

Regional Perspectives of the Right to Education with special focus on the Higher Education in the Arab Countries

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Abstract

This research is presented for the Second World Conference on the Right to Education and Rights in Education (8th -10th November 2012) in Brussels (Belgium). It aims at reviewing the achievements of the higher education sector in the Arab States. It is also about current and future challenges facing that sector.

Policies and measures by Arab governments over the last decade, and the rising demand for higher education, have led to a significant growth in the number of higher education institutions and considerable diversity in the features of these institutions.

There are enormous efforts and many achievements by Arab countries in the last decade. These achievements have changed the features of higher education in the Arab region. The number of students has doubled, the number of higher education institutions has more than doubled, and the share of females in higher education has increased significantly. This has resulted from population growth and the rise in the social demand for higher education; it has also resulted from reforms and amendments carried out by governing authorities in the field of admissions, support, and the spread of state education institutions into remote areas, in order to increase opportunities and provide more equity and justice in securing these opportunities.

The types of higher education have become more diverse and non-government institutions have appeared in big numbers, along with foreign universities or partnership programs with foreign universities. In addition to educational opportunities, Arab countries have made achievements in establishing national commissions for accreditation and quality assertion.

As for the effects of the recently Arab spring on the religious curricula, the minorities' fears can only be assuaged through a commitment on the part of the Islamists who have now ascended to power to abide by their pre-election pledges and declarations.

Finally, this research sheds light on two important judgments of the Supreme Constitutional Court of Egypt on the Right to Education. One of them concerns Nikab (concealing the girl's face and body) in which the Court decided that prohibiting wearing Nikab in the schools is not against the Constitution. In the other judgment, the Court declared unconstitutional all the undue exceptions regarding students' admission requirements in universities and higher institutions.

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1. Introduction

Definitely, there are wide differences among Arab countries in the grade access to higher education, and these differences are attributable to economic level, population bulk, size of rural areas, historical advantages in higher education and other factors.

Educational reform in the Arab states has become a priority. Ruling elites, civil society, private sector and families, in general, are suffering from the high rates of illiteracy, lack of skills and bad quality of pupils and students. The region has launched various initiatives to deal with a lot of important issues.

The Arab countries have made significant progress at all levels of education, but enrolment is still far from being universal and large gender disparities remain, especially in primary education and adult literacy. Notwithstanding legally-guaranteed free education, primary school fees continue to be charged in several Arab countries. Early childhood care and education is still a luxury for the majority of children in the Arab world.

Great progress is made in universal primary education, but gender disparities remain, the enrollment rate in females is lower than in males. Nearly 60% of out-of-school children are girls.

As such, eliminating gender disparities in primary and secondary education will involve understanding what holds girls and boys back so that policies can be designed to overcome these obstacles and improve access to and participation in education. The school environment requires equal attention.

Some Arab countries will need to allocate more of their own resources and use them more effectively if they are to eliminate gender disparities while achieving all the other EFA (Education for All) goals.

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A number of Arab countries regulate admission (and distribution of students) in higher education institutions through a centralized system based on the grade that students obtain for their high school certificate. However, other countries enforce different admission measures, such as open enrollment, entrance exams, or rely on international or national testing. The centralized system provides equality of opportunity because it applies specific criteria to all, without discrimination. However, this does not necessarily secure an equitable distribution of these opportunities whenever students are subject to the same criteria of selection, while they have unequal geographical and social backgrounds. To confront this situation, a number of steps have been taken, leading to an increase in opportunities, the numbers of students, and equity in distribution. The increase in opportunities has also resulted from economic considerations, as higher education institutions have sought to open up new tracks in education, which secure supplementary income for institutions.

2. Development of Admission and Support Systems

A. Measures to provide equality and equity:

1. Royal donation

In some countries like Jordan; Royal Donation gives opportunities to students in remote areas for admission in various specializations, at the minimum acceptance level in each specialization. That aims at granting students from these regions further opportunities, to balance for what they lack in educational and geographical profiles compared to more fortunate areas.

2. Geographical admission

The Higher Education Council in Sudan has issued a decision that assigns special concern to admittance in less developed areas, to achieve balanced development in Sudan's various states, known

as geographical admission, i.e. admission and competitions take place among the people of a single state.

3. Scholarships and loans

The Ministry of Education and Higher Education in Palestine established the loan fund scheme for students in higher education institutions, to help cover the financial requirements of students who cannot reimburse their tuition fees. The government awards university scholarships and loans that are based on the annual income of the student's family; these scholarships and loans are a shape of social integrity.

Approximately 35% of students at Tunisian universities receive these scholarships.

The scholarships awarded to students in higher education in Morocco covered 31% of the country's total number of students.

The Ministry of Higher Education in Oman provides scholarships to students of families having a limited income to enroll in the Sultanate's higher education institutions. The ministry has paid attention to this segment of the population since the program began in the 2000 / 2001 academic year, in an attempt to promote its conditions and support it so that families become productive and provide themselves with a decent life, and exiting the umbrella of social security.

B. Measures to increase enrollment opportunities:

1. Parallel education

It aims at accepting an additional number of students in each specialization at state universities, in exchange of fees covering the total cost of their study.

2. Education cost system

Students are accepted at various higher education programs with the exception of medicine, health sciences, engineering and IT, in exchange for a relatively low cost compared to corresponding tutoring.

3. Domestic scholarships

In Kuwait, a domestic scholarship policy and a plan were approved, to compensate the inability of the University of Kuwait and the Public Authority for Applied Education and Training to raise the number of their students. The ministry put forward a scholarship project at non-governmental universities and faculties. These scholarships are offered based on the quality of the students' educational performance, in addition to reports on institutional and program performance submitted by the National Commission for Academic Accreditation and Assessment on these universities and faculties.

In Saudi Arabia, some are full scholarships, while others are partial ones, covering part of the tuition in various specializations required by the employment market.

The Ministry of Higher Education provides scholarships to the children of emigrants within Yemen or gives scholarships to some students studying at private universities.

In Oman, the ministry is also making efforts to increase enrollment capacity by offering state scholarships annually for enrollment in private universities and faculties in the Sultanate.

3. The Egyptian System and the 4 Indicators

Despite the fact that Egypt has been rather successful in implementing universal primary education, there are still a number of impediments that cannot and should not be ignored when analyzing the performance of the 4 indicators of the right to education. According to a UNESCO report on Education Trends and Indicators, overall enrollment rates grew considerably, especially at the primary levels, but universal participation in obligatory education, up to age 13, has not been reached. These indicators are as follows:

A. Availability : Fundamentals of Education:

Includes enrollment rates, survival to higher grades, teacher – pupil ratios and repetition rates.

- **Primary Education:** In Egypt, a majority of students are enrolled in government-run schools. There are three types of primary schools in Egypt: public schools, subsidized private schools, and unsubsidized private schools. However, for all purposes; public and subsidized primary schools are the same. In 2009, the percentage of enrollment in the private institutions was listed at 8% of total enrollment at the primary level. Availability has been previously described as the government's obligation to provide adequate facilities that are available to students with buildings, materials, trained teachers receiving satisfactory salaries and if possible, facilities such as libraries, computer labs and information technology. Providing available resources for students and teachers in the context of the right to education is indispensable to fulfilling the right to education. The Ministry of Education in Egypt has made significant and impressive reforms in this direction. However, there are many hurdles that have yet to be resolved. As a result, the problems continue to hinder the full realization of the right to education. Some of these problems include insufficient school buildings, overcrowded classrooms and inadequate teacher training and salaries.

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- **Schools – Availability and Infrastructure:** There is still a demand for adequate infrastructure for schools and the construction of new schools. In the urban context, schools are often overcrowded and forced to hold sessions in two to three shifts during the day.
- **Working Conditions of Teachers:** While it is the main responsibility of the teacher to provide quality and efficient tuition to pupils, it cannot be successfully accomplished without the necessary training, resources and compensation. If there is an absence of these elements then the possibility that the quality of education will suffer is an inevitable certainty. According to the International Labor Organization (ILO), teacher's salaries should be increased. Teachers in Egypt, in particular at the primary level, are some of the lowest paid and under trained government workforce.

B. Accessibility: Obstacles of Education:

Accessibility, which is related to admittance to educational programs, is comprised of some groups of indicators. These indicators are as follows:

- **Physical obstacles:** Having schools available for pupils is the first step in providing the right to education; however, if it is difficult for children to physically reach schools in a reasonable amount of time and under safe conditions then it is not meeting a major characteristic of that right. According to the Right to Education project, the categorical indicators for physical accessibility include the school-to-house distance, safe access, transportation provision and remoteness education programs. Unfortunately, research on the subject of physical obstacles is not readily available in Egypt. It would be an important contribution towards understanding physical obstacles if there were information that examined transportation within the various areas of Egypt.
- **Economic obstacles:** There tends to be large number of economic obstacles for children and their families when it comes to accessing government-run primary education. While it has been

stipulated in the Egyptian constitution that education is provided at no cost; however, the indirect costs attached to primary education in Egypt are at the top of the education debate. The indirect costs for primary education often includes the cost of textbooks, teaching materials, uniforms and other monetary obligations to ensure right of entry. The utmost costs for families are rooted in private tutoring, private group tuition, use charges and the high cost of school supplies. The Government of Egypt has been relatively unsuccessful in its ability to eradicate the practice of private tutoring; the government has failed to offer an adequate solution to make it obsolete, but it has pledged to overcome this problem as one of the main targets of the present government.

- **Gender obstacles:** The level of progress taken in Egypt towards ensuring female enrollment in basic education has seen great improvement in the area of girls' access. Much of the gender bias in education in Egypt can be attributed to cultural misunderstanding as related to the importance of educating girls. There are existing campaigns that have and continue to encourage parents and communities to educating their girls.
- **Socio-cultural obstacles:** The socio-cultural obstacles tackle the issues related to indigenous peoples, religious groups and racism. The official language in Egypt is Arabic, and while there are some indigenous groups such as the Bedouins and Nubians, they tend to all speak Arabic, some with varying dialects and with the exception of the Nubians who speak a language called Roton. So tuition in any other language for children in Egypt (at the government level) is not an option and private schools tend to teach in English, French or German.
- **Out-of-school children:** Out-of-school children in Egypt are typically those children who cannot afford the high costs related with education. Families with lower incomes or the extremely poor can barely afford the fees that come with public school education.

C. **Acceptability: Relevance and Substance of Education:**

Acceptability addresses the relevance of education in terms of substance, quality, methodology and curricula. In meeting the need of the society, the government should provide pertinent education towards the development of the right to education. A large segment of acceptability focuses on the relevance of education that students receive and how it prepares them to think seriously and scrutinize.

D. **Adaptability: Molding to the Needs of the Child:**

The final element focuses on the compliance of education to three specific groups; (1) child labor; (2) minorities; and (3) persons with disabilities. This category requires that education should be flexible in order to meet the constantly changing needs of students in relation to their communities. The density of Egyptian society includes the frequency of child labor, which is one of the largest areas where education has to be customized to meet the needs of these students and their families.

4. **Arab Regional 21st Century Review**

A. **Arab Regional Review - Tunisia, 2003:**

The Arab Region officially launched the United Nations Literacy Decade in Tunisia, during the Arab Regional Review held in Hammamet in Tunis. Seventeen (17) Arab countries were present in addition to members of the Arab Network for Adult Education & Literacy and other NGOs and civil society members.

Whilst the Arab countries met, the international view was already influenced by one fundamental principle, namely that literacy is a human right and that basic education is the key learning tool to get rid of illiteracy. The Arab Region, which has a literacy rate of 60.1% – 71.7% for men and 47.8%

for women, found it essential to improve the situation in this sector, which is crucial to improve the region's overall human development performance. Action since then has focused on proper strategies to address the importance of the situation. Two global initiatives have framed international efforts to diagnose the problem, find solutions and design action plans. These two initiatives are Education for All (EFA) whose goal is to increase literacy rates by 50% by the year 2015 and the Millennium Development Goals. Both have provided an overall target for development within a context of poverty diminution.

B. Arab Report of Non-Governmental Organizations and Civil Society - Hamburg, July 2003:

A broad survey conducted by the Arab Network of Literacy and Adult Education (ANLAE) has outlined the main features of NGOs' and civil societies' contribution in adult education in the Arab region. These features clear some weaknesses in the interface of civil society with the policy process of educational improvement even though its civil society has been showing some successful commitment and initiative to meet the goals of illiteracy eradication and especially of gender equality.

C. Arab Regional Conference on Education for All-Beirut, January 2004:

UNESCO held a number of meetings since Dakar 2000, aiming at assisting the Member States in the preparation of their EFA plan through capacity building and technical and financial assistance. The purpose of the meetings was to review the EFA plans and develop strategies for the future. The ministerial meeting in Beirut, 20-23 January 2004, affirmed the commitment to the principles of action adopted by the World Education Forum held in Dakar in April 2000, and the Cairo Conference in 2000. Those principles cover the state level, the regional level and the activities level.

D. Arab Summit in Tunis- May 2004:

During the Arab Summit held in Tunis, May 22-23, 2004, participants focused on quality education and stressed the need to emphasize the paradigm shift towards a commitment to development and education reform in the Arab world.

E. Regional Conference on EFA: Arab Vision for the Future- Cairo, June 2004:

The meeting held in Cairo 1-3 June 2004, defined the Arab Vision for the Future as an Arab States' commitment to enhance humanitarian values for all and to break the cycle of poverty through learning and education for all.

Related to educational reform, the meeting identified a need for putting realistic policies to meet the requirements of the 21st century in areas such as dialogue among civilizations and inter-religious dialogue, empowering women, reinforcing community participation and dialogue with minorities based on democracy and universal rights. As an outcome of the conference, the participants adopted the Cairo Declaration 2004. It declared the commitment of the Arab States to the EFA goals and highlighted the role of teacher training, curriculum development, evaluation, early childhood development, ICT in education, inclusive education and community participation. It also stressed the commitment of the Arab States to adopt Quality Education Standards at all levels through networking and creation of centers of excellence.

F. Fifth Meeting of the Working Group on EFA- Paris, July 2004:

The main message of the 5th Working Group was more convergence and integration between current global initiatives. The meeting considered ways of improving the timeliness and quality of statistics, enhancing external funding for EFA and particularly the Fast Track Initiative (FTI) and the harmonization of the FTI shape, strengthening civil society engagement (through a tripartite

collaboration between government, donors and civil society) and promoting partnerships with the private sector on EFA. The key for building joint efforts with the private sector lies in sharing common goals. The business community needs to be considered as ally from the early stages of planning.

With regard to achieving the Millennium Development Goals, the Working Group considered adult literacy as crucial and emphasized post-primary education as necessary to ensure useable skills. Transparency in tuition (effective costs, educational contents etc.) will increase parents' engagement with their children's schooling.

5. Education, Training and Labor Market

In this chapter, I focus on five special areas that require attention on the regional level. These areas deal with training for better educational quality, higher education, linking education to the market, gender parity, and the development of a knowledge economy and a knowledge society.

A. Challenges in Education and Training:

Knowledge is essentially transmitted through education, training, and lifelong learning. Therefore, an effective education and training system is the basis of progress. However, the educational system and training in the Arab states suffers from two grave challenges, one relates to language and the other to the internal inefficiencies of education which cause a diminishing rate of return on education.

1. Linguistic problems:

The Arabization of education is being carried out under conditions that handicap an entire age group, because some countries did not choose language of reference, particularly for the scientific and technical disciplines.

2. Internal Inefficiencies:

Education systems aim at mobility and social integration, not at meeting the needs of the economy. In Egypt, researchers call attention to the diminishing rate of return on education

B. Higher Education:

The prevalence of poverty in Arab countries constantly increases the selectivity of higher education in favor of the prosperous. In this way, higher education is gradually being transformed into a mechanism to bring about social inequality in Arab countries. This means, inter alia, that one of the main future tasks of higher education development in Arab countries should be to restore momentum to the expansion of higher education among all strata of society, if social disparities are not to amplify.

C. Linking Education with the Labor Market:

The challenging linkages between education and the labor market in the Arab region can be summarized on four levels: one is that of higher education, the other is vocational training, the third is lifelong learning and the fourth is the level of the market, in turn an indication of the weak energy of economic development and competitiveness in most Arab states.

1. Higher Education:

While there are some very high-quality technical universities in Arab countries, the global and local economic environments demand many more specialists and workers in science and technology than are currently being trained. In fact, in many Arab states, too few students are being trained at higher

levels in science and technology disciplines while there is an oversupply of humanities and social science graduates.

2. Vocational Training:

Vocational training suffers from a bad image and lacks links to other forms of training. Vocational training is often very centralized, inflexible, and is unsuccessfully adapted to actual market environment.

3. Life Long Learning:

Most of Arab countries are still far from offering an effective structure for lifelong learning. It requires awareness rising, professional and social incentives, a diversified and easily accessible network of supply structures that eliminate the separation of schools and firms.

4. Market Weakness:

Development in most Arab economies is insufficient to meet the growing labor supply, and the regions' economies are not yet sufficiently diversified to offer jobs to all graduates. Although sectors like ICT lack the necessary workers, training/employment mismatches make it difficult to absorb the unemployed. In general, unemployment of young educated people has increased sharply. Furthermore, many employers, mainly in the informal sector which is producing most jobs in Arab markets, prefer to hire unqualified workers and relatives who accept hard working conditions and low salaries.

D. Gender:

Arab States Regional Report of the UNESCO Institute for Statistics presented the results of a survey on education in 19 countries – among them Egypt, Jordan, Morocco, and Yemen, covering the 1999/2000 school year. One of the findings is that some eight million primary school-age children remain out-of-school in the Arab States and five million of them are girls.

E. Knowledge Society:

The knowledge revolution presents Arab countries with challenges and opportunities. They need to take advantage of this new source of growth and employment. To date, related investments in education, information infrastructure, research and development (R&D), and innovation have been insufficient in most Arab countries. Moreover, inadequate economic and institutional frameworks prevent these investments from yielding desired results. Hence, action is needed to advance structural reform and to build up and adapt knowledge-related investments.

6. Islamists and Education in the Arab World

The Islamists' ascent to power in parts of the Arab world has stimulated many fears, not only those of minorities and secularists but also of Muslims themselves. A particular cause for concern is the effect this Islamist rise might have on education in the Arab world, with some cautious that Islamic law (sharia) may be introduced into curricula.

However, I argue that it is too soon to tell what kind of impact Islamists will have on Arab education systems. Acknowledging the importance of not lumping together all Arab states when looking at these issues, reflects the Islamists' ideals, modern methods of tuition, and perceived commitment to democratic values.

Education is a very important target for any ideological party that assumes political power, and Islamists are no exception. They will definitely attempt to shape the education curriculum, though not

automatically in the sphere of religion. It has not been clearly established whether the main Islamist parties in Tunisia and Egypt intend to change religious education programs in government schools. Vagueness persists for a number of reasons, including the difficulties of dealing with state policies and institutions.

The Islamists must first of all modify the articles of their nations' constitutions that address educational matters, and that alone is slowed down by a number of obstacles, such as the hinder opposition of more than one political and military force. Moreover, the existing education programs do not primarily conflict with those elements' political goals: Islam and its values are already promoted in curricula in multiple ways, and each student in Egypt studies his faith with a teacher belonging to that belief thereby ensuring that Muslim students are indoctrinated in Islam. In Tunisia, only Islamic education is offered in public schools.

The key Islamist parties may seek to transfer their educational experiment in private schools into the public schools by influencing teacher training programs as well as through extracurricular activities that reinforce Islamic culture in the schools.

Nevertheless, it is important not to bulge together all the Arab states in which Islamist parties have either risen to power or become major partners in the government. The regimes that once governed these countries possessed vastly different natures before they were replaced or reformed. Moreover, the countries themselves differ from one another on the social and cultural levels, both in terms of their educational systems and their students' educational activities.

A. Islamists, such as the Muslims Brotherhood in Egypt,

have gone so far as to affirm that any legislation they present will be premised on equal citizenship. The parties representing the Muslim Brothers have stated clearly that they will not compel others to adopt the same beliefs or practices that they and their supporters have adopted. The Brotherhood's program, as represented in Egypt by the Freedom and Justice Party, affirms a number of fundamental political principles that must govern in democratic, pluralistic societies. Along with the most prominent of these are: "guaranteeing freedom for all citizens" in terms of beliefs, expressing one's opinion, forming political parties, and other areas; "equality and equal opportunity" without discrimination on the basis of religion, gender, or race; and "political pluralism" in addition to promoting the values of dialogue, tolerance, cooperation, responsibility, accountability as well as other democratic tenets.

B. Religious minorities especially Christians:

In Egypt, where minorities have expressed these fears, the curricula that were applied prior to the recent revolution did not take into account the particularities of religious minorities. As an alternative, they imposed Islamic concepts upon all students via the texts used in teaching the Arabic language, history, and the social sciences. The fear of the minorities in post-revolutionary Egypt—just as in Tunisia and Morocco—stems from a lack of trust in the officially declared intentions, programs, and published statements of the Islamist leaderships concerning their commitment to the principles of pluralism and democracy. The minorities' worries can only be assuaged through a commitment on the part of the Islamists who have now ascended to power to abide by their pre-election pledges and declarations. If the Islamists' fulfill their pledges they will have established a stable, civil state. And if not, they will open the door wide to conflict, which may well prevent them from remaining in power for the full length of their terms.

C. Al-Azhar Mosque and University:

Al-Azhar Mosque, "mosque of the most glorious" is a mosque in Islamic Cairo in Egypt. Al-Mu'izz li-DinAllāh of the Fatimid Caliphate commissioned its construction for the newly established capital city in 970. Its name is usually thought to allude to the Islamic prophet Muhammad's daughter Fatimah, a

revered figure in Islam who was given the title az-Zahrā' ("the shining one"). Al-Azhar University has long been regarded as the foremost institution in the Islamic world for the study of Sunni theology and sharia, or Islamic law. The University, integrated within the mosque as part of a mosque school since its inception, was nationalized and officially designated an independent university in 1961, following the Egyptian Revolution of 1952. This University concerns itself with the religious curriculum, which pays special attention to the Qur'an sciences and traditions of the Islamic prophet Muhammad, on the one hand, while on the other hand the university teaches all the basic modern fields of science. In 1961, according to Al-Azhar University's legislative law No. 103, new colleges of applied sciences, such as the faculties of Medicine and Engineering, were introduced to Al-Azhar University. These newly introduced faculties are not duplicates of their counterparts in other universities because they combine the practical sciences with the religious sciences. Alongside the Egyptian students who are studying at Al-Azhar university, there are also many other students from various Islamic and European countries. These foreign Muslim students have exactly the same rights as the Egyptian students

7. The Right to Education in the vision of the Supreme Constitutional Court of Egypt

A. Nikab (concealing the girl's face and body):

Prohibiting girls of wearing Nikab in the schools was the subject matter of Case no. 8 of the 18th judicial year, decided on the 18th of May 1996, where the constitutional litigated issue was the invalidity or otherwise of decision taken by the Minister of Education on this concern.

The said decision declares that hair cover is the one freely chosen by girls, without concealing her face. It also provides that as to all students, irrespective of their scholar phase, the dress must demonstrate decency, either in appearance or the manner of its arrangement; all to be in line with societal instructions and moralities; otherwise admittance of the respective student to his or her school, shall be withheld.

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According to the unshaken chain of its jurisprudence precedents, this clearly stated that the principles of Islamic Law represent uncontestable Islamic norms, either in relation to the source from which they derived, or as to the precise meaning attributable thereto. Unlike these Islamic principles which lie beyond any controversial points of view as to their mandatory application, all other Islamic rules are susceptible of being able to different interpretations. Only the area of these rules, may the legislature intervene to regulate matters of common concern, and achieve attached interests consistent with basic Islamic norms, the aim of which is the preservance of religion, reason, honor, property and the body.

Therefore, practical solutions could be drawn to lead forth to variable social needs, since the bulk of Islamic rules are highly developed, intrinsically in harmony with changeable circumstances, repulsive of rigidity, and away from absoluteness and firmness.

In no way may be mandated, a fading Islamic rule either due to time, place or pertinent situations. As such, the Supreme Constitutional Court of Egypt reiterated that Islam highly esteemed and praised women, persuaded them to maintain their chastity, and not to be dressed in an insolent way, in order to level themselves beyond indignation and indecencies, in particular if inordinate dresses were used, or the beauties of their bodies revealed, in temptation of others. In view of the foregoing, the Court stressed that woman under Islamic law, has no definite word as to her dresses. Nevertheless, women have to bear their responsibilities in the different aspects of life, taking into consideration that Islamic law has never mandated a particular design or image for their dresses, but left their form and arrangement to different interpretation within a straight-forward criterion of moderation and uprightness, in line with prevailing customs and traditions of the society.

The Court pointed out that point of view of Islamic jurists as to the proper construction of the verses of Quran and the confirmed or argued sayings of Mohamed the Prophet, led to different opinions

regarding women's dresses. As such, a balance must be struck between the necessities of life and application of valid customs and traditions on the one hand, and the fascination of woman's body and shape. The outcome of this balance; the Court clarified, is that women have to yield to moderation in their dresses, and under no circumstances be entirely wrapped and completely veiled in public. Hence; the Court stressed that the challenged decision does not affect freedom of religion, nor impedes its exercise or denies other fundamental norms in Islam, but simply regulates student's dresses in line with congruities and appropriateness, that decision be regarded as a rightful and permissible construction of Islamic norms.

On the other hand, the Court also pointed to what the petitioner (father of two girls wearing Nikab) alleged that the challenged decision violated the personal freedom, claiming that its core lies in the autonomous independence of every individual to finally decide matters closely related to his chosen patterns of life, and the integrated elements of his personal characteristics. Against this argument, the Court stated that a dress worn by someone even reflective of his appearance and demonstrates his will to selectively make his choices as to different methods of conduct, nevertheless choices associated with personal liberty should be confined to a circle in which arise the most intimate relationships of the individual, such as his right to choose his spouse, to form a family and to beget a child. Beyond this narrow circle, a wider one emerges in which – inter alia – student's dresses may be controlled in order to attain their uniformity and suitability.

The Supreme Constitutional Court of Egypt concluded that the challenged decision was enacted in order to ensure that student's dresses in specific educational institutions, are not seducible and vulnerable to others, and that all shall share- in their common features- no appeal either to profane behavior, or to the alleged religious firmness which this Court brands as being inflexible and excessive, and therefore deplorable. Hence the Court decided that the challenged decision does not stand against constitutional provisions or rules.

B. Exceptions of students' admission in the Higher Education:

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In case no. 41, the 7th judicial year, the Supreme Constitutional Court of Egypt issued its judgment on the 1st of February 1992, in which it had to examine the constitutionality of a decision taken by the Supreme Council of Universities and Higher Institutes. Such decision was questioned upon allegations that it carries out an unjustified discrimination favoring specific categories of students either because of their affiliation with a family whose head occupies a particular job, or assumes the responsibilities of his post in a designated area, or perform his duties on a specific date, or being killed in a combat. Also, shall be beneficiaries of that exception stated by the same decision; students attached to remote areas in Egypt either by birth or residence or due to their obtainment of the high school degree there from.

Article 8 of the Egyptian Constitution of 1971 provides that the state shall guarantee equal opportunities to all. The principle of equal protection before the law is spelled out in article 40 thereof, which forbids discrimination based on sex or race or religion or belief or language. In this regard, the Court ruled that the list of factors referred to in that article and upon which arbitrary discrimination may be based, is not exhaustive, but merely indicative. This conclusion is understandable given the fact that unjustified distinctions may rest on other irrational grounds such as birth or wealth or national origin or social status or political opinion or affiliation with a particular minority.

The Court also held the opinion that rights and privileges which the equal protection clause safeguards, need not be inserted in constitutional provisions. Suffice to say that the right or privilege in question may either be specifically provided for by the Constitution or initially established by a statute. Consequently, under the equal protection clause, even rights and privileges which are not generated by or based on constitutional provisions, but having their origin in a challenged statute, are to be accorded the constitutional guarantee of that clause.

As for the Higher Education, the Court emphasized that it is deemed to be effective machinery for promoting advanced aspects of any civilized society and a vital vehicle required for the elaboration of specialists, technicians and experts. While education is subject to the State's supervision in order to guarantee the requisite linkage between its objectives and societal necessities including productivity; available opportunities enabling access to higher education, totally depend on attainable resources of the State, and therefore implicates competitive admissions thereto. Only within standardized measures of worthiness, priorities regarding accessibility to that education may be fairly declared.

The court stressed that; either limit the full application of the equal opportunities clause or unduly obstruct equality before the law provided for in articles 8 and 40 of the Constitution respectively, are impossible. Bearing in mind that all exceptions embodied in the challenged decision have no relevance either to the nature of the right to Higher Education or its perceived objectives, or the rational requirements of studies conducted in the respective institutes, that decision which failed to meet limitations spelled out by articles 8 & 40 of the Constitution, must be branded as being invalid. In view of the foregoing, the Court decided that the challenged decision was unconstitutional.