



Outline of Human Rights Curriculum for Prosecutors

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I. Introduction

The implementation of International Human Rights (HRs) Law by legal professionals in general and the judiciary in particular is of the great essence to HRs. Without the protection of these freedoms there can be no truly efficient enjoyment and protection of the rights of the individual at the domestic level.

States have signed and ratified international and regional binding instruments that have direct impact on the roles of prosecutors. In addition, the UN has developed several generally binding standards, such as guidelines and bodies of principles, that are specially tailored for both criminal justice and prosecutors.

The Public Prosecution is an integral part of the judiciary in Egypt, especially if coupled with the fact that it has a dual nature, being inquisitorial to a certain level before assuming its adversarial nature. It is the task of the prosecutors and the judges to apply the law or to see that it is applied with the sole objective of discovering the truth, which is the core of justice. Judges do that reactively, in response to a case being brought before them, while prosecutors do that pro-actively by ensuring the application of the law.

The Prosecutor General (PG) of Egypt acknowledges that training is both a duty and a right for all prosecutors, both at the beginning of their careers through “Entry level Training” (ELT) and on a permanent basis through “Continued Legal Education” (CLE). Having recognized this, the PG has requested from AOCJ the development of HRs curricula that can be implemented at both the ELT and CLE.

Both the ELT and CLE curriculums will share the same outline, but the contents of the former, taking into account that it is targeting novice prosecutors; will focus on the correlation between the substance and elements of the different rights and their procedural implementation aspects. The contents of the CLE curriculum will focus more on the substance of the rights and less on the procedural aspects given that the CLE audience will be more experienced prosecutors who have been on the job for quite some time.

The purpose of the ELT curriculum is to strengthen the rule of law by conveying to novice prosecutors a basic knowledge of HRs standards that are of particular relevance to the administration of criminal justice while offering them a practical understanding of their procedural implementation measures. To this end, the curriculum is divided into four parts:

Part One: Introduction to International Human Rights Law

Part Two: Pre-Trial Stage

Part Three: Trial Stage

Part Four: Execution of Sentences & Detention Facilities

The first part will start by providing an introduction to international HRs law, explaining what HRs are, their importance, the evolution of international HRs law, state responsibility to implement HRs standards, the role of the legal profession in safe guarding and implementing HRs norms, and finally outlining the major international and regional instruments to which Egypt is party.

The remaining three parts will trace in a chronological manner the life of a criminal case. Their will be the pre-trial stage, the trial stage, and the execution of sentences. Bearing in mind that the rights enjoyed at the pre-trial and the trial stages are closely interrelated, some overlap is expected. The following outline states the rights to be discussed in each part of the four parts.

The methodology for discussing each of the rights will be of three fold. First, there will be an explanation of the substance of the right within the context of the international and/or regional binding instrument to which Egypt is party, followed by soft law (i.e. UN issued guidelines and/or bodies of principles) . Second, the course will trace the substance of the right or its elements in domestic law. Domestic law shall include the constitution, criminal laws (criminal procedures code, general penal code, special penal codes, *etc...*). Third, the course will trace the procedural aspects of implementation as prescribed in the General Guidelines for the Public Prosecution and the Periodic Publications issued by the PGO within the framework of what has been stated in the domestic law. This will help provide a clear understanding of the context of the different rights coupled by their practical implementation procedures. The three parts will not only contribute to a better understanding of different HRs, but will reaffirm the importance of adherence to the implementation of these rights based on a true conviction as to their importance and purpose.

Finally, recognizing that child & women rights will be a cross cutting issue, they will be dealt with in the respective parts and stages of the curriculum as appropriate.

II. Curriculum Outline

A. Part One

1. Introduction to International Human Rights Law

This part aims at defining international HRs law and exploring the principal historical antecedents of international. HRs law, its purpose and scope with special reference to Egypt.

- ❖ Human Rights
 - What are Human Rights
 - The Importance of Human Rights
- ❖ The historic evolution and development of International HRs Law
- ❖ International HRs Law & International Humanitarian Law
- ❖ State responsibility
 - Incorporating international law into domestic legal systems
- ❖ The obligation to incorporate HRs in domestic laws
- ❖ Role of the legal profession in the implementation of HRs
- ❖ Major. HRs Instruments to which Egypt is a party
 - International instruments (7)
 - Regional instruments
 - Major UN Guidelines and bodies of principles

2. General Rights

a) Independence & Impartiality

Only an independent judiciary is able to render justice impartially on the basis of law, thereby protecting human rights and fundamental freedoms of individuals. For this essential task to be fulfilled efficiently, the public must have full confidence in the ability of the Judiciary to carry out its functions in this independent and impartial manner.

Prosecutors cannot act according to their own preferences but are duty-bound to act “in accordance with the law” and to “perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system” (UN Guidelines for Prosecutors, Guideline 12).

In performing their duties, prosecutors shall, *inter alia*, “carry out their functions impartially and avoid all political, social, religious, racial, cultural, sexual or any other kind of discrimination”, and “shall give due attention to the prosecution of crimes committed by public officials, particularly corruption, abuse of power, grave violations of human rights and other crimes recognized by international law and, where authorized by law or consistent with local practice, the investigation of such offences” (UN Guidelines for Prosecutors, Guideline 15).

The Main Points:

❖ Independence

- Appointment
- Security of tenure
- Institutional independence
- Promotion
- Accountability
- Internal matters of judicial administration
- Financial matters
- Independent decision-making
- Jurisdictional competence
- Freedom of expression and association
- Training and education

❖ Impartiality

- Objectivity and impartiality, respect for the principle of equality before the law,
- The presumption of innocence and due process guarantees
- Attention to human rights abuses committed by public officials, including law enforcement officials

❖ Equality

- Equality within the legal context [equality before the law does not mean identical treatment]

B. Part Two

1. Pre-Trial Stage

a) Search & Arrest Stage

The Main Points:

- ❖ Lawful detentions and arrests
- ❖ Principle of legality

- ❖ Respect for privacy rights in one's life, home and correspondence
 - Search
 - Wire Taps
 - Correspondence
 - Arrest
- ❖ The right of every individual to be promptly informed of the reasons for his/her arrest and detention and of any charges brought against the said individual

b) Investigation Stage

The Main Points:

- ❖ The right to be notified of the charges in a language one understands
- ❖ The right to equality before the law and equal treatment by the law
- ❖ The right to legal assistance; the right of access to and assistance of a lawyer
- ❖ The right to be presumed innocent: the overall guarantee from initial suspicion to conviction or acquittal
- ❖ The right to remain silent /the right not to be forced to testify against oneself
- ❖ The right to be treated with humanity and the right to freedom from torture
- ❖ The duty to keep records of interrogation

c) Pre-Trial Detention

The Main Points:

- ❖ Detention on reasonable suspicion of having committed an offence
 - The meaning of "reasonableness"
 - Suspected involvement in serious offences
 - Risk of relapse into crime
 - Prejudice to public order
 - Pressure on witnesses and risk of collusion
 - Conduct of the domestic authorities
- ❖ Detention in order to prevent flight
- ❖ The right to be promptly brought before a judge or other judicial officer "*Habeus Corpus*"
 - Challenging the lawfulness of the detention or its basis
 - Periodic review of lawfulness of detention
- ❖ Deprivation of liberty for the purpose of educational supervision
- ❖ Deprivation of liberty for reasons of mental health
- ❖ Deprivation of liberty for the purpose of extradition

- ❖ The right to trial within a reasonable time or to be released pending trial
 - The notion of “reasonable time”
 - The notions of “speedily” and “without delay”
- ❖ Alternatives to detention on remand / guarantees to appear at trial
- ❖ Accused Children and their removal from criminal justice processing

C. Part Three

1. Trial Stage

“Right to a Fair Trial”

The Main Points:

- ❖ The right to adequate time and facilities to prepare one’s defense
- ❖ The right to be tried by a competent, independent and impartial court established by law
 - The right of access to a court
 - The right to question the law and facts
- ❖ The right to a public hearing
- ❖ The right to a fair hearing
 - The right to be present at one’s trial
 - The right to be heard in person
 - The right to free assistance of an interpreter
 - The right to equality of arms and adversarial proceedings
 - The right to call, examine, & cross examine witnesses
 - The right to use experts
 - Anonymous witnesses
- The right to defend oneself in person or through a lawyer of one’s own choice
- The right to free legal aid
- The right to privileged communications with one’s lawyer
- The right to effective legal assistance in death penalty cases
- The right not to be compelled to testify against oneself or to confess guilt
- ❖ Freedom from Ex Post Facto laws “*nullum crimen sine lege*”
- ❖ The prohibition of double jeopardy “*ne bis in idem*”
- ❖ The right to a public judgment
 - to ensure scrutiny of the judiciary by the public with a view to safeguarding the right to a fair trial
 - The right to a reasoned judgment
 - The right to benefit from a lighter penalty
 - The availability of a judgment
 - Capital punishment

- ❖ The right of appeal
- The right to full review, law and facts
- Preservation of evidence

D. Part Four

1. Execution of Sentences & Detention Facilities

The Main Points:

- ❖ Official recognition of all detention & prison facilities
- ❖ Registration of detainees and prisoners
- ❖ Principles governing detention and imprisonment
 - To be treated with humanity and with respect for the inherent dignity of the human person
 - Prohibition of discrimination
 - Reformation, social rehabilitation/re-adaptation
- ❖ Inspection of detention & prison facilities

Primary elements of inspection:

- Grounds for detention or imprisonment
- Accommodation
- Separation of categories
 - Male/female
 - Accused /sentenced persons
 - Children/minors, The right of the child to be separated from adults
- Personal hygiene, food, health
- Medical services
- Religion
- Recreational activities
- Solitary confinement
- Visitation rights
- Work
- Education
- ❖ Contact with the outside world: “visits and correspondence”
- ❖ Contact with lawyers: visits and correspondence
- ❖ The rights of the child and disciplinary measures
- ❖ Hunger strikes
- ❖ Link between lack of prompt judicial intervention, isolation and torture
 - Grievances
- ❖ Execution of capital punishment