



## Research Article

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# Unveiling the Right to Health in Egypt: Exploring the Transformations and Challenges in Egyptian Constitutional Law and Policy

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## Abstract

*The political and social transformations Egypt has witnessed in recent decades have had an important impact on the right to health (RTH). The state's role in health care has declined leading to a deterioration of public health services on which Egyptians mainly rely. The state's guarantee of the components related to the RTH and the restructure of the medical care system represented one of the important demands related to social justice raised by the 2011 Revolution. This had an important impact in the Egyptian legal system by adopting a broader meaning of the RTH and turning health care into one of the rights guaranteed by the Egyptian Constitution with clear and specific constitutional obligations placed on the public authorities. Yet, it is still uncertain how the branches of government are going to actually fulfill these obligations.*

**Keywords:** *The right to health, Egypt, Constitutional law, Health Care, Revolution, Human Rights*

## 1. Introduction

The 2011 Revolution has brought major changes to the Egyptian society and legal system. One of the main reasons that led to this revolution was the absence of social justice and the severe deterioration of the health care system was a clear evident for that. Bearing this in mind, the drafters of the

Constitution approached the RTH in a manner that reflects the people's aspirations.

This article seeks to trace how the RTH has changed in Egyptian constitutional law and discourse, and to consider how the current RTH (under the 2014 Constitution) is being realized in Egyptian law and policy. Both law and policy are crucial in shaping and realizing the RTH within a given legal and social context. In other words, the article aims to investigate three key questions:

- (1) What specific constitutional obligations are placed on public authorities in Egypt regarding healthcare?
- (2) How has the state's role in healthcare changed in recent decades in Egypt?
- (3) What impact did the 2011 Revolution have on the approach to the right to health in the Egyptian legal system?

Our research methodology is primarily centered on a qualitative analysis of court decisions pertaining to the Right to Health (RTH) in the context of Egyptian constitutional law. To ensure the transparency and rigor of our research process, we adopted the following methods:

- **Data Collection:** We collected a representative sample of court decisions that are relevant to the RTH under both the 2012 and 2014 Egyptian Constitutions. These decisions were sourced from publicly available legal databases and official court records.
- **Document Review:** Each selected court decision was subject to a thorough review. We examined the legal arguments presented, the interpretation of constitutional provisions related to the RTH, and the reasoning employed by the courts.
- **Content Analysis:** We conducted a content analysis of the court decisions, focusing on key themes such as the recognition of the RTH, the obligations imposed on the state, and the measures proposed to enhance healthcare access.

Focusing on the constitutional developments after 2011 Revolution, we argue that both the 2012 Constitution and 2014 Constitution have introduced, for the first time, an explicit recognition of the RTH as a basic right. They have also introduced this right as a concept that has a meaning broader than its meaning under the 1971 Constitution. Even more, both Constitutions have committed the state to specific and clear obligations to improve the health care system. As a result, enforcing these obligations shall be undertaken by the Legislative, Executive and Judicial branches of government.

To reach this point, Egypt went through a long journey to incorporate basic human rights into its legal system and to define the role of the state in this regard. The end of World War II paved the way for the emergence of a new generation of fundamental rights, classified as the second-generation human rights.<sup>1</sup> This generation aimed to provide appropriate conditions for human life in societies that respects human character and enables a person to grow and prosper.<sup>2</sup> At the forefront of these rights are a right to be employed in just and favorable condition, rights to food, housing and health care, as well as social security and unemployment benefits.<sup>3</sup> The provision of the above-listed rights requires the state to be active to providing these rights.<sup>4</sup>

The RTH lays within the circle of economic and social rights which the international community has recognized at the end of the first half and the beginning of the second half of the twentieth century.<sup>5</sup>

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<sup>1</sup> Braham Dabscheck, 'Human Rights and Industrial Relations', *Australian Journal of Human Rights* (1998), 4:2, 10-39, DOI: 10.1080/1323238X.1998.11910998

<sup>2</sup> Louis Favoreu et al., *Droit des libertés fondamentales*, Dalloz (2021) ; Henri Oberdorff and Jacques Robert, *Libertés fondamentales et droits de l'homme : Textes français et internationaux* (2017).

<sup>3</sup> Daniel Tarantola, et al., 'Human rights, health and development', *Australian Journal of Human Rights*, (2008),13:2, 1-32, DOI: 10.1080/1323238X.2008.11910833

<sup>4</sup> Georges Burdeau, *Les Libertés Publiques* (1961).

<sup>5</sup> Colleen Flood and Aeyal Gross, 'Litigating the Right to Health: What Can We Learn from a Comparative Law and Health Care Systems Approach Public Health Law and Governance View Project Litigating Health Care Rights View Project' *16 Health & Hum. Rts. J.* 62 (2014).

In this context, the state's guarantee of health care for citizens was mentioned in the Egyptian constitutions issued in the aftermath of the 1952 Revolution, within the framework of its obligations to guarantee many social and economic rights. This was affected by the socialist nationalist trend that characterized the Egyptian state at the beginning of the second half of the twentieth century. The Egyptian state shouldered the burden of establishing a health insurance system and providing medical care services to all Egyptians through its public health facilities.<sup>6</sup>

However, the last decades of the twentieth century witnessed a major shift in Egyptian policies towards adopting capitalist ideas, with the concomitant decline in the role of the state in the health care field. This led to the severe deterioration of the health care system in Egypt, which paralleled the decline of the role of the state in the economic and social fields.

The deterioration of economic and social conditions was one of the most important causes of the 2011 Revolution which featured slogans related to social justice.<sup>7</sup> These revolutionary demands expressed themselves strongly in the Egyptian constitutions issued in the aftermath of the 2011 Revolution. The 2012 Constitution expressly stipulated that access to health care was a basic right. The 2014 Constitution went even further. It considered the RTH and integrated health care to be a fundamental right guaranteed by the state to all citizens, clearly and explicitly obligated the state to many obligations, and aimed at improving the health care and medical system in Egypt. At the forefront of these responsibilities is the commitment to allocate a certain percentage of national spending on health, an obligation to provide medical insurance for all citizens, the duty to provide medical care for every human being in emergency situations, and the commitment to improve the professional conditions of medical workers.

The following section seeks to address the question of whether Egypt's constitutional recognition of the RTH has changed after the 2011 Revolution? Should that be the case, has the 2014 Constitution made any changes to what has been recognized in the 2012 Constitution with regard to the RTH? Then, next section examines how far the Egyptian state legal apparatus digested these changes and the available mechanisms upon which the state relies to fulfill its constitutional obligations with regard to the RTH.

## 2. The Evolution of the RTH in Egypt's Constitutions

It could be argued that Egypt has witnessed changes in its constitutional recognition of the RTH after the 2011 Revolution. The changes in the constitutional discourse could be interpreted as changes in the concept of RTH which will gradually affect the enforcement of this right in the Egyptian legal system. To clarify this point, this section discusses how the Egyptian constitutions recognize the RTH before and after the 2011 Revolution.

### 2.1 Before the 2011 Revolution

#### 2.1.1 Egypt: from Kingdom to the 1952 Republic

The recognition of human rights in Egypt began with the independence gained in the wake of the 1919 Revolution against the British occupation of Egypt and Sudan. The Unilateral Declaration of Egyptian Independence (February 28, 1922) paved the way for having a balanced constitutional document which is the Constitution of 1923. This constitution paid special attention to articulating the rights and freedoms of the citizenry. Considering the prevailing intellectual climate in the

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<sup>6</sup> Mohamed Mishaal, 'Constitutional Guarantees of the Right to Health: A Comparative Analytical Study', *Legal Journal* 8 (2020): 2805-3126.

<sup>7</sup> Eberhard Kienle and Laurence Louër, 'Understanding the Social and Economic Aspects of the Arab Uprisings', *Critique Internationale* 61 (2013).

Egyptian Kingdom at the time and its embrace of the individualist doctrine and the capitalist approach, it was natural for the nascent constitutional kingdom to embrace democracy with an individual dimension in which the role of the state in confirming rights and freedoms was neutral.

The emergence of the RTH in the Egyptian legal system coincided with the global trend in international law towards recognizing that right as fundamental at the beginning of the second half of the twentieth century. This was reflected in the provisions of the Egyptian Constitution issued in the aftermath of the July 23, 1952 movement.<sup>8</sup>

Egypt underwent an important ideological change in the aftermath of the 1952 movement, which embraced social and economic policies aimed at helping vulnerable demographics, quickly transforming the movement into a revolution with a socialist orientation. The impact of this was evident with the first provisional Constitution issued by the nascent republic. The 1956 Constitution contained many sections that contained the policies of the state public authorities. This placed the burden of facilitating a decent standard of living for citizens on the state, and entrusted it with providing food, housing, health care, and cultural and social services, especially in cases of unemployment, disease, old age, wars, and disasters.

In this sense, the first sign of the constitutional RTH in the Egyptian legal system appeared in the 1956 Constitution.<sup>9</sup> Article 56 of this Constitution stipulated: "Health care is a right for all Egyptians, and the state guarantees it by establishing various types of hospitals and health institutions and gradually expanding them."

### 2.1.2 *The 1971 Constitution and the changing contours of RTH*

Keeping the socialist tradition, the permanent 1971 Constitution contained many sections that established economic and social rights, particularly the RTH.<sup>10</sup> Article 16 provides that the State guarantees health services and works to provide them to the village in an easy and regular way. Likewise, Article 17 stipulates: "The state guarantees social and health insurance services, disability pensions, unemployment and old age for all citizens, in accordance with the law."

More importantly, the 1971 Constitution introduced an article that made the international covenants to which Egypt acceded directly affect the Egyptian legal system. Article 151 stated that international treaties and agreements Egypt joins enjoy the force of law, after completing procedures ratification and publication in the Official Gazette.<sup>11</sup> This means that the articles of such treaties and agreements would be part of the national law of Egypt.

Egypt has acceded to many international treaties that recognize the RTH. Egypt has ratified the Constitution of the World Health Organization on December 16, 1947, which recognized in its preamble that: "The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition," and stipulated the states' responsibility for the health of their people, committing them to take appropriate health and social measures.<sup>12</sup>

One of the most prominent international covenants which Egypt acceded to on October 1, 1981, that explicitly enshrines the RTH, is the International Covenant on Economic, Social and Cultural Rights, issued in 1966. Article 12/1 of this Covenant recognized the RTH as fundamental in its first paragraph: "The States Parties to the present Covenant recognize the right of everyone to the

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<sup>8</sup> Baha Abu-Laban, 'The National Character in the Egyptian Revolution', *The Journal of Developing Areas* 1 (1967): 179.

<sup>9</sup> Mishaal, *supra* note 7, 2805.

<sup>10</sup> *Ibid*

<sup>11</sup> 'Constitution of Egypt 2014 Unofficial Translation' (2014) <<https://constitutionnet.org/sites/default/files/dustor-en001.pdf>> accessed 21 February 2023.

<sup>12</sup> Constitution of the World Health Organization 1946.

enjoyment of the highest attainable standard of physical and mental health.”<sup>13</sup> The second paragraph stipulates several measures that countries must take to secure this right, such as reducing the infant mortality, paying attention to the healthy growth of children, improving environmental health, disease prevention, and finally providing medical care services for all in case of illness.<sup>14</sup>

Although the RTH has a meaning encompasses more than medical care,<sup>15</sup> the constitutional discourse in Egypt has used the concept of medical care to refer to the RTH. This was understood given the importance of the medical system in protecting the RTH.<sup>16</sup> However, the right to obtain appropriate medical care is only one of the components of the RTH, as people only use medical care in cases of illness or injury. The RTH refers to the obligation of states to create conditions that enable individuals to enjoy as healthy a life as possible. This imposes on the state multiple obligations, most notably: ensuring the provision of health care services, healthy and safe working conditions, adequate housing, adequate food, clean drinking water, and providing special care for the most vulnerable groups in terms of health.<sup>17</sup> However, the obligation to ensure the provision of medical care in the event of illness or injury remains the most prominent obligation that the RTH owes directly to the state.

Based on the wide scope of the RTH as stated in the World Health Organization Constitution and the International Covenant on Economic and Social Rights, one scholar tends to describe the state’s obligation concerning the RTH as a commitment to achieving the complete physical, psychological, and social well-being of the individual.<sup>18</sup>

In fact, the previous definition of the RTH contained in international sources was met with criticism from the comparative public law doctrine. These criticisms, which were referenced by French jurisprudence in particular,<sup>19</sup> were very popular among Egyptian scholar. Critics claimed the expanding scope of the term ‘health subject to protection’ according to the Constitution of the World Health Organization, and the broad commitments stemming from the enshrinement of this right under the International Covenant on Economic and Social Rights would throw the RTH in a circle of ambiguity.

The Constitution of the World Health Organization adopted a broad definition of health that differs from the narrow concept of health care that refers to the right to obtain health care in the event of illness. According to this broad definition, achieving good health requires satisfying many other needs, the most prominent of which are: proper food, clean water, adequate housing, good education, a healthy environment, and adequate employment. Thus, the adoption of this definition could theoretically lead to confusion since it leads to overlapping social and economic rights.

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<sup>13</sup> United Nations (General Assembly). “International Covenant on Economic, Social, and Cultural Rights.” Treaty Series, vol. 999, Dec. 1966, p. 171

<sup>14</sup> United Nations Human Rights Office of the High Commissioner, ‘International Covenant on Economic, Social and Cultural Rights’ Human Rights Quarterly 9 (1987): 274 <www.ohchr.org/> accessed 21 February 2023.

<sup>15</sup> Steven D. Jamar, ‘The international human right to health’ Sul rev 22 (1) (1994).

<sup>16</sup> Ahmed Hamid, ‘The Right to Health under International Standards’ 30.

<sup>17</sup> Mishaal, supra note 7, p.2809.

<sup>18</sup> Raed Qandil, ‘Constitutional Protection of the Right to Health’, Al-Isra University Journal for Human Sciences (1) (2017): 43-77, p.54.; Dina Abdeen, ‘Economic and Social Rights: A Comparative Study’ (PhD Thesis) department of public law, Alexandria university, Alexandria, 2022 ,p.195.; Mishaal, supra note 7, p. 2815 ; Medhat Ghanayem, ‘Constitutional Protection of the Human Right to Health in the Light of Public Order in Egypt: A Comparative Study’, Spirit of Laws Journal 88 (2) (2018): 2-187, p.23.; Ahmed Hamid, ‘The Right to Health under International Standards’ 30.

<sup>19</sup> Laurence Gay, ‘La Protection de La Santé Dans L’alinéa 11 Du Préambule de La Constitution de 1946’ Politeia - Les Cahiers De l’Association Française Des Auditeurs De l’Académie Internationale De Droit Constitutionnel 37 (2020). ; Louis Favoreu et al., *Droit Des Libertés Fondamentales* (2016). ; Jacques Moreau, ‘Le Droit À La Santé’ AJDA (1998) : 185 ; Guillaume Drago, ‘Le Droit À La Santé : Un Droit Constitutionnel Effectif ?’ Revue juridique de l’Ouest 28 (17) (2015).

In this sense, there is a widespread view among legal scholars in Egypt that the rights recognized by the International Covenant on Economic and Social Rights should not be considered rights in the strict legal sense, but rather ideals.<sup>20</sup> Their main argument is the international covenants' silence as to legal mechanisms that guarantee the recognition of these rights by monitoring the extent to which states fulfill their obligations stemming from these covenants. They conclude that the basic obligation that falls on the state under the RTH is the provision of medical care for citizens through the health insurance system regulated by laws. This is the commitment that the 1971 Constitution was keen to enshrine in Article 16, and the legislative system put into practice through health insurance laws.<sup>21</sup>

The previous jurisprudential view was reflected in many judicial rulings issued by the administrative courts under the 1971 constitution, which reduced the RTH to the limits of health care stipulated in the health insurance laws.<sup>22</sup> These laws were implemented and led to a health care system that was highly effective. The system was comprehensive, both regarding its coverage of different demographics of citizens, and its coverage of diseases. The health care service was modern, according to the standards of the time.

Despite the subsequent change in the policies of the Egyptian Republic towards the West in the late 1970s, and the accompanying shifts in economic and social philosophy, the commitment of the Egyptian state to favoring social and economic policies aimed at helping the economically and socially disadvantaged classes has remained public. However, the regression of economic and social policies in the last decades of the twentieth century and the beginning of the twenty-first century,<sup>23</sup> and a general decline in the performance of the state's administrative apparatus, has led to a noticeable deterioration in the efficiency of public health facilities. The decline in the standards of public and private medical facilities coincided with the increased involvement of private industry in healthcare provision. One of the most prominent problems facing the medical sector in Egypt is the emigration of many medical staff either to the West or to Arab Gulf countries.<sup>24</sup> This is due to the low compensation offered in government hospitals.<sup>25</sup>

It seems that the regression of the economic and social policies of the Egyptian government, starting from the last decade of the twentieth century, was a driver of the 2011 revolution, which championed social justice alongside freedom. Considering the atmosphere that followed this revolution, and the hopes for future change, it was only natural that this would be reflected in the constitution prepared in the aftermath.

## 2.2 Post 2011 Revolution

The constitutional developments post 2011 resulted in, for the first time, a clear acknowledgment of the RTH as a basic right while committing the state to specific and clear obligations to improve the health care system.<sup>26</sup> In the aftermath of the 2011 revolution, the 2012 Constitution was issued, which established specific obligations on the Egyptian state stemming from the RTH. In the aftermath of the demonstrations of June 30, 2013, a new document was prepared, i.e., the 2014 Constitution, which more clearly articulated the RTH.

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<sup>20</sup> Ghanayem, *supra* note 18, p. 55.

<sup>21</sup> M Zahran, *Health Care as a Fundamental Right (Mansha'at al-Maaref 2009)*, 25 *et seq.*

<sup>22</sup> *Infra*, 3.2.1.

<sup>23</sup> Eibe Riedel, Giacca Gilles and Christophe Golay, *Economic, Social, and Cultural Rights in International Law*, Oxford University Press (2014).

<sup>24</sup> Bibilola D. Oladeji and Oye Gureje. "Brain drain: a challenge to global mental health." *BJPsych international* 13 (3) (2016): 61-63.

<sup>25</sup> Dina, *supra* note 18, p. 207.

<sup>26</sup> Dina, *Ibid*, p. 197.

### 2.2.1 The 2011 Constitution

In the aftermath of the demonstrations of January 25, 2011, and the political changes that followed, a new Constitution was prepared in line with the demonstrators' demands, especially those related to the state's guarantee of economic and social rights. The 2012 Constitution represented a quantum leap in the field of social and economic rights, and freedoms in general. The constitutional legislator was keen to formulate the provisions of Chapter Three, entitled Economic and Social Rights, with rights and obligations characterized by a minimum of clarity and specificity.<sup>27</sup>

The committee that drafted the 2012 Constitution, based on a study of the health care system in Egypt in the last decades since the 1971 Constitution, tried to implement a new system that overcame the disadvantages produced by practical reality.<sup>28</sup>

All previous considerations reflected within this framework are in Article 62,<sup>29</sup> which discusses the RTH care. The first paragraph considers health care a right of citizenship, and explicitly stipulates the state's obligation to allocate a sufficient percentage of the national production to it. In the second paragraph, the constitutional legislator obligates the state to provide health care services and health insurance through a high-quality system. The article restricts the capacity of the economically disadvantaged to benefit from this system. Likewise, the constitutional legislator stipulates in the third paragraph that all health care facilities are obligated to provide services to every citizen in emergencies or life-threatening situations. Finally, the fourth paragraph stipulates the state's obligation to monitor and supervise all health facilities, check their quality, and monitor all health care advertising.

Despite the achievements of the 2012 Constitution, there are several shortcomings that are directly related to the previous text.<sup>30</sup> The most prominent of these is that the text mentions the RTH care, but not the RTH. This perhaps reflects the continued influence of the jurisprudential view formed under the 1971 Constitution, which viewed the RTH as being synonymous with health care in case of illness, and limited health care to citizens. It may be better to consider health care a human right. The defects of this policy appear in emergencies which the constitutional legislator obligated health care facilities to provide care to every citizen. Also, there was no reference to public facilities providing health care services, such as hospitals and clinics affiliated with the Ministry of Health or universities. Hence, the Constitution limited the role of the state in regulating health care and monitoring the performance thereof. Also, the text did not specify the percentage that the state allocates for government spending; the phrase "adequate proportion of the national outcome" is vague.<sup>31</sup>

In any case, the 2012 Constitution did not last long, and was followed by second revolutionary wave, which paved the way for the adoption of the 2014 Constitution. The latter was keen to avoid criticism of the previous Constitution regarding the RTH.<sup>32</sup>

### 2.2.2 The 2014 Constitution

Article 18 of the 2014 Constitution,<sup>33</sup> contained in Section One of Chapter Two, entitled "The Basic

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<sup>27</sup> Hessen Ossman, *The Constitution of the Second Republic* (Dar Al Matbuat 2013), 143.

<sup>28</sup> *Ibid*

<sup>29</sup> 'Constitution of Egypt 2014 Unofficial Translation' (2014) <<https://constitutionnet.org/sites/default/files/dustor-en001.pdf>> accessed 21 February 2023.

<sup>30</sup> Dina, *Ibid*, p. 40.

<sup>31</sup> Ghanayem, *Ibid*, p.56.

<sup>32</sup> Dina, *supra* note 18, p. 209.

<sup>33</sup> 'Constitution of Egypt 2014 Unofficial Translation' (2014) <<https://constitutionnet.org/sites/default/files/dustor-en001.pdf>> accessed 21 February 2023.



Components of Society,” states: “Every citizen has the RTH and to integrated health care in accordance with quality standards, raising its efficiency and equitable geographical spread. The constitution mandates that a portion of government expenditure for healthcare is a minimum of 3% of the gross national product, which will gradually increase until it is in line with global rates. The state is committed to creating an all-encompassing health insurance scheme that provides coverage for all ailments to every Egyptian. It criminalizes refraining from providing treatment in its various forms to every person in emergency situations or danger to life. The state is committed to improving the conditions of doctors, nursing staff, and health sector workers. All health facilities, products, materials, and means of health-related propaganda are subject to state control, and the state encourages the participation of the private and non-governmental sectors in health care services in accordance with the law.”

The first thing of note about the paragraph above is that the constitutional legislator discusses the RTH and the right to integrated health care.<sup>34</sup> This means that the constitutional legislator embraces the broad meaning of the RTH espoused by international conventions. This is the antithesis of limiting the RTH to the state's guarantee of health care for citizens.

In this context, the 2014 constitutional legislator did not neglect the safeguards related to the RTH, such as the right to live in a clean and safe environment provided in Article 48, the right healthy and adequate food and clean water stipulated in Articles 79, the right to adequate housing recognized in Article 78. This also includes Article 41 which enshrined the sanctity of the human body, prohibited organ trafficking, and prohibited subjecting humans to medical experiments without free consent.

The committee that drafted the Constitution paid special attention to the Committee on Economic and Social Rights, established by the Economic and Social Council of the United Nations in 1985, to follow up on the obligations of the states that signed the International Covenant on Economic, Social and Cultural Rights (ICESCR). This committee, through its successive reports, highlighted the binding nature of this Covenant, clarified the obligations related to the rights guaranteed by the Covenant, and summarized these obligations, rescuing them from the ambiguity and obscurity that surrounded them.

Concerning the RTH stipulated in Article 12 of the ICESCR, we note, with reference to the preparatory work, that the committee that prepared the draft constitutional text of 2014 was greatly influenced by Comment No. 14 of the United Nations Committee on Economic and Social Rights issued in 2000, which focused on the states' obligations related to the RTH. This comment gave special attention to health care as a prominent obligation imposed by the RTH stipulated in Article 12 and obligated the state to create a health care system with many components, namely: availability, accessibility, acceptability, and quality.<sup>35</sup>

This was an important development in the field of rights and freedoms enshrined in international covenants. Article 93 of the 2014 Constitution stipulates: “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.”<sup>36</sup>

Additionally, when comparing the text contained in the 2014 Constitution, and the text contained in the 2012 Constitution, it becomes clear that the phrase “integrated health care according to quality standards” has been replaced by “high quality.” The phrase “high quality” in the 2012 Constitution was vague and lacked clarity. The phrase “quality standards” contained in the new text implies that the state will adopt, through legislation, unified standards for the quality of health care.

The 2014 constitutional legislator also stipulates the state's commitment to support and

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<sup>34</sup> Dina, *Ibid*, 199.

<sup>35</sup> United Nations, 'United Nations Economic and Social Council' (2000) <<https://digitallibrary.un.org/record/425041?ln=en>> accessed 21 February 2023.

<sup>36</sup> The 2014 Constitution of Egypt, Article 93



maintain health service facilities that provide services to the public and improve their efficiency and equitable geographical spread. This imposes a multi-dimensional obligation of the government sector's hospitals on the state. First, it obligates the state to maintain government run hospitals that provide health care directly to the public. Hence, the state should not be satisfied with regulating the health care sector, but rather should have its own hospitals and clinics. Secondly, the constitutional legislator obligates the state to improve the efficiency of existing hospitals, which is related to the quality of the care. Thirdly, the constitutional legislator obligates the state to achieve a just regional spread of its medical facilities, so as not to deprive the countryside and rural areas of health care services. This means that the state must expand the establishment of hospitals and clinics.

Regarding the second paragraph of Article 18, the constitutional legislator obligates the state to provide a minimum expenditure of 3% of the gross national product, which will gradually increase until it is in line with global rates. Doing so avoids the vagueness of the state's commitment to spending on the RTH and health care that characterized the 2012 Constitution.<sup>37</sup>

As for the Article 18's third paragraph, the constitutional legislator explicitly stipulated the state's obligation to create an all-encompassing health insurance scheme that provides coverage for all ailments to every Egyptian. The constitutional legislator referred to the legislative tool when defining the system's features in the citizens' tax contributions, or exemption from them according to their income. The constitutional legislator created the general features of the health insurance system, including the system's inclusion of all citizens, its coverage of all diseases, and linking citizens' contributions in this system to income rates.<sup>38</sup> The previous points represent restrictions on the authority of the legislator in regulating the RTH. They cannot be bypassed, as that would violate the Constitution.

The health insurance system mentioned in the third paragraph of Article 18 refers to a unified health insurance system that covers all diseases and is comprehensive for all Egyptians. Medical services will be provided democratically, without considering what percentage of the insurance contribution is paid by the patient. This feature is in line with the nature of the right to medical care guaranteed by international conventions.<sup>39</sup> It is worth noting that the RTH care is a right that must be provided to all equitably, and everything that would discriminate between Egyptians must be excluded. Possible reasons for illegal discrimination include wealth, geographic location, ethnic or religious affiliation, etc.

However, the constitutional text in question does not explicitly state this right is free for low-income individuals but referred to the law to determine the conditions for exemption from contributions. Providing free health care for those unable to pay would have given them a constitutional right to be covered under the health care umbrella.

In the fourth paragraph, the 2014 constitutional legislator followed the pattern of the previous constitutional legislator in obligating health care facilities to provide treatment service to every person in emergencies or life-threatening situations. This is done by criminalizing refusal to provide health care services in emergency and life-threatening situations.<sup>40</sup> It is a violation of human values and a flagrant violation of the right to life to allow a person in an emergency or life-threatening situation suffer and die because they do not have the financial resources to pay for medical care. It is imperative that the ordinary legislator fulfill his constitutional obligation to criminalize refusal to provide health care services in emergency and life-threatening situations and increase the criminal penalty. Finally, it is noted that the constitutional legislator used the phrase "every person" instead of using the phrase "citizen," which should be praised since it expands the health care coverage to non-citizens.

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<sup>37</sup> Ibid.

<sup>38</sup> Ghanayem, *supra* note 18, p.54.

<sup>39</sup> André, *supra* note 1, p. 8.

<sup>40</sup> Mishaal, *supra* note 7, p.2934.

The constitutional legislator designated the fifth paragraph to obligate the state to improve the conditions of medical workers, including doctors, nurses, and other health care workers.

The constitutional legislator designated the last paragraph to clarify the state's supervisory role in the medical field, and to outline the framework of the state's policies towards the private medical sector. First, the legislator stipulated that all health facilities, medical products and materials, and health-related advertising are under the state's control. Secondly, the legislator stipulated the state's obligation to encourage the private and civil sectors to provide health care in accordance with the law. It is understood that the main obligation rests with the state and its hospitals, and the private sector should act in a supportive role.

### 2.2.3 *Challenges in Upholding the Right to Health in Egypt*

A key concern revolves around the effectiveness of constitutional provisions safeguarding the right to health. There are doubts about their ability to achieve their intended objectives. Evenmore, controversies have arisen, illustrated by events such as the protests.

In 2019, Egypt experienced significant healthcare worker protests. Doctors and healthcare professionals took to the streets to voice their grievances, highlighting poor working conditions, inadequate salaries, and a lack of essential resources in public hospitals. These protests garnered widespread attention and brought to the forefront the challenges faced by healthcare workers in Egypt. These incidents spotlighted the healthcare system's challenges and underscored the need for reforms.

Additionally, the COVID-19 pandemic exposed weaknesses in Egypt's healthcare system. There were concerns about the availability of medical supplies, including personal protective equipment (PPE), and the capacity of hospitals to handle the rising number of cases. The pandemic underscored the need for increased investment in healthcare infrastructure and resources.

The pandemic also revealed disparities in access to healthcare services. Marginalized communities, including low-income populations and refugees, faced greater challenges in accessing medical care and information. This highlighted the need for a more equitable healthcare system.

In summary, recent developments in Egypt have highlighted both progress and challenges in enforcing the right to health. While legal recognition of the right to health has advanced, issues such as healthcare worker protests, disparities in access, and the impact of the COVID-19 pandemic underscore the ongoing need for reforms and improved healthcare services in the country.

## 3. **The RTH in Practice: State's Efforts**

It could be argued that the Egypt exerted some efforts to digest the changes to the RTH and seeks to fulfill its constitutional obligations. However, these efforts are just the beginning of a long journey and it is too early to assess how successful these efforts are.

Despite the constitutional acknowledgement of the RTH, the realities of the health care system in Egypt have generally remained the same, without any noticeable fundamental changes, despite the many attempts by the government to improve the health and medical care system. Perhaps the most prominent of these attempts was a medical insurance law issued in 2018. This law restructured the medical insurance system to improve the health care system in Egypt over extended and successive periods of time.

The incompetence of the medical care system was evident during the Covid-19 pandemic, which impactfully drew attention to the need to improve conditions within the medical system.<sup>41</sup> However,

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<sup>41</sup> Nora Salem, 'COVID-19 related states' obligations under international human rights law: an assessment of Egypt's COVID-19 response through a gender lens', *Australian Journal of Human Rights*, (2021) 27:2, 232-248, DOI: 10.1080/1323238X.2021.2003565; Yai-Ellen Gaye, Christopher Agbajogu and Reida El Oakley, 'COVID-19 on the Nile: Review on the Management and Outcomes of the COVID-19 Pandemic in Egypt from February to August 2020', *International Journal of Environmental Research and Public Health* 18 (2021): 1588.

it must be remembered that the pandemic had dire effects on the global economy, especially in developing countries. The economic crisis is one of the most prominent arguments invoked by developing countries when faced with demands for activating constitutional texts that enshrine the state's obligations in the medical field.

At this point, many concerns related to the effectiveness of the constitutional texts that guarantee the RTH arise. It is questionable if these texts are able to achieve the goals for which they were enacted. Questions arise about the extent to which the Egyptian state could fulfill its constitutional obligations related to the RTH and health care, especially considering the texts of the 2014 Constitution. These texts clearly obligate the state to allocate a certain percentage of the national spending to improve the health system and provide comprehensive medical insurance for all citizens.

The task of implementing the obligations contained in the Constitution falls primarily on two authorities: the legislative and executive. The former is tasked with putting constitutional texts into practice through legislative systems. The executive branch implements these legislations through regulatory tools and assumes the management of public utilities responsible for providing health care.

In the Article 18, the constitutional legislator identified many of the obligations that the Egyptian state bears to activate the RTH and the right to integrated health care. Enforcing these obligations falls to the executive and legislative branches. However, if these authorities do not fulfill their obligations, there is the question: what the judiciary can do to compel the political authorities to fulfill their legally mandated responsibilities?

### 3.1 *The Legislative Efforts to digest the new concept of RTH*

Perhaps one of the most prominent commitments included in Article 18 of the constitutional text is the state's commitment to create an all-encompassing health insurance scheme that provides coverage for all ailments to every Egyptian and the law regulates citizens' contributions to or exemption from subscriptions according to their income rates." Thus, the constitutional legislator established a new health insurance system that resolves the disadvantages of the previous system.

The legal administration of the health care system in Egypt oversees multiple governmental health insurance systems, each of which is governed by a special law,<sup>42</sup> and each of which is based on financial contributions. For citizens unable to pay, the state covers the expense of treatment.

The reality of the health care system in Egypt clearly reveals that the current health insurance system is inefficient and ineffective, which had dire repercussions on the health of Egyptians.<sup>43</sup> Studies and reports on the effectiveness of the health insurance system indicate that the percentage of the population benefiting from health insurance does not exceed 8%. The deteriorating state of the health care system has led most Egyptians to resort to private medical care services outside the health insurance system. Studies indicate that the rate of spending on health by citizens exceeds 70% of the average income. If we consider the increasing percentage of the poor in Egypt, the dark face of the health insurance system in Egypt becomes clear.

In the aftermath of the 2011 revolution a committee was formed to study the defects of the Egyptian health insurance system, and to propose a new system that resolves the shortcomings of

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<sup>42</sup>1. Presidential Decree No. 1209 of 1964 established the General Authority for Health Insurance and its branches for employees of government and local authority bodies. 2. Social Insurance Law No. 79 of 1975, with its successive amendments. 3. Law No. 99 of 1992 regarding the health insurance system for students. 4. Law No. 23 of 2012 regarding the health insurance system for women with spouses. 5. Law No. 86 of 2012 regarding the health insurance system for children under school age. 6. Law No. 127 of 2014 regarding the health insurance system for farmers and agricultural workers.

<sup>43</sup>Dina, *supra* note 18, p. 207.

that system, be that the lack of coverage for most citizens, or the poor medical service provided to patients.<sup>44</sup> This committee was composed of representatives of civil society, human rights organizations, and political parties. This committee created many proposals, perhaps the most prominent of which is the separation between the agencies in charge of managing the health insurance system and the agencies that provide medical care to insurance patients, the need to improve the efficiency of public medical services, the involvement of private hospitals in providing services due to the inability of government hospitals to absorb the large number of patients, and the need for effective oversight of the organizations that provide medical care, whether public or private, which necessitates the need to define standards to which these bodies must adhere.

To codify the state's obligations imposed by the text of Article 18 of the 2014 Constitution, on January 11, 2018, the Law on Comprehensive Health Insurance Scheme, No. 2 of 2018 was issued. This law is primarily meant to structurally reform the health care system. The idea is to gradually replace the old, rickety system with the new system.<sup>45</sup>

Article 2 of this law stipulates: "Except for public health services, preventive services, ambulatory services, family planning services, health services that cover quarts of all kinds and epidemics, and similar services that all state agencies are obligated to provide free of charge, the provision of this law applies to insurance health services and work-related injuries."

The new comprehensive health insurance system aims to improve health care and reduce private spending on health, including reducing the risk of not being able to obtain adequate health care due to lack of personal funds. The new system is comprehensive for all Egyptians residing in Egypt and covers all diseases. It is based on the separation between the system of financial contributions, which are determined according to the financial ability of the patient, and the medical care system, which is uniform for the insured.<sup>46</sup>

The new law established three agencies to manage the health insurance system: the General Authority for Comprehensive Health Insurance, which is a public economic agency affiliated to the Prime Minister, and its mission is to manage and finance the health care system, the General Authority for Health Care, which is under the general supervision of the Minister of Health and handles the management of contracts to perform Therapeutic services, and the General Authority for Health Accreditation and Control, which is affiliated with the President of the Republic. Its mission lies in ensuring the quality of health care, continuous improvement thereof, and the regulation of health services. All of these are public agencies that enjoy legal protection, and are funded through public resources.

The new system separated the bodies responsible for regulating health insurance from those entrusted with providing the service. Health care is now provided through contracting hospitals, either public or private. Conscious of the legislature regarding the deteriorating condition of government hospitals, Article 3 of the articles of issuance of the law stipulates that the state is committed to gradually improving the quality and efficiency of its health facilities, before implementing the system to obtain the necessary accreditation. In fact, the deteriorating state of public hospitals raises fears of unfair competition between the dilapidated public sector and the private sector, and the exclusion of government hospitals if the state does not commit to improving efficiency. This would make the private sector the sole provider of health care, which would deprive the health insurance system of its social nature.

The legislator has identified multiple and various sources of funding for the new system, the

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<sup>44</sup> Ibid, p. 200.

<sup>45</sup> Ahmed Yehia Khalifa et al., 'Purchasing Health Services under the Egypt's New Universal Health Insurance Law: What Are the Implications for Universal Health Coverage?', *The International Journal of Health Planning and Management* 37 (2021): 619-631. <<https://onlinelibrary.wiley.com/doi/10.1002/hpm.3354>> accessed 21 February 2023.

<sup>46</sup> Ibid.

most prominent of which are: contributions from the insured, the shares of business owners, shares of the public treasury paid on behalf of the incapacitated, taxes and fees imposed on smoking, a percentage of road traffic tolls, express fees, special fees imposed when issuing or renewing driving licenses, and fees for issuing licenses for hospitals and medical centers.

Contributions from the insured are calculated on the basis of 1% of the monthly wage for the insured, and 2% for the pensioners, in addition to 3% of the wage for the non-working wife, and 1% for each of the minor children. This insurance covers 90% of the cost of the medical service and treatment. The insured pays 10%.

Despite the previous positive elements, there are many criticisms directed at this law,<sup>47</sup> the most prominent of which is the vagueness regarding the time frame for the law's enforcement throughout Egypt. The law refers to the executive regulations when it comes to determining the timeline for its implementation. According to the timeline, the implementation of this system will be in six successive stages over a period of fifteen years. Meanwhile, the previous insurance system, which is full of defects, will continue to be applied. The legislator did not set transitional solutions for the geographical areas awaiting the implementation of the new law.

### 3.2 *The Executive Branch's Efforts to digest the new concept of RTH*

The executive branch bears the greatest responsibility for implementing the obligations derived from the RTH and integrated health care stipulated in Article 18 of the 2014 Constitution. The executive branch is responsible for managing public health services. It is also, by virtue of the powers granted to it and the resources at its disposal, the most capable of achieving structural reforms in health care. There are a number of health care reform initiatives led by the Presidency in Egypt,<sup>48</sup> notably the 100 Million Health Campaign launched to eradicate Hepatitis C in October 2018,<sup>49</sup> another initiative for early detection of tumors in women, and the maternal and fetal health initiative.<sup>50</sup> There is also the role of the state in organizing campaigns to end or shorten waiting lists for patients who need surgery.

Despite the remarkable successes achieved by these initiatives, there are few ambitious plans aimed at achieving structural reforms in medical public services, either through material means, or human resources. In terms of material means, the Constitution obligated the state to maintain and support public health services and improve its efficiency and fair geographical spread. However, the government did not take the initiative to announce plans and programs to meet this commitment.

One of the most important obligations that the constitutional legislator placed upon the state is to raise financial allocations for the health sector to at least 3% of the gross national product, with gradual increases in spending until it is in line with international rates. Until now, the percentage allocated to health care was very low compared to international rates. It did not exceed, at most, 5% of the gross national product. Perhaps the main reason for the increase in allocations for the health sector in recent budgets is due to the expenditures of the presidential initiatives. The Constitution places an obligation on the state to improve the conditions of medical personnel. Thus far no plans or programs have been announced aimed at improving the efficiency of human resources based on the application of this law, whether doctors or nursing staff, or even improving their professional

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<sup>47</sup> Ghanayem, *supra* note 18, p.66.

<sup>48</sup> Ghanayem, *Ibid*, p. 47.

<sup>49</sup> The rates of infection with Hepatitis C in Egypt were among the highest rates in the world.

Ahmed Hassanin et al., 'Egypt's Ambitious Strategy to Eliminate Hepatitis c Virus: A Case Study' (2021) <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8087425/>> accessed 21 February 2023.

<sup>50</sup> Youstri Rostom et al., 'Presentation and Management of Female Breast Cancer in Egypt', *Eastern Mediterranean Health Journal* 28 (2022), 725 <<https://www.emro.who.int/in-press/research/presentation-and-management-of-female-breast-cancer-in-egypt-an-implementation-study.html>> accessed 21 February 2023.

conditions. As a result, the phenomenon of medical staff migrating from Egypt has increased so much that it has become one of the most prominent problems facing the medical sector.<sup>51</sup>

At the same time, it seems that the government is keeping a close eye on the private sector's involvement in the health care services. The Egyptian Competition Authority (ECA) listed the healthcare sector as a prioritized area for oversight, with the Ministry of Health assuming authority to authorize mergers and acquisitions within this field, following consultation with the ECA for input on the proposed transactions. "In one case, for example, the ECA's raised concerns regarding proposed Cleopatra Group's acquisition of Alameda Healthcare Group due to indications of negative impact on the healthcare sector in Egypt and it is not clear whether the deal was abandoned by the parties for this reason or not."<sup>52</sup>

### 3.3 *The Judicial Efforts to digest the new concept of RTH*

The Judiciary plays a critical role in putting the RTH in action.<sup>53</sup> This is not limited to the case of Egypt but applies equally in many states.<sup>54</sup> Before studying the role of the Egyptian judiciary in supervising the constitutional obligations stemming from the RTH and health care, two observations related to the formation of the judicial system in Egypt<sup>55</sup> must be made. The first is that Egypt has a Constitutional Court that was established according to the European model to exercise control over the constitutionality of laws.<sup>56</sup> This Court supervises the compatibility of the laws issued by Parliament, as well as the regulations issued by the executive branch with the provisions of the Constitution.<sup>57</sup> If the Constitutional Court concludes that a law is unconstitutional, it ceases to be enforceable in the legal system. The second observation is that Egypt is one of the first countries in the Arab region to establish specialized administrative courts that oversee the legality of actions issued by the administrative entities of the state, like the model of the French Council of State.<sup>58</sup>

When addressing the role that the judiciary can play to enforce the obligations necessary to ensure basic rights and freedoms, the RTH and medical care appears as a prominent area of strategic litigation. The goal of strategic litigation is to cause important social effects, especially in the face of laws, decisions, and government policies that threaten constitutional rights.<sup>59</sup>

#### 3.3.1 *The Administrative Courts*

The Egyptian administrative courts play an important role in protecting the rights of individuals in general, and the RTH in particular. This role can be highlighted through two observations. The first is that the Egyptian administrative courts assert the RTH is fundamental and enshrined in the Egyptian legal system. This is true even though the Egyptian 1971 Constitution did not explicitly provide for

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<sup>51</sup> Dina, *supra* note 18, p. 208; Ghanayem, *Ibid*, p. 54.

<sup>52</sup> Moatasem El-Gheriani and Adham Hashish, 'Egypt Amends its Competition Law to Establish a Pre-Merger Control System', *Journal of European Competition Law & Practice*, 14(2), 106-112 (2023). DOI: 10.1093/jeclap/lpado14

<sup>53</sup> Colleen M. Flood, Lance Gable, and Lawrence O. Gostin. 'Legislating and litigating health care rights around the world.' *Journal of Law, Medicine & Ethics* 33.4 (2005): 636-640.

<sup>54</sup> André, *supra* note 1, p. 63.

<sup>55</sup> Baudouin Dupret and Nathalie Bernard-Maugiron, 'Egypt and Its Laws: A General Presentation of Law and Judicial Bodies' (2020) <<https://hal.science/hal-02614267/document>> accessed 21 February 2023.

<sup>56</sup> Initially, the Supreme Court was established by Decree Law No. 81\1969. Then, the 1971 Constitution established the Supreme Constitutional Court as an alternative to the Supreme Court.

<sup>57</sup> Ayman Mohamed. *Le contrôle de constitutionnalité des lois en France et en Egypte*. Droit. Université de Bordeaux, 2015. Français. ffnNT : 2015BORD0048ff. fftel-01577801

<sup>58</sup> The Egyptian State Council was established by Law No. 112 of 1946, issued on August 15, 1946.

<sup>59</sup> Mishaal, *supra* note 7, 2819.; Ghanayem, *supra* note 18, p. 90.



this right. The administrative courts based this conclusion on Egypt's accession to many international covenants that recognized the RTH. The second observation is that the Egyptian administrative courts can invoke the RTH and the state's guarantee of the right to medical care in lawsuits filed by individuals to annul or mitigate administrative decisions that violate this right.

There is a famous case filed by several civil society organizations against an administrative decision issued by the Prime Minister, bearing No. 637 of 2007, which includes the transformation of the General Authority for Health Insurance into a holding company called the Holding Company for Health Care.<sup>60</sup> The ruling was issued by the administrative court in 2008, which stopped the decision's implementation. The constitutional legislator provided for, in the 1971 constitution, the state's guarantee of health insurance. The court interpreted that as an obligation of the state to provide health insurance through public entities. It was thus impermissible to convert these public entities into private companies, even if they are owned by the state. This step reflected a shift in the state's policies.

It seems that the previous judicial approach was reflected in the 2014 Constitution, which made the state responsible for conditions in the health care field and improved the efficiency of the health system.

A famous ruling issued by the Egyptian State Council under the 2014 Constitution was provided by the Supreme Administrative Court on February 21, 2014, which affirmed the state's obligations regarding the RTH and integrated health care. The state was to provide health care to all citizens, whether insured or uninsured, and whether the treatment is performed inside or outside the country. There is no maximum financial limit if the treatment is necessary and effective. The court affirmed that: "The state should not set a maximum limit for the expenses it is committed to in treating citizens, because this violates their constitutional right, and it may lead to endangering their lives, if these amounts are not sufficient for their treatment, especially in cases of which the costs of treatment exceed their financial capabilities, it is not permissible to use this as a pretext for lack of resources."<sup>61</sup>

In another ruling, the Supreme Administrative Court affirmed that: "The state's constitutional and legal obligation to guarantee treatment services is consistent with two other equally important principles: the first of them is the quality of treatment, which means confronting diseases with the best therapeutic means through examinations, diagnosis, medication, surgeries, etc., and the second is responsiveness, as slowness in treatment represents negligence that contradicts the nature of health care... These three principles form the framework of the integrated treatment system, branching out from the RTH, which the constitutional legislator has abolished... and that health care must be provided accordingly the principles of equality and non-discrimination between citizens, which are stipulated in the constitution."<sup>62</sup>

In the field of health insurance services in particular, the administrative courts spread across the governorates of Egypt play an important role in activating the constitutional obligations stemming from the RTH, if the administrative authorities fail to fulfill these obligations. And whether this failure took the form of an outright refusal to bear the costs of treating some patients under the pretext of high treatment costs<sup>63</sup> or even the slowness in providing treatment services for reasons stemming from the length of procedures and administrative complications.<sup>64</sup>

One of the important judicial rulings in this regard, the Judgment of the Administrative Court,

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<sup>60</sup> Ibid.

<sup>61</sup> Supreme Administrative Court, June 28, 2014, No. 23512 for 59, (Publication in the technical office group of the Supreme Administrative Court in Year 59, Principal No. 89).

<sup>62</sup> Supreme Administrative Court, February 21, 2016, No. 12195 and 12645 for 61, (Publication in the technical office group of the Supreme Administrative Court in Year 61, principal No 52).

<sup>63</sup> Administrative Court, March 17, 2021, No. 16741 of 60, 7<sup>th</sup> vol. Principal No. 5656

<sup>64</sup> Administrative Court, January 24, 2022, No. 8245 of 76, 5<sup>th</sup> vol. Principal No. 4560.



dated December 8, 2021, No. 7162 of 75. This important judicial ruling included obligating the Ministry of Health and Health Insurance to include Duchenne muscular dystrophy, as well as treatment with the drug Atalarin, "Translarna", in the ministry and insurance protocol, as the disease is not included in the protocol, in violation of the law and Article 18 of the 2014 constitution that enshrines the right to the health.<sup>65</sup>

### 3.3.2 *The Supreme Constitutional Court of Egypt*

The Supreme Constitutional Court accepted the invocation of the 2014 constitutional provisions that enshrined the RTH in lawsuits filed by individuals against legislation issued by Parliament and regulations issued by the executive authority.

There was a recent ruling on the unconstitutionality of the first and second paragraphs of Article 12 of the law regulating the affairs of medical professionals working in organizations affiliated with the Ministry of Health and Population who are not addressed by special laws or regulations issued by the Presidential Decree by Law No. 14 of 2014.

In this ruling, the Constitutional Court relied on Article 18 of the Constitution, in addition to other constitutional texts. In this regard, it ruled that "Article 18 of the Constitution stipulates that, 'The state is committed to improving the conditions of doctors, nursing staff, and workers in the health sector.' The constitutional legislator was concerned with ensuring the provision of health care for every citizen, in accordance with quality standards, considering it the backbone of a decent life. Therefore, it is a right for every citizen, which requires the state's commitment to allocate a percentage of government spending on health that is not less than 3% of the gross national product, gradually rising until it is in line with international rates. To ensure the achievement of this goal, by making it an obligation on the state to improve the conditions of all workers in the health sector, intending by that to provide the basic pillars for achieving this goal. Thus, improving their conditions has become one of the obligations of the state that the Constitution entrusted to the legislator and all state agencies, each within the limits of his competence."<sup>66</sup>

It must be pointed out that the Constitutional Court can play a very important role in forcing the political authorities to fulfill their obligations related to the RTH and integrated health care. However, the oversight mechanisms over the constitutionality of laws in Egypt may present an obstacle to the Court's comprehensive and effective monitoring of the legislative and executive authorities regarding the obligations provided by constitutional texts related to the RTH and medical care. This is because the Egyptian legal system relies on a single process for monitoring the constitutionality of laws, which is the subsequent control mechanism that allows individuals to uphold only their own rights. While this oversight can play an important role in encouraging the state to fulfill its obligations of an institutional nature, such as the commitment to allocate a certain percentage of the general budget to improve the health care system, and the commitment to implement plans and programs to improve the efficiency of medical facilities, supporting them, and achieving an equitable geographical reach. It is worth noting that the French Council of State regarding oversight over the constitutionality of laws shows that the Court can exercise control over the political authorities to force them to fulfill the institutional obligations stipulated in the Constitution. It can do so by monitoring the general budget law, which includes the financial allocations that allows the government to implement its programs.<sup>67</sup>

In addition to the above, there are several factors that limit the role the courts can play in

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<sup>65</sup> Administrative Court, December 8, 2021, No. 7162 of 75, 7th vol, Principal No. 5657.

<sup>66</sup> Supreme Constitutional Court, January 4, 2020, No. 126 of 38 BC, "Constitutional," session, published in the Official Gazette.

<sup>67</sup> Christian Byk, 'La Place Du Droit À La Protection de La Santé Au Regard Du Droit Constitutionnel Français', *Revue Générale De Droit* 31 (2014), 327.

enforcing constitutional obligations. If these factors are at play, the constitutional and administrative courts have a very important role in assisting individuals in protecting their rights to health and integrated health care.

#### 4. Conclusion

The social and political changes Egypt witnessed since the 2011 Revolution have shifted the contours of RTH and health care in the constitutional discourse. As a result, the Egyptian legal system, for the first time, recognized the RTH in its broad meaning and abandoned the narrow scope of health care Egypt used to recognize before 2011. Even more, specific constitutional obligations to be fulfilled by the state were listed in the 2014 Constitution. Though the article addressed the government major efforts to cope with the new paradigm of RTH, the manner in which this unfolds is yet to be observed to see how the government is going to actually fulfill these obligations which could be the subject of further research in the future.

While Egypt's legal framework acknowledges the right to health in a comprehensive manner and outlines specific constitutional duties for the state, there remain obstacles in effectively implementing these responsibilities and ensuring equitable access to high-quality healthcare for all citizens.

One potential avenue to tackle these challenges involves reforming the healthcare system. This could encompass augmenting healthcare funding, enhancing working conditions and remuneration for healthcare professionals, and making investments in medical resources and equipment. Special attention should be given to rectifying disparities in healthcare access, particularly among marginalized communities.

Another potential approach revolves around legal recourse. As highlighted in the PDF document, if the executive and legislative branches fail to fulfill their obligations pertaining to the right to health, there arises a question regarding the judiciary's capacity to compel political authorities to carry out their legally mandated duties. This might entail initiating legal actions or filing petitions to hold the government accountable for its commitments related to the right to health.

In conclusion, addressing the complexities associated with the right to health in Egypt necessitates a multifaceted strategy that encompasses healthcare system reforms, legal interventions, and endeavors to rectify disparities in healthcare access.

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