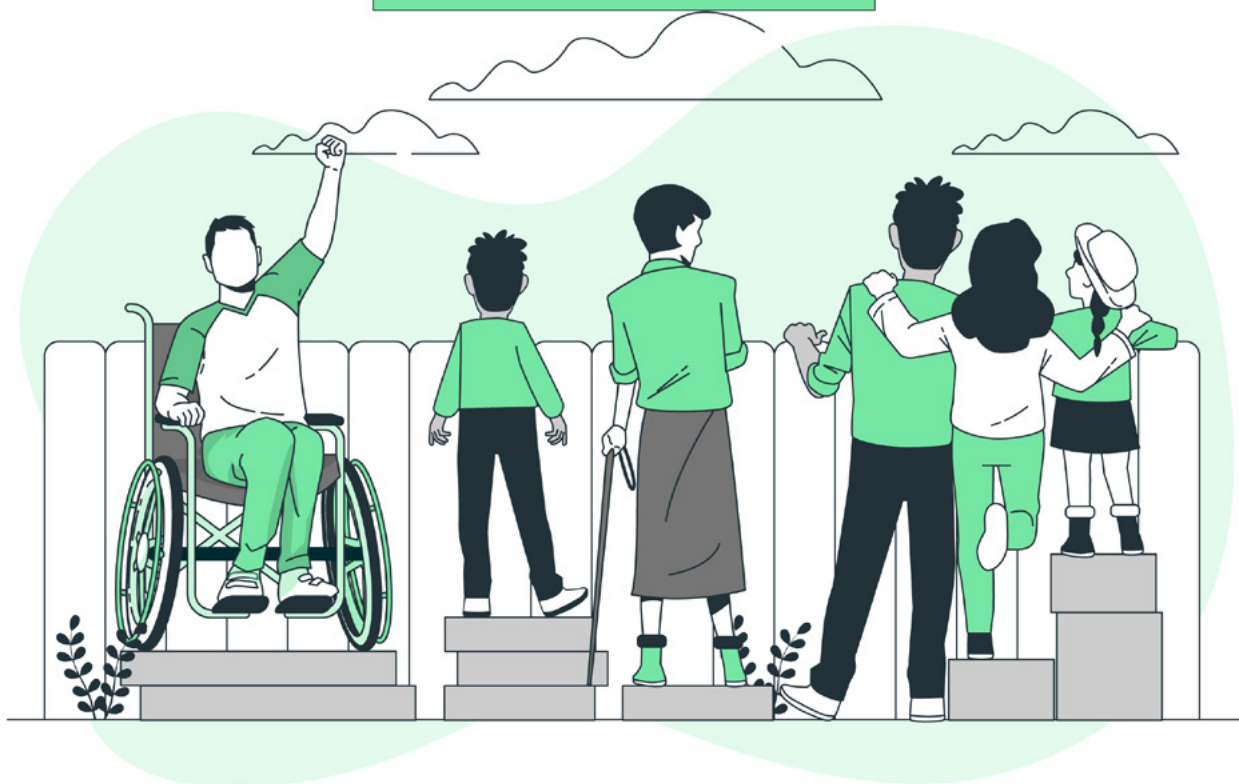


Towards an Equality and Anti-discrimination Law in Egypt: Criteria and Guidelines



Towards an Equality and Anti-discrimination Law in Egypt: Criteria and Guidelines

December 2024



All printing and publication rights reserved. This report may be redistributed with attribution for non-profit purposes under Creative Commons license.

www.creativecommons.org/licenses/by-nc/3.0

This study was prepared by Nourhan Fahmy, lawyer and researcher in international human rights law, and Amr Abdel Rahman, director of the civil liberties unit at the Egyptian Initiative for Personal Rights (EIPR).

It was edited by Ishaq Ibrahim, director of EIPR's equality and prevention of discrimination program, Lobna Darwish, director of its women's rights and gender program, and Karim Ennarah, its deputy executive director for research.

The Egyptian Initiative for Personal Rights (EIPR) has been working since 2002 to strengthen and protect basic rights and freedoms in Egypt, through research, advocacy and litigation in the fields of civil liberties, economic and social rights, and criminal justice.

For more information see <https://eipr.org/en>

Contents

| | |
|---|-----------|
| Introduction and methodology | 5 |
| 1. Legal framework | 6 |
| A. International human rights law | 6 |
| B. The Constitution of Egypt | 10 |
| C. Laws | 13 |
| 2. Minimum standards for the Equality and Anti-Discrimination Law | 16 |
| A. Criteria related to the content of the law in general | 16 |
| B. Criteria related to the equality and anti-discrimination commission .. | 19 |
| 3. Comments on proposed draft laws | 21 |
| A. The anti-discrimination draft law proposed by the Egyptian Feminist Union | 22 |
| B. The draft law on the equality and anti-discrimination commission submitted by MP Anissa Hassouna | 23 |
| C. The draft law on equal opportunities and prevention of discrimination among citizens submitted by the Egyptians in One Homeland Foundation | 25 |
| D. The recommendations of the Board of Trustees of the National Dialogue | 25 |
| E. Points of agreement and shortcomings | 27 |
| 4. Recommendations | 29 |
| Appendix 1: The constitutional and legal framework and Egypt's international obligations regarding equality and prevention of discrimination | 31 |
| Constitutional framework | 31 |
| International conventions on the protection of human rights | 34 |
| Appendix 2: The National Dialogue's recommendations regarding the issuance of legislation for the establishment of an anti-discrimination commission | 36 |

Introduction: The Importance of the Law and the Need for a National Body to Implement It

In Egypt a rare consensus exists among legislative, executive, and judicial institutions, as well as political parties and civil society organizations, on the importance of issuing a distinct equality and anti-discrimination law. This consensus is based on the 2014 Constitution and its amendments, which for the first time not only explicitly prohibited discrimination among citizens but also obliged the state to take various measures to prevent discrimination and establish an independent commission to that end (Article 53). In the intervening decade, the authorities have not taken any steps to pass the anti-discrimination law needed to fulfil this article. Various state initiatives have reaffirmed an intention to abide by the Constitution, as was the case in the five-year National Strategy for Human Rights issued in September 2021, which was in turn reflected in the August 2023 recommendations of the first phase of the National Dialogue. The President of the Republic accepted these recommendations and asked the executive and legislative authorities to implement them. For the first time since the Constitution came into force, the recommendations included a relatively detailed proposal for the criteria to be followed when drafting this legislation.

EIPR presents this study in the context of the consensus and ongoing dialogue around establishing an anti-discrimination law. The study includes proposals for civil society, legislators, and state officials with detailed standards to which the legislation must adhere, as well as a set of principles to guide the content of its articles. It focuses in particular on the standards for the formation, powers, and working methods of a national anti-discrimination commission, as the body entrusted with supervising the implementation and activation of the legislation. Despite this focus, we would like to state that legislation of such importance cannot be limited to the criteria for the formation of an anti-discrimination commission without addressing guarantees of equality in general, precise definitions of discriminatory practices, and the forms of redress and reparation required to tackle them, so that the commission can act with clarity about these matters and not leave the law open to conflicting interpretations.

Methodology

This study is based on a legal framework consisting of the international human rights conventions to which Egypt is committed, the Egyptian Constitution, and the relevant rulings of Egyptian supreme courts. It also draws from best practices recommended by the United Nations human rights bodies and other relevant rights organizations.

The first section provides a legal analysis that highlights the shortcomings of the current constitutional and legal framework before discussing how to address them in the anticipated law. The second section lists the minimum standards that the legislation must meet. The third presents a comparative analysis of draft laws that have been submitted by various parties in Egypt in order to determine their positive commonalities corresponding to the abovementioned legal framework. The study concludes with a set of recommendations for legislators and the executive authorities regarding the content of the law and the formation and powers of the anti-discrimination commission.

1. Legal framework

A. International human rights law

According to Article 93 of the current Egyptian Constitution, the state is bound by the international human rights agreements, covenants, and conventions ratified by Egypt, which gain the force of law on being published in accordance with the prescribed conditions. It is no exaggeration to say that the prevention of discrimination between the individuals and groups subject to these conventions constitutes the backbone of the complex legal system that is international human rights law. The 1945 UN Charter, which established the international human rights system, and the 1948 Universal Declaration of Human Rights clearly state that the rights and freedoms they delineate apply to all without distinction as to religion, sex, race, nationality, opinion, or social or any other status. The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which

together constitute the core of the system—the so-called International Bill of Human Rights, entering into force in Egypt in 1981—increased the number of prohibited grounds for discrimination in relation to several specific rights. The principle of anti-discrimination is also enshrined in all other conventions.

These conventions unanimously define discrimination as any distinction, exclusion, or restriction which has the effect of preventing individuals and groups from enjoying their rights under any grounds, real or imagined, of color, sex, gender, religious or national affiliation, social origin, physical or psychological disability, or other characteristic.

We can observe several salient features of the definition of discrimination used in international conventions. Most prominently, these include the following:

- The definition is not limited to purpose but extends to effect, i.e., it includes acts that lead to discrimination even if the actor does not intend to make distinctions between human beings; such acts have come to be known as indirect discrimination, while acts whose perpetrator intends to discriminate are termed direct discrimination.
- Grounds of discrimination are precisely defined but not exhaustive: they are cited as indicative examples, allowing for any other grounds that may emerge in practice to be addressed.
- The bases of discrimination may be real or imagined, in that an individual or group may be subject to discrimination by virtue of stereotyping based on their physical appearance, for example. This differentiation between the real and the imagined allows individuals to define themselves and their affiliations freely, without others imposing—even when such an imposition involves affirmative action or advantages.

The international conventions also primarily assign the obligation of ensuring equality and preventing discrimination to the institutions—legislative, executive, or judicial—of the signatory states.

International jurisprudence and the methodology of the UN institutions entrusted with following up on the implementation of these conventions agree

that the term “obligation” includes certain complementary duties, namely to respect, protect, and fulfil the rights stipulated.

The duty of respect requires that states refrain from committing discriminatory acts or adopting, implementing, or pursuing policies of discriminatory purpose or effect, and that they amend, repeal, or invalidate any laws that create or perpetuate discrimination.¹ This duty comes into effect as soon as any of the human rights conventions enter into force, and may not be suspended due to insufficient resources or under the pretext of gradualism. The duty of respect here is negative, in that it requires the authorities to refrain from impeding any individual or group seeking to exercise any right; it does not include a positive obligation to provide certain capabilities to those individuals and groups. For example, while a state party to the International Covenant on Economic, Social and Cultural Rights can cite a lack of resources as an excuse for not ensuring “decent” and fairly remunerated work for all its citizens and residents, it cannot use the issue of insufficient resources to impose discriminatory conditions that prevent individuals from exercising their right to work.

The duty of protection involves affirmative action by the relevant state institutions to prevent discrimination by either state institutions or third parties, public or private. This requires legal and political measures, including puni-

1 For more details and clarification, see the International Convention on the Elimination of All Forms of Racial Discrimination (Article 2), the International Convention on the Elimination of All Forms of Discrimination against Women (Article 2), the Convention on the Rights of Persons with Disabilities (Article 4), and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (Article 4).

tive, compensatory, and reparatory.²

The duty of fulfilment requires all state practices to effectively ensure the right to equality and non-discrimination, such as the development and implementation of policies, plans, and strategies, data collection and analysis, issuance of public reports, public education, training and awareness-raising, and the establishment of institutions to supervise such actions. Affirmative action is part of this commitment, that is, special temporary measures to address historical and structural discrimination against specific individuals or groups; in Egypt the parliamentary quota is one such example.

In sum, according to the anti-discrimination texts in international human rights law the basic obligations of a state include: the prohibition of direct and indirect discrimination in the Constitution and in the law; the provision of means of oversight, complaint, investigation, redress, compensation and reparation; and affirmative action to eliminate historical discrimination against certain groups.

At the regional level, given the continent's history of suffering from colonialism and all forms of discrimination, the African Charter on Human and Peoples' Rights—which is ratified by Egypt and considered part of its legislative

2 Article 26 of the International Covenant on Civil and Political Rights states: "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." Article 2 of the International Covenant on Civil and Political Rights states: "2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant. 3. Each State Party to the present Covenant undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) To ensure that the competent authorities shall enforce such remedies when granted."

structure—attaches special importance to equality and the prevention of discrimination among both individuals and peoples. The Charter devotes three articles to guaranteeing every person’s entitlement to the rights and freedoms it recognizes. Article 2 specifies that this entitlement comes “without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.” Article 3 affirms equality before the law and the right to equal protection before the law, while Article 19 reaffirms that people shall be equal, enjoy the same respect, and have the same rights (Article 19).

It is worth noting that the African Charter provides for a mechanism for submitting complaints to the African Commission against member states responsible for committing violations against individuals. Neither the victims nor their families have to be the complainants, and the violations do not have to have occurred on a large scale.

In 2007, EIPR used this mechanism to file a case against Egypt’s barring of Baha’i citizens from registering their faith on ID documents and forcing them to choose a “monotheistic religion,” namely Islam, Christianity, or Judaism. The African Commission’s 2016 decision condemned the Egyptian government for violating Articles 2 and 3 of the Charter, as well as Article 8 on freedom of religion and belief. It called on Egypt to take the necessary measures to recognize Baha’i marriages and to provide victims with US\$10,000 in compensation. The government has not yet implemented the Commission’s decision, although it was adopted by the Executive Council of the African Union in the presence of Egypt.³

B. The Constitution of Egypt

Article 53 of the Egyptian Constitution stipulates that:

³ See the text of the African Commission’s resolution: Hossam Ezzat & Rania Enayet (represented by EIPR & INTERRIGHTS) v The Arab Republic of Egypt - 355/07 <https://achpr.au.int/en/decisions-communications/35507-hossam-ezzat-rania-enayet-egypt-interights>.

all citizens are equal before the law. They are equal in rights, freedoms, and general duties, without discrimination based on religion, belief, sex, origin, race, color, language, disability, social class, political or geographic affiliation or any other reason. Discrimination and incitement of hatred is a crime punished by law. The state shall take necessary measures for eliminating all forms of discrimination, and the law shall regulate creating an independent commission for this purpose.

The article provides a clear definition of the principle of equality and non-discrimination and a non-exhaustive list of prohibited grounds for discrimination, but it contains four main shortcomings:

- Its definition of equality and non-discrimination is non-comprehensive, omitting the distinction between direct and indirect discrimination. This opens the door to forms of structural discrimination, especially in terms of economic and social rights—such as denial of employment opportunities or adequate housing—on the grounds of lack of discriminatory intent on the part of policymakers.
- A related shortcoming is the criminalization of discrimination, for the article classifies discrimination as a “crime punished by law,” meaning criminal law and criminal penalties. While criminalization requires proving the criminal motive or intent behind an act, many discriminatory practices do not arise from the deliberate intention or motive of the discriminator. Criminal proceedings generally place the burden of proof on the plaintiff, who is most often the victim. The requirement of intent under criminal law places that burden on victims of discrimination, unnecessarily restricting their ability to claim legal protection. The obligation to provide proof can also increase the likelihood of double discrimination against them, for they may be accused of insult, slander, and defamation—and be forced into the position of defendant.

Several UN bodies have addressed the tendency to deal with discrimination through articles of criminal or penal law, and the problems thereof. For example, the Committee on Economic, Social and Cultural Rights discussed the

need for flexibility in dealing with the burden of proof in accusations of discrimination in its general comment No. 20 on the second paragraph of Article 2 of the International Covenant on Economic, Social and Cultural Rights, on the prohibition of discrimination. Paragraph 40 includes the following:

Where the facts and events at issue lie wholly, or in part, within the exclusive knowledge of the authorities or other respondent, the burden of proof should be regarded as resting on the authorities, or the other respondent, respectively. These institutions should also be empowered to provide effective remedies, such as compensation, reparation, restitution, rehabilitation, guarantees of non-repetition and public apologies, and State parties should ensure that these measures are effectively implemented.⁴

- Thus Article 53 should stipulate that the state is obliged to confront discriminatory acts in general, whether direct or indirect, and facilitate redress for victims by all civil or criminal means in specific cases, mentioning the need to place the burden of proof on the defendant, whether an individual or an entity.
- Article 53 does not clearly define affirmative action as an essential part of the implementation of the right to equality, except in certain cases specified in other articles of the Constitution, such as women's rights (Article 11) and the rights of persons with disabilities, young people, and the elderly (Articles 81, 82, and 83).
- In only mentioning citizens, it excludes foreigners and non-citizen residents from protection against discrimination. The absence of constitutional protection results in the deprivation and/or violation of the rights of residents and refugees in Egypt, who are estimated to number several million, according to Egyptian officials' regular statements on the matter. This is clearly

⁴ The Committee on Economic, Social and Cultural Rights, General Comment No. 20 on the interpretation of the second paragraph of Article 2 of the International Covenant on Economic, Social and Cultural Rights on the prevention of discrimination; Paragraph 40 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbol-no=E%2FC.12%2FGC%2F20&Lang=en

demonstrated in an increasing rhetoric of incitement against non-citizen residents and refugees in Egypt, blaming them for the country's economic and social crises and the failure to address those crises. Inflammatory rhetoric has led to growing calls for mass deportation regardless of the situations in the countries from which people have come, such as war or internal strife. Moreover, the Egyptian government has imposed residency fees that cannot be afforded by a large segment of residents. This creates an environment of exploitation in work and housing, as well as making it difficult to access basic rights to education and healthcare. In the absence of complaint and redress mechanisms, the living conditions of non-citizen residents will further worsen.

C. Laws

Egyptian laws include several principles that intersect with the principles of international human rights law described above. The anticipated anti-discrimination legislation can build upon these. For example, one law deals with the rights and protection of persons with disabilities, another with children's rights, and another, issued in 2024, with the rights of the elderly, in addition to civil law, criminal law, and laws on nationality, education, labor, and social security.

- Yet like the aforementioned constitutional article criminalizing discrimination, these laws often narrow definitions where they should be broad (such as not attending to indirect or intersectional discrimination), or expand and exaggerate where specificity is needed (such as by over-criminalizing practices resulting from discriminatory beliefs or biases). This is reflected in detail in persistent loopholes within the legislation, as follows:
- The laws still contain some articles that directly discriminate against entire groups, such as women, which requires review and amendment. The set of laws regulating the personal status of Muslims and Christians are full of discriminatory articles that even contradict the views of official religious institutions, for example. Labor and civil service laws also contain some articles

that directly discriminate against groups such as pregnant women, women with dependent children, and those with certain health conditions. Articles 273, 274, and 277 of the Penal Code on adultery are among the most blatant examples of discrimination in terms of punishment (six months for a husband and two years for a wife), location (adultery is considered a crime for a husband only when committed in the marital home), and the right to give pardon (given to men in certain cases but not to women).

- Loopholes persist regarding intersectional or multiple discrimination, that is when individuals or groups are discriminated against for more than one prohibited reason, such as their gender and their ethnicity or religion, resulting in unique effects that should be addressed in specific ways.⁵ This is most evident in the personal status frameworks for Christian women.⁶
- The Penal Code criminalizes discrimination inappropriately or without the necessary guarantees regarding investigation and proof. International law requires that certain severe forms of discrimination be dealt with under criminal law in order to provide comprehensive protection; national legislation responds to this in several articles, including Article 161 bis of the Penal Code, which states:
- Whoever performs an act or abstains from work that would cause discrimination between individuals or against a group of people on the basis of sex, origin, language, religion, or creed shall be punished with imprisonment and a fine of not less than thirty thousand pounds and not exceeding fifty thousand pounds or either of these two penalties. This discrimination is a waste of the principle of equal opportunities or social justice, or a disturbance of public peace. The penalty shall be imprisonment for a period of no less than three months and a fine not less than fifty thousand pounds and not exceeding one hundred thousand pounds, or one of these two penalties

5 Ibid.

6 Inter-Parliamentary Union and UN Human Rights, The Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol - Handbook for Parliamentarians No. 36, 2023; <https://www.ohchr.org/sites/default/files/documents/publications/OHCHR-IPU-CEDAW-Handbook-revised-edition.pdf/>

if the crime referred to in the first paragraph of this article is committed by a public official, public employee, or any person charged with a public service.

As in the constitutional text, this expands criminalization dramatically without providing the any means to investigate or clarify the burden of proof. It does not provide a clear definition of discrimination that includes the difference between direct and indirect discrimination. The phrase “undermining the principle of equal opportunity or justice or disturbing public peace” is also imprecise, leaving definitions to the discretion of the judiciary, in clear violation of the well-established principle of criminal legality that there is no crime and no punishment except by text. The article does not address the dilemma of the burden of proof necessary to clarify criminal intent, which results either in severe penalties without sufficient evidence or in dropping charges due the impossibility of proof and the lack of clarity about who should be held responsible. Mere criminalization cannot effectively combat discrimination or its effects, while over-criminalization without precisely defining the crime may cause judges to refrain from using the legal text at all.

- No regulatory logic or standards regulate affirmative action to facilitate redress for victims of historical and structural discrimination. While we see some affirmative measures in laws on the exercise of political rights and elections, or in labor and civil service laws, for example, they are completely absent when dealing with the private sector, let alone the informal sector. Existing laws lack a mechanism to oblige the private sector to apply such measures.
- A recent law passed to fill a legislative gap around the rights of non-citizen residents and refugees in Egypt has raised further concerns about articles that violate rather than human rights. Approved by the House of Representatives and published in the Official Gazette in December 2024, the asylum law violated the Constitution and fell short of legal obligations defined by international human rights and refugee law—by, for example, allowing the denial of asylum for broad reasons, deprivation of work and union membership, and arbitrariness in granting refugees freedom of movement and

choice of residence, in addition to adopting a security approach that gives expansive powers to the government committee established under the law and criminalizing assistance to unregistered asylum seekers.⁷

Due to their large number, reviewing such existing laws and aligning their definitions—to create a unified vision of what discrimination is and how to confront it—would require significant time, effort, and resources. The issuance of comprehensive legislation will provide a rare opportunity to present an integrated vision and a contemporary, impactful legal philosophy, without foreclosing a comprehensive review of the entire Egyptian legislative structure.

2. Minimum standards for the Equality and Anti-Discrimination Law

In light of the abovementioned legal principles, and in order to fill the existing legislative gaps and eliminate ambiguities and contradictions within domestic legislation, the draft law must be based on a set of rules covering five basic aspects: definitions, including criminal acts and exceptions; the scope of application of the law; the state’s responsibilities; the institutions entrusted with implementation; and the means of investigating complaints and mechanisms for redress, compensation, and reparation.

A. Criteria related to the content of the law in general

Definitions

1. The law should include a clear and comprehensive definition of discrimination based on Article 53 of the 2014 Constitution and consistent with definitions in international human rights treaties. The definition should include a list of recognized grounds of discrimination stipulated in the International Covenant on Economic, Social and Cultural Rights: “race,

⁷ See the joint policy brief on the draft asylum law issued by EIPR and the Refugee Platform in Egypt: <https://shorturl.at/v8rSt>.

colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” It should also include an additional ground, namely when a person is wrongly believed to fall within a group discriminated against on any of those grounds, or is discriminated against due to their connection or contact with such a group or its members.

2. The legislation should also include a clear and comprehensive definition of all acts prohibited by law, including direct and indirect discrimination, harassment, denial of reasonable accommodation, denial or impediment of access to services or opportunities, isolation of an individual or group due to any of the listed grounds of discrimination, retaliation in the event of a complaint, and sexual harassment.

Scope of application

3. The legislation should cover all aspects of life generally regulated by law in Egypt, and the prohibited acts should cover the practices of individuals, institutions, and other entities, whether public, private, civil, or cooperative.
4. Any exception to the application of the law must be very clear, limited, and defined in the text of the legislation itself, not in its regulations.

State responsibilities

5. The legislation should recognize the responsibility of the state and other actors to identify and remove obstacles to access to all forms of services, opportunities, places, and information for all individuals, without discrimination. It should prohibit and specify the consequences of the designated responsible parties refraining from removing such obstacles. The legislation must also define the legal responsibilities of the parties responsible for preventing discrimination and facilitating the development of regulations and policies promoting equality.

Institutions

6. The legislation should include detailed articles on the establishment of an

equality and anti-discrimination commission that is independent from the executive and legislative authorities, and provide it with the powers and resources to carry out its role effectively. We will enumerate the criteria for establishing the commission in the second section of standards (B).

Means of investigation and redress mechanisms

7. The law should provide for effective enforcement mechanisms and remedies for victims of discrimination, in a special section that includes various forms of redress, not only criminal sanctions but also rules of compensation, reparation, rehabilitation and recognition of the discrimination suffered by victims.
8. The legislation should specify the courts and judicial and non-judicial bodies entrusted with adjudicating disputes, such as the equality and anti-discrimination commission. It should ensure the independence and efficiency of those bodies as guarantors of fairness and ensure that victims of discrimination receive legal support and advice in such disputes through the equality commission, and equip the courts, tribunals, and other bodies to ensure that victims have equal access to justice.
9. A related need is for the legislation to ensure that the burden of proof in cases of discrimination falls on the defendant or respondent.
10. The legislation should strike a balance between protection against discrimination on the one hand and the guarantee of freedom of opinion and expression on the other. Banning discriminatory or hate speech should not lead to further restrictions on constitutionally protected freedom of expression, nor should it lead to disproportionate or broadly defined penalties. Here we recommend reference to the Camden Principles on Freedom of Expression and Equality.⁸
11. The law should allow and regulate affirmative action to correct structural discrimination and injustice against certain groups, using laws, regula-

⁸ Article 19, Camden Principles on Freedom of Expression and Equality, April 2009. <https://www.article19.org/wp-content/uploads/2009/04/Camden-Principles-ARA-BIC-web.pdf>.

tions, or public policies. It should allow the commission and other bodies to develop, propose, and review such actions. We suggest that affirmative action be defined as special temporary measures to achieve equality for a specific group of individuals. These may include a wide range of legislative, executive, and administrative tools, policies, and regulatory practices (such as outreach and support programs), resource allocation or reallocation, preferential treatment, targeted recruitment, and recruitment and promotion for objectives associated with timeframes and quota systems. Such measures address the underrepresentation of marginalized groups and redistribute resources and power among various groups.⁹

B. Criteria related to the equality and anti-discrimination commission

There is no single institutional form that various countries' national equality and non-discrimination bodies should take, but they should all commit to three main functions: (a) promotion and prevention, (b) support and litigation, and (c) decision-making. For the proposed commission to carry out these three functions, we propose that its composition and terms of reference be based on the following criteria:

1. The selection and appointment of members should be carried out through a strictly defined legal process that includes a mechanism for dismissing them or cancelling their membership. These decisions should be taken in a context of openness, transparency, and accessibility of information, with the participation of legislators, civil society institutions, and the public through traditional and social media. Selection and appointment should occur over a timescale sufficient to allow the informed participation of all stakeholders.
2. The equality and anti-discrimination law should authorize the commission to play the following roles: monitor the implementation of the law, including how state and private institutions abide by it; announce its findings to

⁹ Ibid.

the public through various media; monitor and document any other developments related to its work; provide advisory opinions on integrating the principles of equality and prevention of discrimination into all national and local policies, laws, and administrative regulations across all public and private institutions¹⁰; ensure that the new legislation respects the equality criteria stipulated in the Constitution and international human rights conventions; promote a culture of equality among the public and the state's equality-related obligations; ensure compliance with all treaties and conventions concerning equality and freedom from discrimination ratified by Egypt; propose the signing of treaties and protocols; and express reservations related to special groups, including minorities, marginalized people, women, persons with disabilities, and children.¹¹

3. The financial and human resources necessary for the commission's effective functioning and budgetary independence must be guaranteed.
4. The commission's membership must reflect the diversity of Egypt's population, including groups and individuals subject to discrimination and those who speak up for them and defend their rights, and achieve a balance of gender and other relevant characteristics.
5. By all available means, the law should ensure that any individual or group can easily access and communicate with the commission, including in-person and other means of communication (such as online and or by telephone), throughout Egypt and especially in places with fewer resources and less representation, the rights of whose residents the commission must defend. The commission's headquarters must be designed to meet the needs of people with disabilities, mothers, children, followers of various religious groups, etc.
6. The legislation should grant the commission the right and obligation to

10 UN Human Rights and Equal Rights Trust, *Protecting Minority Rights: A Practical Guide to Developing Comprehensive Anti-Discrimination Legislation*, 2023. <https://www.ohchr.org/sites/default/files/documents/publications/2209927-a-hr-pub-22-6.pdf>.

11 Ibid.

provide legal advice and support to victims of discrimination, intervene legally as a plaintiff if needed, and refer cases to the judiciary when it deems legal accountability necessary.

7. The legislation should give the commission the right to either adjudicate disputes related to the articles of the law and issue decisions on them, to become enforceable without prejudice to the right of victims of discrimination to judicial appeal, or issue non-binding decisions while preserving victims' legal right to resort to the judiciary.
8. The law should clearly provide for measures to protect reporting individuals and witnesses from abuse, retaliation, discriminatory treatment, or denial of their rights in response to their having filed complaints or testimonies or taken action aimed at ending discrimination and achieving equality.

3. Comments on proposed draft laws

Despite the delay in introducing a draft anti-discrimination law, certain civil society organizations, parliamentarians, and political groups have taken the initiative to present their ideas on the bill, whether in Parliament or to the public, the latest being the National Dialogue session of May 2023, in which two EIPR representatives participated. In response, the Board of Trustees of the National Dialogue issued a set of recommendations at the session's conclusion. This was the first "official" proposal, as the National Dialogue is taking place under the auspices of the President of the Republic, who accepted the recommendations and pledged to respond to them immediately. No further steps have yet been taken.

These drafts and proposals form a strong foundation for the bill, so that legislative debates need not start from scratch. In this section we present a reading of four proposals and drafts in light of the standards described above; in doing so we identify consensus points and common denominators, crystallize them before the legislator, and identify gaps to be filled in the legislation.

Some draft laws are not included in our analysis, such as those submitted by the Center for Egyptian Women's Legal Assistance and Nazra for Feminist Studies. These two bills tackle the establishment of the commission only, clarifying its terms of reference, composition, and relationship with state institutions. They are very similar to the bills presented in this study, and we consider the establishment of the commission and its terms of reference as just one aspect of comprehensive legislation.

A. The anti-discrimination draft law proposed by the Egyptian Feminist Union

This draft law provides a definition that includes the distinction between direct and indirect discrimination and covers all aspects of life generally regulated by law in Egypt because it applies to all state, charitable, civil, cooperative, and private and public agencies and institutions. It recognizes the principle of protection from abuse for persons who have reported discrimination (Article 16) and victims' right to compensation (Article 24).

On the other hand, the draft law tackles discrimination only by establishing a mechanism to receive and investigate complaints, which limits its scope of application to existing forms of discrimination, whether direct or indirect. It does not establish equality as a governing principle in all legislation and policies governing the organization of individual relations.

Its definition of discrimination also completely ignores discrimination against individuals and provides cover for violating the constitutionally guaranteed freedom of opinion and expression. It defines discrimination as:

the biased or differential treatment of a person because of... , which totally or partially deprives one or more categories of citizens of some of the rights stipulated in the Egyptian constitution and international human rights conventions. The concept of discrimination also applies to advocacy or incitement to do so and the dissemination of hate speech among citizens that incites discrimination and denies one of the rights guaranteed by the Constitution.

Other than direct and indirect discrimination, the draft law does not include a clear and comprehensive list of acts prohibited by law (such as harassment, denial of reasonable accommodation, denial or impediment of access to services and opportunities, isolation of an individual or group on any of the described grounds of discrimination, retaliation in the event of a complaint, or sexual harassment). Neither does it specify clear exceptions to its exclusive application, particularly in terms of the regulation of affirmative action to correct structural discrimination and injustice against the groups listed in its definition of discrimination.

Regarding the composition and work of the anti-discrimination commission, the draft law stipulates that a summary of the commission's activities and the results of its work shall be published annually "taking into account the confidentiality of the cases it considers." This does not meet the standards of transparency required from a commission primarily concerned with combating and raising awareness about discrimination in society. While individuals' personal information should be withheld when necessary or their consent obtained for publication, this should not prejudice the right to transparency and publicity.

Another key problem with this draft law is that despite its criminalization of certain cases of discrimination under Article 161 bis of the Penal Code (Article 25 of the draft law), it does not place the burden of proof on the defendant. It thus affirms the existing approach, which places the burden of proof on the complainant, who can present the circumstances and evidence supporting their claim, obliging the defendant to prove that no discrimination was committed. It also includes broad grounds for rejecting complaints, such as by finding the complaint to not be bona fide or that the complainant has insufficient personal interest.

B. The draft law on the equality and anti-discrimination commission submitted by MP Anissa Hassouna

During her membership in the House of Representatives (2015–20), the late MP Anissa Hassouna sought to establish an equality and anti-discrimination commission. The draft law signed by 215 MPs that Hassouna submitted on

4 June 2016 was referred to a joint committee composed of representatives from the Constitutional and Legislative Affairs Committee and the Human Rights Committee. The discussion of the draft law was postponed under the pretext of waiting for a draft law to be submitted by the government. Hassouna repeatedly asked the chairs of the two committees to start the discussion, but this has not yet happened.

This draft law prioritizes the establishment of a commission with expanded powers, most importantly adjusting Egyptian legislation to fit Article 53 of the Constitution, monitoring the implementation of discrimination-related international conventions and treaties, coordinating with the relevant state institutions, and submitting reports to all “sovereign” state bodies and making them available to the public (Chapter 2 of the draft law). Regarding procedures for investigating complaints (Chapter 3), Article 21 stipulates that the burden of proof shall fall on the respondent and that a dedicated office must be established within each public prosecution office to examine cases referred by the commission (Article 23).

It does not provide a clear and comprehensive definition of discrimination and its forms. It limits affirmative action and temporary special measures to women, people with disabilities, and children, ignoring other groups. Neither does it include adequate guarantees for the independence of the commission, especially as its members are to be selected geographically and may thus not reflect societal diversity. The draft law does not cover all aspects of life generally regulated by law in Egypt, for Article 28 stipulates all administrative state agencies, persons, and entities that manage facilities or provide public services or part of them, whether paid or unpaid, as well as public agencies and charitable and civil bodies and institutions; this excludes the private sector. Finally, unlike the previous bill examined, it does not provide protection against abuse to those who have reported discrimination.

C. The draft law on equal opportunities and prevention of discrimination among citizens submitted by the Egyptians in One Homeland Foundation

The draft law submitted by the Egyptians in One Homeland Foundation is the best of the proposed bills. An initial version was released in 2016, the final version in 2021 after the Foundation amended it in cooperation with civil society organizations. The draft law complies with many international best practices, as it stipulates that the burden of proof falls on the respondent (Article 23) and devotes articles to protection from abuse (Article 6) and the right of the victim to compensation (Article 7). It also stipulates the confidentiality of conversations between a person in detention and the commissioner general. Its provisions apply to all public and private institutions, the cooperative sector, and civil associations.

However, rather than provide a detailed explanation of the commission's competences, the draft law only sets out its general objectives (Article 9), namely the elimination of all forms of discrimination at economic, political, and cultural levels. The bill does not lay out criteria for selecting its members or stipulate guarantees of diversity and balance in its composition.

D. Recommendations of the Board of Trustees of the National Dialogue

Rather than present a draft law at the conclusion of the first phase of the National Dialogue (which would have been unexpected), the Board of Trustees of the National Dialogue submitted a set of recommendations entitled "The Issue of Eliminating Discrimination," dealing with legislative articles and criteria for the formation and work mechanisms of the commission. The recommendations were submitted to the President of the Republic on 16 August 2023, and then referred to the relevant bodies for study.

The recommendations have some positive aspects, such as providing a definition of discrimination that distinguishes between its various forms, expanding the scope of legislation to include various aspects of life regulated by law, and

recommending its application to “public and private law persons, including the government, public bodies, private institutions and companies, and civil and cooperative institutions.” They also include specific procedures for receiving complaints and clear steps for referring them to a judge of urgent matters to decide on without prejudice to the right to litigation.

Despite these positive points, the recommendations contain flawed formulations that fall short of the standards stipulated in the draft laws submitted by civil society organizations and lawmakers. They do not provide a clear list of all practices prohibited by law. They introduce a serious and unjustified exception, namely that the scope of the law’s application will be extended “in phases”; this explicitly contradicts Egypt’s constitutional and international obligations, which set the prohibition of discrimination as an immediate obligation that does not require preparation or time to enact, unlike protection and enforcement. The recommendations state that the commission will be authorized to take necessary measures to eliminate all forms of discrimination but ignore the other aspect of the right—equality. This would limit the capabilities of the mechanism and the powers granted to it, in turn affecting its ability to review and amend existing legislation, as well as its role in promoting a culture of equality by raising awareness and organizing trainings for institutions and individuals.

The recommendations also place a serious and arbitrary restriction on the commission’s work by stipulating that it adhere to the requirements of “national security, public order and public morals.” In some exceptional cases it is acceptable in international human rights law, or under constitutional obligations, to restrict the exercise of certain rights to meet such requirements, but this does not apply to the right to equality and non-discrimination. It is inconceivable that this right would conflict with such requirements. The recommendations do not mention any role for the commission in reviewing existing or future legislation to ensure its conformity with the Constitution and Egypt’s international obligations. They stipulate that complaints should be received from interested parties only, which places another restriction on the commission, especially as interested parties tend to be the weaker parties

and may be pressured to not complain. The recommendations also make no reference to placing the burden of proof on the defendant or to affirmative action for preventing discrimination.

It is worth mentioning that EIPR researchers participated in the two National Dialogue sessions on the anti-discrimination draft law in May 2023 but were not invited to participate in the drafting or discussion of the recommendations issued by the Board of Trustees of the National Dialogue. The recommendations were made available to them only after submission to and acceptance by the President of the Republic. Had the organizers of the National Dialogue made a draft available for public discussion and received suggestions, the content and wording of the recommendations could have been refined and improved; instead the process was completed without the knowledge of the invited stakeholders and experts.

E. Points of agreement and shortcomings

The presentation above shows that the proposals adhere to several of the standards we put forward, especially the need to define discrimination and clarify its grounds and direct and indirect patterns. However, they tend to fall short of precisely defining prohibited acts, many of which are indirect discrimination. The proposals reflect awareness of the need for the scope of legislation to cover all aspects of life regulated by law, whether in governmental, private, or civil institutions and informal sectors. They also reflect a consensus on the need to establish an equality and anti-discrimination commission as a national institution responsible for planning, supervising, monitoring, receiving, and investigating complaints, as well as the need to ensure its political, administrative, and financial independence. The proposals differ on the mechanisms for achieving this independence, specifically in terms of who it answers to and how it is formed. They also propose various modes of receiving and investigating complaints, remedies, compensation, and reparations. These points of agreement constitute a strong basis on which the anticipated legislation can be built.

On the other hand, the proposals contain gaps that should be noted and filled to ensure that the final version of the legislation achieves its objectives.

- In terms of definitions: Despite the accurate inclusion of the definition of discrimination and its grounds and forms, none of the proposals except the bill submitted by the Egyptians in One Homeland Foundation specify a precise list of prohibited acts and leave the application of the comprehensive definition of discrimination to the enforcement and litigation authorities, which is a serious flaw.
- In terms of determining the state's responsibility: None of the proposals specify that the prevention of discrimination is the responsibility of the public authorities. This silence opens the door to controversy and interpretation when determining remedies or mechanisms of compensation in complaints received by the commission. It also allows for the evasion of planning responsibilities and affirmative action.
- In terms of investigation mechanisms: The bills submitted by the Egyptian Feminist Union and the Egyptians in One Homeland Foundation recognize the need to place the burden of proof on the defendant, while the bill submitted by Anissa Hassouna and the recommendations of the National Dialogue do not specify how to determine the burden of proof. The investigation and proof mechanisms to be used in the examination of complaints must be clarified early on to prevent evasion of the responsibilities that will be defined, precisely, by the anticipated legislation.
- In connection with the previous point, none of the proposals attend to maintaining the necessary balance between protection against discrimination and the guarantee of freedom of opinion and expression. Attention must be paid to this delicate balance, as mentioned above, so that the goal of combating discrimination does not turn into an additional unconstitutional restriction on freedom of opinion and expression, especially in light of a general tendency to criminalize various forms of expression under the pretext of protecting the rights of others.
- None of the proposals stipulate clearly that the commission's membership

should reflect Egypt's genuine diversity and ensure the participation of groups and individuals historically discriminated against as well as those who speak up for them and defend their rights. Pluralism and diversity in the composition of the commission would strengthen its legitimacy and encourage citizens to engage with it.

4. Recommendations

The lack of comprehensive legislation on equality and non-discrimination is one of the most striking deficiencies in the Egyptian legal system. It enables the Egyptian government to evade its basic obligations to provide protection against discrimination, whether committed by individuals, institutions, government agencies, business organizations, or civil society in a broad sense. The first step to achieve equality and prevent discrimination is to enact clear and comprehensive legislation that covers all aspects of life generally regulated by law in Egypt and provides specific definitions of direct and indirect discrimination as well as prohibited discriminatory practices, according to the standards detailed in this study.

This legislation should unequivocally guarantee the organizational, administrative, and financial independence of an equality and anti-discrimination commission to achieve the required objectives. The commission's roles should include receiving and investigating complaints, facilitating redress for victims of discrimination, reviewing and suggesting amendments to all current laws, and offering opinions on laws to be passed.

Introducing legislation with such an impact is the responsibility of multiple segments of society, and should not be left to the Parliament or government alone. It cannot be claimed that community participation in the introduction of the forthcoming legislation was achieved through a single National Dialogue session, especially as several entities have proposed draft laws with elements that are useful and have wide approval, and which can be built upon to achieve comprehensive legislation for equality and prevention of discrimination.

While this study highlights the importance of such legislation, it recognizes that achieving equality also requires cultural and training policies and programs to raise awareness among institutions, bodies, and individuals around the right and the state's obligations to protect it and ensure that individuals enjoy it. We also emphasize the need for Egypt to sign relevant UN instruments, such as the Optional Protocols to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and to withdraw its reservations about international treaties and covenants that support equality and non-discrimination.

Appendix 1: The constitutional and legal framework and Egypt's international obligations regarding equality and prevention of discrimination

Constitutional framework

Article 53 of the Egyptian Constitution of 2014, amended in 2019, stipulates the principle of equality and non-discrimination, but many other articles also stipulate commitment to prevention of discrimination and guarantee fundamental freedoms and rights of citizens.

Table of relevant constitutional articles

| Article | Content |
|------------|--|
| Article 9 | The State shall ensure equal opportunities for all citizens without discrimination. |
| Article 11 | <p>The State shall ensure the achievement of equality between women and men in all civil, political, economic, social, and cultural rights in accordance with the provisions of this Constitution.</p> <p>The State shall take the necessary measures to ensure the appropriate representation of women in the houses of representatives, as specified by Law. The State shall also guarantee women's right of holding public and senior management offices in the State and their appointment in judicial bodies and authorities without discrimination.</p> <p>The State shall protect women against all forms of violence and ensure enabling women to strike a balance between family duties and work requirements.</p> <p>The State shall provide care to and protection of motherhood and childhood, female heads of families, and elderly and neediest women.</p> |

| | |
|-------------------|---|
| <p>Article 19</p> | <p>Every citizen has the right to education. The goals of education are to build the Egyptian character, preserve the national identity, root the scientific method of thinking, develop talents and promote innovation, establish cultural and spiritual values, and found the concepts of citizenship, tolerance and non-discrimination. The State shall observe the goals of education in the educational curricula and methods, and provide education in accordance with international quality standards.</p> <p>Education is compulsory until the end of the secondary stage or its equivalent. The State shall provide free education in the various stages in the State's educational institutions according to the law.</p> <p>The State shall allocate a percentage of government spending to education equivalent to at least 4% of the Gross National Product (GNP), which shall gradually increase to comply with international standards.</p> <p>The State shall supervise education to ensure that all public and private schools and institutes abide by its educational policies.</p> |
| <p>Article 48</p> | <p>Culture is a right to every citizen. The State shall secure and support this right and make available all types of cultural materials to all strata of the people, without any discrimination based on financial capability, geographic location or others. The State shall give special attention to remote areas and the neediest groups.</p> <p>The State shall encourage translation from and into Arabic.</p> |

| | |
|-------------------|--|
| <p>Article 53</p> | <p>All citizens are equal before the Law. They are equal in rights, freedoms and general duties, without discrimination based on religion, belief, sex, origin, race, color, language, disability, social class, political or geographic affiliation or any other reason.</p> <p>Discrimination and incitement of hatred is a crime punished by law.</p> <p>The State shall take necessary measures for eliminating all forms of discrimination, and the law shall regulate creating an independent commission for this purpose.</p> |
| <p>Article 67</p> | <p>Freedom of artistic and literary creativity is guaranteed. The State shall encourage arts and literature, sponsor creative artists and writers and protect their productions, and provide the means necessary for achieving this end.</p> <p>No lawsuit may be initiated or filed to stop or confiscate any artistic, literary, or intellectual works, or against their creators except by the Public Prosecutor. No freedom restricting sanction may be inflicted for crimes committed because of the publicity of artistic, literary, or intellectual products. As for crimes related to the incitement of violence, discrimination between citizens, or impingement of individual honor, the law shall specify the penalties therefore.</p> <p>In such cases, the court may obligate the sentenced to pay punitive compensation to the victim of the crime, in addition to the original compensations due to the victim for the damages incurred. All the foregoing shall be in accordance with the law.</p> |
| <p>Article 71</p> | <p>It is prohibited to censor, confiscate, suspend, or shut down Egyptian newspapers and media outlets in any way. By way of exception, they may be subject to limited censorship in times of war or general mobilization.</p> <p>No freedom restricting penalty shall be imposed for publication or publicity crimes. As for crimes related to the incitement of violence, discrimination between citizens, or impingement of individual honor, the Law shall stipulate the penalties therefor.</p> |

| | |
|------------|--|
| Article 92 | Inalienable rights and freedoms of citizens may not be suspended or reduced. No law regulating the exercise of rights and freedoms may restrict such rights and freedoms in a manner prejudicing the substance and the essence thereof. |
| Article 93 | The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions. |

International conventions on the protection of human rights

Egypt has ratified all the basic international human rights conventions and treaties except the International Convention for the Protection of All Persons from Enforced Disappearance (2006):

1. International Covenant on Civil and Political Rights (1976)
2. International Covenant on Economic, Social and Cultural Rights (1976)
3. International Convention on the Elimination of All Forms of Racial Discrimination (1965)
4. Convention on the Elimination of All Forms of Discrimination against Women (1979)
5. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
6. Convention on the Rights of the Child (1989) and Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2000)
7. Convention on the Rights of Persons with Disabilities (2006)

Regional agreements

1. African Charter on Human and Peoples' Rights (1981). Egypt has not ratified accession to the African Court on Human and Peoples' Rights

2. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa. Egypt is one of only three African countries that have so far refused to join the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, known as the Maputo Protocol
3. African Charter on the Rights and Welfare of the Child (1990)

Other conventions

1. Refugee Convention (1951)
2. UNESCO Convention against Discrimination in Education (1960)
3. Protocol relating to the status of refugees (1967)
4. ILO Convention No. 111 concerning the Prevention of Discrimination, which Egypt ratified in 1960

All these conventions stipulate the right to equality and non-discrimination between individuals, a right that intersects with all other human rights. Egypt is committed to fulfilling its international obligations as stipulated in Article 93 of the Constitution. However, it has issued many reservations and interpretative declarations that limit the fulfilment of its obligations under the international treaties it has ratified. Those which restrict the right to equality include a reservation about Article 16 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which obliges member states to eliminate discrimination against women in all matters related to marriage and family relations and to ensure equal rights and responsibilities between men and women, including for matters related to children. A second reservation concerns CEDAW Article 2, which obliges member states to condemn and eliminate all forms of discrimination against women. In both cases Egypt's condition is that the articles should not conflict with Islamic law. In 2010, the Committee on the Elimination of Discrimination against Women declared these reservations incompatible with the goals of CEDAW and urged the Egyptian government to withdraw them.

Egypt also issued an interpretative or explanatory declaration on Article 12 (2) of the Convention on the Rights of Persons with Disabilities, which stipulates that “persons with disabilities shall enjoy legal capacity on an equal basis with others in all aspects of life.” Egypt’s interpretation states that under Egyptian law persons with disabilities can acquire rights and assume legal responsibility, in what is known as “obligation capacity” rather than “performance capacity” according to Islamic law. As the Committee on the Rights of Persons with Disabilities stated in its first general comment, legal capacity gives the ability to retain rights and duties (legal status) and exercise those rights and duties (legal agency). Egypt’s declaration, which aims to deprive persons with special needs and persons with disabilities of legal capacity, is therefore contrary to the goals of Article 12 of the Convention.

Appendix 2: The National Dialogue’s recommendations regarding the issuance of legislation for the establishment of an anti-discrimination commission

- Constitutional basis for legislation: Any legislation aimed to establish the commission should be based on the Constitution and effective international conventions ratified by Egypt, as these conventions—under the Constitution—are part of the internal legislation and have the status of laws.
- The necessity of distinguishing between direct and indirect discrimination and to define each: Attendees agreed that the legislation should distinguish between discrimination, direct discrimination, and indirect discrimination, as follows:
 1. Discrimination is any distinction between individuals because of biased or differential treatment on the basis of sex, language, origin, age, religious belief and practice, political affiliation, social or economic status, professional affiliation, geographical location, health conditions, or for any other reason, which leads to total or partial deprivation of a category or a natural or legal person of some of the rights stipulated in the Egyptian Constitution and international human rights conventions.

2. Direct discrimination is the distinction between individuals because of biased or differential treatment of a person on the basis of his/her real or imagined membership in a human group, and it is any exception, restriction, or preference based on any arbitrary criteria such as sex, language, origin, age, religious belief and practice, political affiliation and activity, social status, health conditions—especially disability, family responsibility, claims to workers’ rights—or for any other reason that leads to one or more categories of citizens’ total or partial deprivation of some of the rights stipulated in the Constitution and international human rights conventions.
3. Indirect discrimination: The distinction between individuals is the unfair effect of the application of a rule or public policy to certain groups who share a certain trait, such as women or people with disabilities, in a way that does not enable them to enjoy the same opportunities as others.

Purpose of the commission and scope of application of the legislation

- The legislation should include the commission’s purpose of taking the necessary measures to eliminate all forms of discrimination, in accordance with Article 53 of the Constitution.
- The commission should perform all its duties without prejudice to considerations of the protection of national security, public order, and public morals.
- The scope of application of the legislation and the work of the commission should cover public and private law persons, including the government, public bodies, private institutions and companies, and civil and cooperative institutions, extended according to the stages to be determined by the law. The commission’s work should also include combating any form of discrimination in the enjoyment of rights and freedoms in all fields, in particular:
 1. Discrimination in education and culture
 2. Discrimination in sports
 3. Discrimination in social security and access to goods and services

4. Discrimination in healthcare and housing
5. Discrimination in the media and freedom of expression
6. Discrimination in freedom of belief and the practice of religious rites and the right to recognition of legal personality
7. Discrimination due to political, trade union, or civil affiliation
8. Discrimination in labor relations and the right to hold public office

Independence of the commission

- Interlocutors in the National Dialogue agreed that the commission should have the necessary independence to carry out its work. In this context, they recommend that:
 1. The commission shall be technically, financially, and administratively independent.
 2. The relationship between the commission and the House of Representatives shall be defined and resemble the House of Representatives' relationship with all independent bodies, especially the Central Auditing Organization. The head of the commission may not be dismissed except in the cases specified by law.
 3. The commission shall submit its reports to the President of the Republic, the Speaker of the House of Representatives, and the Prime Minister.
 4. No members of the commission or its chairperson shall be members of or hold positions in the executive, legislative, or judicial branches (although it is difficult to achieve this in practice).
 5. The commission shall establish its own administrative body under its direct authority.
 6. The commission shall have an independent financial budget subject to the control of the Central Auditing Organization.
 7. The commission's opinion shall be taken in draft laws and regulations relating to its field of work.

8. The law shall stipulate that the commission's activities shall be carried out in phases, qualitatively or geographically, provided that each phase has a specific timeframe.

Composition and structure of the commission

- Interlocutors in the National Dialogue recommend an efficient composition of the commission commensurate with its function and independence. The commission shall be composed of the following:
 1. President of the commission
 2. Board of the commission
 3. The administrative body of the commission

Powers of the commission

- It was agreed that the powers of the commission shall be commensurate with its role in taking the necessary measures to eliminate all forms of discrimination, without prejudice to or interfering with the powers of the legislative and judicial authorities, taking into account the requirements prescribed in the special laws after their review as stated in the first item of this article, as follows:
 1. Preparing a plan to propose alternative policies and ways to confront and criminalize hate speech while preserving freedom of expression.
 2. Receiving, investigating, and settling complaints and reports related to discrimination submitted by stakeholders, taking temporary measures, or referring them to the competent authorities or investigation bodies, depending on the case.
 3. Establishing a platform affiliated with the commission to provide information and data on discrimination.
 4. Developing the necessary plans to build the capacity of institutions and individuals in charge of public and law-enforcement institutions to increase their ability to confront discrimination.

5. Developing the necessary plans to train and qualify media professionals in cooperation with the competent bodies to promote the values of citizenship and non-discrimination and spread the culture of equality.
6. Issuing an annual report on the result of the commission's work in combating discrimination, and submitting it to the President of the Republic, the Speaker of the House of Representatives, and the Prime Minister. The report shall include any legislative proposals or observations related to the extent to which the executive authorities cooperate with the commission in achieving its objectives.
7. Preparing bulletins and publications, holding seminars and conferences related to the commission's work, and publishing an annual report on the commission's work after sending it to the President of the Republic, the Speaker of the House of Representatives, and the Prime Minister.

Complaint and investigation procedures, temporary measures, and compensation

• First: Complaint

It was agreed that the legislation on the establishment of an anti-discrimination commission should include clear procedures for receiving complaints and reports from individuals or legal persons on paper and electronically. It was also agreed to grant the commission powers to deal with urgent cases that need a temporary measure to be issued by the judge of urgent matters at the request of the commission, while providing fair and equitable investigation guarantees.

• Second: Temporary measures

After receiving all the documents, papers, and data related to a discriminatory complaint, hearing whomever it deems necessary to hear, ensuring the defendant's defense, and reviewing the findings of the judge of urgent matters,

the commission may issue a reasoned order to eliminate the discrimination, effective immediately upon its issuance.

The commission shall notify the concerned parties within three days from the date of the issuance of the order by the methods prescribed in the Civil and Commercial Procedures Law, and for this purpose it may seek the assistance of public authority personnel. The person against whom the temporary order is issued shall have the right to appeal against it, without prejudice to the right to litigation.

- **Third: Investigation guarantees and controls**

In its investigations, the commission shall be committed to the guarantees of justice and the principle of confrontation, especially the confidentiality of data and information. It shall also enable the complainants to submit their views and documents. In general, the commission's decisions shall be administrative decisions subject to appeal before the competent court.