote a culture of human rights in cooperation with specialised agencies in the field of teaching, upbringing, information and education, and to assist in the preparation of human rights education programs". Article 3(12) further states that it can hold "conferences, forums and seminars to discuss human rights issues or events related thereto."

However it does not make use of its possibility to make use of all means available (media, education and cultural affairs), as listed in article 3(11) of the new law and in the Paris Principles.<sup>32</sup> More particularly, the NHRC has failed to systematically publish and publicize the outcomes of these events and to follow-up on them.

#### **4.3 Cooperation with international human rights mechanisms**

The Paris Principles set out several aspects of cooperation of NHRIs with international bodies and regarding the promotion of international human rights instruments. First of all, NHRIs are invited to "promote and ensure the harmonization of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation", and "to encourage the ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation."<sup>33</sup> In this sense, as the SCA noted "while it is appropriate for governments to consult with NHRIs in the preparation of a state's reports to human rights mechanisms, NHRIs should neither prepare the country report nor should they report on behalf of the government. NHRIs must maintain their independence and, where they have the capacity to provide information to human rights mechanisms, do so in their own right"<sup>34</sup>.

In this regard, it is concerning that article 3 (8) provides that the cooperation of the NHRC with international organizations and bodies concerned with human rights" must be conducted "in coordination with the Ministry of Foreign Affairs".

In its 2017 report, the SCA "[acknowledged] the efforts the NCHR has made to increase its engagement with regional and international human rights systems". It further encouraged "the NCHR to engage wherever possible and in accordance with their own strategic priorities".<sup>35</sup> The "patronage" of the executive in the relation between the NHRC and international institution is contrary to the Paris

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<sup>32</sup> Paris Principles, "Competence and responsibilities", para. 3(f) and 3(g).

<sup>33</sup> Paris Principles, "Competence and responsibilities", para. 3(b).

<sup>34</sup> General Observations of the Sub-Committee on Accreditation, *op.cit.*, p. 14., "G.O. 1.4 Interaction with the international human rights system"

<sup>35</sup> GANHRI Sub-Committee on Accreditation Report – March 2017, *op.cit.*, p.34

principles and fails to provide to the NHRC with the necessary autonomy and independence in order to cooperate with international mechanism according “to its own strategic priorities”.

Furthermore, Law No. 197/2017 still does not grant the NHRC with the prerogative to encourage the ratification of international human rights instruments. Moreover, the NCHR is not vested with the power to submit its own reports to international mechanisms as article 3 (9) limits its role to merely “giving its opinion on the preparation of periodic reports that should be submitted by the State to human rights committees and commissions”. If the NHRC has submitted alternative reports to some treaty bodies reviews, the law still does not give it this right expressly failing therefore to secure this prerogative in the law.

Additionally, according to the information available, the NCHR has not advocated for Egypt’s submission of its national reports under the Convention against Torture (UNCAT) and the International Covenant on Civil and Political Rights (ICCPR), that are overdue since 2004.<sup>36</sup> It also appears that the NCHR has not been disseminating information about international mechanisms and their impact on Egypt, especially when international bodies were reviewing Egypt’s human rights records and made recommendations to the authorities.

Alkarama encourages the authorities to clarify the mandate of the NCHR as to its collaboration with United Nations bodies as well as to grant it the power to submit its own reports to these bodies. Alkarama urges the NCHR to further promote international human rights instruments throughout the Egyptian society and to push the authorities to submit their overdue reports. We also urge the NCHR to foster its collaboration and cooperation with the UN Special Procedures and other relevant international and regional bodies.

#### **4.4 Access to places of deprivation of liberty**

While the Paris Principles are silent about the competence of NHRIs to visit places of deprivation of liberty, the SCA detailed in its General Observations that NHRIs, when provided with a “mandate to receive, consider and/or resolve complaints alleging violations of human rights” should be entitled to “visit places of deprivation of liberty.”<sup>37</sup>

Furthermore, the SCA noted that in their general attribution of analysis of the human rights situation in the country, NHRIs “should be authorized to fully investigate all alleged human rights violations, regardless of which State officials are responsible. This should include the ability to have unannounced and unimpeded access to inspect and examine any public premises, documents, equipment and assets without prior written notice. Although the authority of NHRIs to undertake such an investigation may be restricted for national security reasons, such restriction should not be unreasonably or arbitrarily applied and should be exercised under due process”<sup>38</sup>.

Under article 3(16) of the new law, the NCHR has been granted the prerogative to “visit the prisons and other places of detention and institutions for rehabilitation or treatment, and hearing of prisoners and inmates of the places and institutions mentioned in order to ascertain their good treatment and enjoyment of their rights.” The Council is therefore vested with the duty to prepare reports on each visit, “including on the most important observations and recommendations with a view to improving

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<sup>36</sup> See: [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/countries.aspx?CountryCode=EGY&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=EGY&Lang=EN).

<sup>37</sup> General Observations of the Sub-Committee on Accreditation, *op.cit.*, p. 57, “The quasi-judicial competency of National Human Rights Institutions (complaints-handling)”.

<sup>38</sup> General Observations of the Sub-Committee on Accreditation, *op.cit.*, p. 51., “G.O. 2.7 Limitation of power of NHRIs due to national security”

the conditions of prisoners and inmates of these places and institutions”, for submission to the Attorney General and the House of Representatives.

However, the law fails to fully implement the recommendation made by the SCA during the latest review of the NHRC namely that: “the NCHR to conduct ‘unannounced’ visits to all places of detention within its jurisdiction as this limits opportunities for detaining authorities to hide or obscure human rights violations and facilitates greater scrutiny.”<sup>39</sup> The new law fails to precise whether such visits could be undertaken unannounced or whether prior authorisation has to be delivered by the Ministry of Interior.

Alkarama is also concerned by information obtained from NGOs and families of victims which reported that, the NCHR has never been independent in the choice of places of detention it could visit, this decision was one of the Ministry of Interior. As a consequence, some places of detention were prepared for NCHR’s visits, preventing it from performing its mandate accordingly.<sup>40</sup> Furthermore, it was reported to Alkarama that a visit to Al Aqrab prison in September was authorised by the Ministry of Interior without informing all members, including those who have extensive experience in the field of human rights. The latter were thus unable to attend the visit. Other members reported that officials from the Ministry of Interior accompanied them and filmed the visit even if they were asked not to; and that they could not speak privately with prisoners. Hence, they were not able to make a proper assessment of the situation and their report was largely criticised by other local organisations that had been reporting several torture and ill-treatment cases in this prison.<sup>41</sup>

Alkarama encourages the authorities to grant the NCHR with the right to visit places of deprivation of liberty without prior authorisation and to ensure these visits are conducted in an independent and impartial manner and that prisoners can communicate with all NCHR’s members and in a confidential manner. The NCHR should also regularly follow-up on prisoners’ situations and publish all the outcomes of its visits.

#### **4.5 Ability to document human rights violations and receive individual complaints**

Under article 99 of the 2014 Constitution, the NCHR is entitled to “file a complaint with the Public Prosecution of any violation of these rights, and it may intervene in the civil lawsuit in favour of the affected party at its request.” According to article 3(6) of the new law, the NCHR is entitled to receive and study “complaints related to the protection of human rights [...] and referring them to the concerned authorities, together with following-up to advise the parties involved about the legal actions to be taken and assisting them in taking such actions or settling and resolving the complaints with the relevant authorities.”

Hence, the NCHR, considered as a quasi-judicial body, can receive complaints and assist victims but it has not been granted with rights to investigate cases on its own and even to initiate a complaint on its own initiative, which contradicts the SCA’s General Observations. Additionally, since the law is silent about this aspect, the NCHR is not authorised to compel witnesses or to order protection measures from retaliation for victims and their relatives, which can hamper the efficiency of its work. Alkarama

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<sup>39</sup> GANHRI Sub-Committee on Accreditation Report – March 2017, *op.cit.*, p. 34

<sup>40</sup> Al Arabiya, *Egypt prisons report: Did human rights council curry favor with govt?*, 24 September 2015, <http://english.alarabiya.net/en/perspective/analysis/2015/09/23/Egypt-prisons-report-Did-human-rights-council-curry-favor-with-govt-.html>. (accessed on January 7, 2017)

<sup>41</sup> Daily News Egypt, *NCHR members criticise latest Aqrab prison visit*, 2 September 2015, <http://www.dailynewsegypt.com/2015/09/02/nchr-members-criticise-latest-aqrab-prison-visit/>. (accessed on January 7, 2017).

has also received reports from families of victims of enforced disappearance according to which they had solicited the NCHR's intervention on their behalf but that they never received an answer.

While its enabling law does not empower the NCHR to launch inquiries into specific violations, it can issue reports about human rights. The NCHR established four fact-finding committees into the events of summer 2013 and particularly into the violent dispersal of Raba'a Al Adawiya and El Nahda Squares by the police and the army on 14 August 2013 that saw the death of thousands of individuals and hundreds others wounded.<sup>42</sup> However, the report, published in March 2014, was strongly criticised by some local organisations, reporters and international NGOs as failing to effectively and impartially document the violations and notably the use of force by security services which have led to the executions.<sup>43</sup>

It should be highlighted that the NCHR was not authorised to compel witnesses or to offer them protection measures which made it even more difficult for its members to make an independent and impartial review of the circumstances of the events. We recall the utmost need for the NCHR to be fully independent in the implementation of its mandate, particularly in the investigations into violations.

Finally, in spite of the recommendations made by the SCA, under article 3(17) of the new law, the NCHR remains deprived of the prerogative to directly file complaints before courts and bound to refer the cases to the Public Prosecution. Indeed, under this provision, if the Council finds that the freedoms or the rights of citizens enshrined in the Constitution, the law, international conventions and treaties which Egypt ratified are violated, "the Council should report it to the public prosecution based on reliable information that they have on the violation or its perpetrator." In addition, "the Council can join in a civil claim upon the request of the victim and in accordance with applicable laws".

The SCA has highlighted in its general observations that when an NHRI is provided with a mandate to receive, consider and/or resolve complaints alleging violations of human rights, it should be provided with the necessary functions and powers to adequately fulfil this mandate. Such powers and functions might include inter alia the ability to commence a complaint on its own initiative as well as the ability to investigate complaints, including the power to compel the production of evidence and witnesses, and to complainants and witnesses from retaliation for having provided evidence in relation to a complaint<sup>44</sup>. None of these requirements are provided by the law which seriously hinders the possibility for the NHRC to should ensure that complaints "are dealt with fairly, transparently, efficiently, expeditiously, and with consistency".<sup>45</sup>

Alkarama notes that the Egyptian authorities failed to positively reform the law on this specific issue and encourages them to refer to the SCA's General Observation on the powers and functions of NHRIs granted with quasi-judicial competences in order to ensure the full compliance of the NCHR with the Paris Principles.

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<sup>42</sup> Alkarama, *Egypt: Ensure accountability for crimes against humanity*, 16 August 2013, <http://en.alkarama.org/component/k2/1141-egypt-ensure-accountability-for-crimes-against-humanity>.

<sup>43</sup> The Cairo Post, *NCHR issues final Rabaa report, reporters doubt credibility*, 17 March 2014, <http://thecairopost.youm7.com/news/102636/news/nchr-issues-final-rabaa-report-reporters-doubt-credibility>. See also Human Rights Watch, *All According to Plan, The Rab'a Massacre and Mass Killings of Protesters in Egypt*, 12 August 2014, <https://www.hrw.org/report/2014/08/12/all-according-plan/raba-massacre-and-mass-killings-protesters-egypt>.

<sup>44</sup> General Observations of the Sub-Committee on Accreditation, *op.cit.*, p. 57, "The quasi-judicial competency of National Human Rights Institutions (complaints-handling)".

<sup>45</sup> *Ibidem*.

## 5. Selection and appointment of members, termination of member's mandate

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Regarding the selection and appointment of NHRI members, the Paris Principles stipulate that "the composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces [...]".<sup>46</sup>

### 5.1 Selection process of the NHRC members

In 2017, the SCA stated that the selection process enshrined in the previous law was "not sufficiently broad and transparent". It highlighted in particular that it does not require the advertisement of vacancies, establish clear and uniform criteria upon which all parties assess the merit of eligible applicants, and specify the process for achieving broad consultation and/or participation in the application, screening, selection and appointment process.<sup>47</sup> The SCA also noted that the draft law provided that members should be selected from among public figures well-known for their experience, independence of their opinion, and distinguished performance in the field of human rights.

Article II *bis* (a) modified of the Law No. 197 provides that the "The General Committee of the House of Representatives shall nominate the candidates for membership of the Council, taking into account the appropriate representation of the groups of society. The Council of Representatives shall elect the President of the Council, the Vice-President and the members with the approval of the majority of its members". If this amendments give the power to nominate to a body affiliated with the Parliament, it does not guarantee the independence of the members and does not provide sufficient transparency and openness of the selection process.

The SCA highlighted in its general operations that "ensuring the integrity and quality of members is a key factor in the effectiveness of the NHRI. For this reason, selection criteria that ensure the appointment of qualified and independent decision-making members should be legislatively established and made publicly available prior to appointment" and recommended that " the adoption of such criteria be subject to consultation with all stakeholders, including civil society, to ensure the criteria chosen is appropriate and does not exclude specific individuals or groups"<sup>48</sup>.

The new law raises several issues that contradicts these criteria of independence transparency and fails to establish a participatory selection process by giving to the General Committee of the House of Representatives full power and discretion in the selection of members. The mere fact the body in charge of the selection process is affiliated to the legislative power is not sufficient to ensure the independence of the members as Parliaments – composed of by definition of individuals affiliated with political parties including the ones in power in the government – can also interfere in the independence of an NHRI.

The means of selecting the candidates should be further clarified and a transparent process set up in order to ensure that the process be as participatory as possible. Additionally, if the new law puts emphasis on the "expertise of candidates in the field of human rights", in particular by adding in article 2 that among candidates should be included "one of the professors of Constitutional Law of Egyptian universities", Alkarama reiterates its recommendation that the principal criterion for the selection of

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<sup>46</sup> *Ibid.*, pp. 23-24, "G.O. 1.7 Ensuring pluralism of the NHRI"

<sup>47</sup> GANHRI Sub-Committee on Accreditation Report – March 2017, p. 35.

<sup>48</sup> General Observations of the Sub-Committee on Accreditation, *op.cit.*, p. 24., "G.O. 1.7 Ensuring pluralism of the NHRI".

candidates should be their expertise in the field of human rights and that not only this should be clearly stated but should further be fully implemented.

Regarding the NCHR's composition, article 2 of the new law brought changes with regards to the number of members, providing that "the Council is composed of a President, a vice-President and 25 members", in place of the 27 members under the previous system. Although the SCA underlined in its General Observations the need to have an equitable participation of women in the National Institution,<sup>49</sup> there still remains a vast majority of men sitting at the Council.

Lastly, the list of the newly appointed members of the NCHR has not been published and made available to the public.

## 5.2 Rules applicable to dismissal

The SCA stated in its General Observations that in order for members to have a stable mandate, procedural rules and grounds for their possible dismissal must be clearly stated in the enabling law to avoid any arbitrariness in this process. In this regard, in its 2017 report, the SCA noted that the NCHR draft law provided for termination of membership, stating that should these amendments be adopted, they would address the different concerns on the issue.<sup>50</sup>

Article 2 *bis* (d) of the new law partially addressed this issue, providing that cases of termination of the membership of NCHR's members may include death, a judicial ruling is issued in a felony, or in a crime that violates honour or trust, resignation upon approval of the House of the Representatives by a majority of its members.<sup>51</sup>

The SCA further added during the latest review of the NHRC that "grounds for the dismissal of members of the governing body should be clearly defined and decisions undertaken by a regularly constituted court, tribunal or other bodies as appropriate." The new does not address this serious shortcoming as it appears that the new law does not clarify effectively the rules applicable to dismissal and gives power to the House of Representatives, already vested with the power of nomination, to rule on the dismissal of members hindering once again the stability of the mandates of NCHR's members.

## 5.3 Functional immunity

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<sup>49</sup> SCA General Observations, 1.7 « Ensuring pluralism of the National Human Rights Institution ».

<sup>50</sup> GANHRI Sub-Committee on Accreditation Report – March 2017, *op.cit.*, p. 36

<sup>51</sup> Article 2 bis (d) of Law No. 197/2017 amending Law No.94/2003 provides that:

"The membership of the President of the Council, his deputy or any of his members shall terminate in the following cases,  
1. Death.

2. If one of the conditions of membership provided for in the law has been issued, and in the case a judicial ruling is issued in a felony, or in a crime that violates honor or trust, the membership shall cease from the date of final judgment and in case of final disciplinary judgment.

3. Resignation submitted to the Council, provided that the resignation is written and causable. Membership may not be terminated for such reasons except upon the approval of the House of Representatives by a majority of its members.

In all cases, the President of the Republic shall issue the decision to terminate or terminate the membership, and shall be published in the Official Gazette.

The successor of the outgoing member shall be appointed in accordance with the procedures provided for in Article II bis (a) of this Law for the period of the term of office of his predecessor."

Law No. 94/2003 did not address this specific issue, failing to provide any kind of immunity for NCHR members. The SCA had thus strongly recommended in 2017 to include provisions on the “functional immunity of the NCHR members for actions undertaken in good faith in their official capacity”.<sup>52</sup>

The SCA further stressed that the decision to lift immunity “shall not be exercised by an individual, but rather by an appropriately-constituted body such as the superior court or by a special majority of parliament” and recommended that national law provides for well-defined circumstances in which the functional immunity of the decision-making body may be lifted in accordance with fair and transparent procedures.<sup>53</sup> However, while under article 4 of the draft law, members and staff were to enjoy immunity from legal liability for actions undertaken in the course of their duties and, accordingly, the new law did not retain these provisions, thus failing to ensure an effective functional immunity to NHRC’s members.

#### **5.4 Length of members terms**

In 2011, the SCA made a recommendation regarding the term of office of NCHR’s members, encouraging the authorities to increase the current term from three years – which is viewed as the minimum by the SCA – to “between three and seven years with the option to renew once.”<sup>54</sup> The SCA advocates for longer terms because it considers that it is a crucial element of NHRIs’ independence and for allows members to “ensure continuity of [their] programs and services.”<sup>55</sup>

However, Alkarama notes that article 2 of the new law limits the mandate of NCHR members to “two consecutive terms”, without extending the initial three-year duration of the term.<sup>56</sup> Therefore, the SCA’s concerns remains valid and Alkarama invites the authorities to adopt a longer term of office for NCHR members.

### **6. Lack of guarantees of independence of the NHRC**

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#### **6.1 Financial independence**

Alkarama notes with concern the continued lack of financial independence of the NCHR vis-à-vis the executive branch. While article 1 of the new law provides that the Council “shall enjoy technical, financial and administrative independence in the exercise of its functions, activities and competences”, the NCHR remains however State-funded.<sup>57</sup> Indeed, while article 11 of the new law provides that the

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<sup>52</sup> GANHRI Sub-Committee on Accreditation Report – March 2017, *op.cit.*, p. 36.

<sup>53</sup> GANHRI Sub-Committee on Accreditation Report – March 2017, *op.cit.*, p. 36

<sup>54</sup> ICC, Report and Recommendations of the Sub-Committee on Accreditation, Geneva, 25-28 October 2011, point. 3.5.

<sup>55</sup> *Ibidem.*

<sup>56</sup> Article 2 of Law No. 197/2017 amending Law No. 94/2003 provides that: “The Council is composed of a President, a vice-President and twenty-five members. They are chosen from among the public figures who are well-known for their expertise and attention to human rights issues or those who are distinguished in the field of human rights, including one of the professors of constitutional law in Egyptian universities. No one may be appointed for more than two consecutive sessions.”

<sup>57</sup> Article 11 of Law No. 197/2017 amending Law No. 94/2013 provides that: “The Council shall have an independent budget, which shall be in the form of the general budget of the State, including its detailed revenues and expenses. The fiscal year shall begin with the beginning and end of the fiscal year of the State and shall be subject to the control of the Central Auditing Organization.”

Article 12 of Law No. 197/2017 amending Law No. 94/2013 provides that:

“The Council’s resources consist of the following:

1. The resources allocated to the Council in the general budget of the State.
2. Grants, donations and endowments that the Council decides to accept by a majority of its members in accordance with the laws and procedures governing it. If submitted by a foreign body, it must be approved by the majority of its members unless it has mutual obligations or is submitted in the form of an international agreement.



NCHR "shall have an independent budget, which shall be established in the general State budget", it also stipulates that the NCHR's fiscal year "shall be subjected to the control of the Central Auditing Organisation". Such provision raises question with regards to the full independence of the institution.

In addition, in this article 12, the new law further imposes control over foreign funding. Indeed, article 12(2) provides that "donations, grants, and subsidies which the Council decides to accept by a majority of its members [...]. If submitted by a foreign party, it must be approved by the majority of the House of Representatives".

Alkarama notes that in spite of the revision, new Law No. 197/2017 does not fully guarantee the financial independence of the NCHR. We recall the absolute necessity for an NHRI to enjoy financial independence for the good conduct of its mandate. We therefore recommend the Egyptian authorities to take the appropriate measure in order to ensure the NCHR is capable of implementing of its mandate without undue interference.

## **6.2 Lack of independence of members in the exercise of their fonctions**

Ever since its creation, many concerns have been raised with regards to the independence of the NCHR members vis-à-vis the Egyptian authorities.

In September 2017, the publication of a Human Rights Watch report<sup>58</sup> describing torture of political prisoners in Egypt as a "crime against humanity" was slammed by the Egyptian authorities, which denounced a "politicized and factually incorrect" report. It was further added that such report was published to "incite hatred against Egypt, tarnish its reputation abroad and hold back development efforts."<sup>59</sup> While it is not the first time the Egyptian authorities deny the practice of torture, these comments were all the more disturbing that they were supported and confirmed by Mr Mohamed Fayek, head of the NCHR, who assured that all allegations of the report were unfounded as "there is no torture in Egyptian prisons".<sup>60</sup> NCHR President Fayek continued, stating that the "NCHR is now in constant contact with the Ministry of Interior to make sure that police officers observe human rights and that there is no torture at all in Egyptian prisons."<sup>61</sup>

Alkarama emphasises that on 23 June 2017, after a four-year-long investigation,<sup>62</sup> the members of the Committee against Torture issued their conclusions based on a wide range of cases submitted between 2012 and 2016.<sup>63</sup> The UN experts concluded that the practice of torture is "habitual, widespread and

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3. The State shall allocate grants or endowments to the Council, which shall decide upon international agreements with which it shall be directed to the fields of human rights.

A special account shall be established for the proceeds of these resources in one of the banks subject to the supervision of the Central Bank of Egypt. The surplus of this account shall be taken into account at the end of each financial year to the budget of the Council for the following fiscal year."

<sup>58</sup> Human Rights Watch, "We Do Unreasonable Things Here", Torture and National Security in al-Sisi's Egypt, 5 September 2017, <https://www.hrw.org/report/2017/09/05/we-do-unreasonable-things-here/torture-and-national-security-al-sisis-egypt>.

<sup>59</sup> Egypt Independent, UN High Commissioner for Human Rights slams Egypt, 12 September 2017, <http://www.egyptindependent.com/un-high-commissioner-human-rights-slams-egypt/>.

<sup>60</sup> Middle East Monitor, Egypt slams torture report, questions HRW's funding, 13 September 2017, <https://www.middleeastmonitor.com/20170913-egypt-slams-torture-report-questions-hrws-funding/>.

<sup>61</sup> Ibidem.

<sup>62</sup> Alkarama, *Egypt: UN Committee Against Torture concludes that torture in Egypt is systematic following an inquiry requested by Alkarama*, 10 September 2017, <https://www.alkarama.org/en/articles/un-committee-against-torture-concludes-torture-egypt-systematic-following-inquiry>.

<sup>63</sup> Conclusions of the Committee against torture on the practice of torture in Egypt – Article 20 procedure (2017), available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=A%2F72%2F44&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=A%2F72%2F44&Lang=en).

deliberate”.<sup>64</sup> The Egyptian authorities responded to the Committee on 1 June 2016, stating that the committee was wrong to conclude that the practice of torture was “systematic” in Egypt.

In view of such statements, Alkarama raises with serious concern the question of independence of the members of the NCHR. It is indeed, extremely concerning that the President of an NHRI, who should be denouncing the widespread torture, denies on the contrary such practice in the current and particularly alarming human rights situation in the country.

Alkarama notes that the NCHR has continuously failed to act and react to the major human rights violations occurring in the country and that the remarks of the NCHR President show an apparent lack of impartiality and independence of the institution. Such situation further raises concern on the willingness of the NCHR to efficiently implement its mandate.

Alkarama encourages the Egyptian authorities to take the necessary measures to guarantee the absolute independence of the NCHR members, in order for them to better protect and promote human rights in the country.

## **7. Conclusions and recommendations**

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### **7.1 Conclusion**

Since its establishment in 2003, the Egyptian National Council for Human Rights has been operating in a context of continuous and widespread human rights violations by the Egyptian authorities.

In this context, the NCHR has not been able to uphold to its role of promotion and protection of human rights. Its lack of independence from the executive and henceforth the legislative, its limited mandate made it an inefficient body and in any case, a body that does not meet the requirements set out in the Paris Principles.

Furthermore, the lack of independence and autonomy from the executive as well as different governmental bodies – including the political majority on the Parliament- has direct consequences on the perception of the NHRC has a biased institution in favour of the executive and the ruling party. It is concerning that in this context of defiance from a large part of civil society and families of victims, members of the NHRI make public statements criticising reports from international NGOs and treaty bodies highlighting the systematic practice of torture by security services.

**In light of the above we consider that the NHRC does not comply with the necessary requirement in order to be granted with a status A and should instead be granted status B until the above mentioned serious shortcoming are effectively addressed.**

### **7.2 Recommendations to the National Council for Human Rights**

In order to ensure its complete conformity with the Paris Principles, the NCHR should seek its effective and practical independence from any governmental, legislative and judicial interference and uphold its mandate in order to effectively promote and protect human rights in Egypt. In addition to our observations listed throughout this report, we thus recommend the NCHR to:

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<sup>64</sup> Alkarama, *Egypt: UN Committee against torture concludes that torture in Egypt is systematic following an inquiry requested by Alkarama*, 10 September 2017, <https://www.alkarama.org/en/articles/un-committee-against-torture-concludes-torture-egypt-systematic-following-inquiry>.

- Advocate for the adoption of a new enabling law in line with the Paris Principles and in particular that would guarantee a transparent, pluralist and participatory selection and appointment process of its members; to increase the term of office of its members and guarantee the security of their tenure;
- Increase its activities of commenting on draft legislations and propose new human rights oriented laws and programs;
- Strengthen its collaboration with civil society as well as with international bodies, in particular UN Special Procedures and Treaty Bodies;
- Advocate for the submission of Egypt's overdue periodic reports to the UN Treaty Bodies and submit its own individual reports when applicable;
- Effectively monitor the human rights situation and follow-up on recommendations made to authorities;
- Be empowered to carry unannounced visits to all places of deprivation of liberty without any interference whatsoever; to submit complaints before courts and to seek enforcement of their decisions;
- Be provided with the possibility of compelling witnesses under protection measures to avoid retaliation measures; to obtain all documents required to conduct its investigations effectively;
- Effectively answer and act upon complaints submitted by victims and their relatives and follow-up on their situation until they obtain remedy and, when applicable, compensation;
- Be empowered to commence independent inquiries and to publish the outcomes of these investigations.