

Cairo, 2nd April 2014

Recommendations of the workshop

The ACIJLP organizes a workshop on "Two Degree Litigation in Egypt after the 2014 Constitution"

The Arab Center for the Independence of the Judiciary and Legal professions (ACIJLP) organized a workshop on **"Two Degree Litigation in Egypt after the 2014 Constitution"** on 31st March 2014, in Cairo. Many specialists in the field of legislation and the judiciary, media figures, activists in the field of human rights participated in the activities of this workshop. The workshop addressed many of the issues related to the independence of the judiciary and guarantees of fair trial, particularly the right to litigate on two degrees, including discussing the status of the right to two degree litigation in the national legislation and in the national and international conventions and commitments, litigation on two levels and its impact on the independence of the judiciary, ensuring fair and equitable trial, and the visions and perceptions about the mechanisms of activation of the two degrees of litigation in Egypt after the constitution of 2014. Through discussions and presentations, the participants recommended the following:

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- Calling upon the Egyptian authorities concerned to quickly take legislative, judicial and administrative measures to activate the guarantees of fair and equitable trial contained in the Constitution of 2014, and to make the relevant national legislation commitments of Egypt in line with the international commitments, in particular the International Covenant on Civil and Political Rights, and the contained guarantees of fair trial.
- Adoption of the Criminal Justice Unit, and the unification of legislation governing or criminalize same question or same

behavior and to unify the charge and the trial bodies regardless of the status of the accused.

- Reducing the phenomenon of Legislative, criminal and punitive inflation and the adoption of legislation to put alternative measures such as civilian compensation and doing a public service.
- Legislative intervention through limiting the role of military justice to purely military crimes and banning civilian from being tried in military courts.
- Amending Procedure Act to apply the right to litigate on two degrees in criminal issues by forming circuits of felonies in the courts of first instance, each circuit should be consisted of three judges of with a degree of President of the Court, as well as the formation of circuits to challenge the rulings in the Court of Appeal and each circuit should be consisted of three judges of the Court of Appeal.
- Conducting legislative amendment stating that the decisions of the public prosecutor should not be immune from judicial control, both with respect to, for example, filing a case or to appeal the decisions of the Attorney General not to accept the request for reconsideration through providing for the possibility to appeal these decisions before the Criminal Court in counseling room.
- Reducing the power of the public prosecutor on preventive detention by amending law 72 of 1992 that gave the public prosecution the powers of the investigating judge and the Court of Misdemeanors.
- Applying the system of investigating judge through activating the provisions of chapter IV of the Code of Criminal Procedure. The public prosecution should not combine between the charge and investigation authorities.
- Returning to the system of charge room charge in felonies.

- Providing for the right of the counseling room when considering extending the period of custody or appeal from the public prosecution or the investigating judge to take over the whole investigation, and then order a referral to the Court of felonies or misdemeanors to decide when the defendant's conviction is not accurate.
- Applying the system of the execution judge, and he shall have the right to execute sanctions and precautionary measures and the issuance of all judgments, decisions and orders relating thereto. The execution judge should also be entitled to decide on the problems related to execution, and the right of parole for convicts and assessing the justifications calling for issuing pardons for convicts, as well as deciding on the requests for restitution and supervision of penitentiary establishments and places of the implementation of measures that fall within its competence.
- Providing for the defendant's right to compensation for physical and moral damage as a result of preventive detention or acquittal or the issuance of an order to file criminal case, as well as reducing the duration of preventive detention of the term of sentence in any crime to be committed before the acquittal or issuance of the order to establish a lawsuit.
- Enforcing the right to compensation for the errors of judges and self-responsibility of the state for such compensation, and the establishment of a fund for the compensation to be financed from the provisions of fines issued by the criminal justice system. The trial court should decide on such compensation upon the verdict of acquittal, and the publication of the judgment of acquittal and compensation in two widely circulated gazettes.

- Emphasizing the need to implement the judicial rulings in deference to the independence of the judiciary and to ensure the rights of the litigants, and the allocation of judicial police to take over the task of implementing the judicial ruling under the control and supervision of the judiciary.
- The amendment of the legislation requires the presence of a lawyer at all stages of the criminal case and the invalidity of any act done in the absence of a lawyer, since the arrest of the accused, and his presence in the hands of men in power.
- Activating the articles of legal professions law relevant to assaulting lawyers during or because of the performance of their profession, particularly Article 54 of the Law of legal professions.
- Legislative intervention to ensure appropriate treatment for lawyers, and the allocation of places to lawyers to meet with the accused, particularly in the police stations and the headquarters of prosecutors without delay or interference and the meeting should be made under consideration of the men in power, and not within their hearing.
- Toughening the penalty for the crime of torture, which lies on a public servant, applying the right to compensation, and amending the provisions of Article 63 of criminal procedures law and the cancellation of the third paragraph which provide for immunization of judicial officers from any direct claim .