

## INTRODUCTION

The Judiciary is one of the three powers in the State. Egypt's permanent constitution promulgated in 1971 has established the principle of the independence of the judiciary. Article (65) of the Constitution provides that "the State is governed by the rule of law. The independence and immunity of the judiciary are main safeguards for the protection of rights and freedoms.

The judiciary is independent and exercises its power through the courts of different kinds and classes. The courts issue their judgments in accordance with the law (Article 165 of the Constitution).

The judges are independent and are accountable only to the law. No authority may interfere in the lawsuits or in justice affairs (Article 166 of the Constitution).

The law defines the responsibilities of the judicial authorities and regulates their formation and procedures for appointment and transfer of the judiciary members. A judge may not be removed from his office. The law regulates the discipline of judges (Articles 167 and 168 of the Constitution).

The principle of the independence of the Judiciary from the Executive is also decided in the Judicature Act. Article 77, bis, paragraph 2 of the Judicature Act provides that the Supreme Judicial Council has jurisdiction to decide on all affairs related to the appointment, transfer, delegation, and secondment of the judiciary members. A judge may not be removed from his office (Article 168 of the constitution and Article 67 of the Judicature Act). The law also criminalizes every act committed by an official who mingles with a judge or a court in favor of or against a litigant by giving an order or making a request or begging or making a recommendation (Article 120 of the Penal Code).

### **Criminal justice structure in Egypt**

Criminal courts in Egypt are a part of the ordinary courts and have jurisdiction to hear criminal cases.

Judges are the main element in forming the criminal courts but they are not the only element. The formation of a criminal court is valid only if the public prosecution (or *niaba*) is represented in that court.

#### 1. Judges

For a court to be validly formed, it must comprise the number of judges provided in law. Each judge must have jurisdiction to decide on cases in that court. There must be no reason barring the judge from hearing the case. In respect of the number of judges, the law determines the number of judges in each criminal court. The court for misdemeanors and infractions sits as one judge. The court for appealed misdemeanors and infractions has a presiding judge and two other judges. The court for felonies sits as three counselors. The court of cassation has five counselors. To have the competence to decide cases, a person must be appointed as judge, be attached to a certain court of law, and swear the legal oath. Appointment is made by decree of the President of the Republic with the approval, or after consulting, the Supreme Judicial Council. Attachment to a certain court is made by the same instrument.

## 2. Niaba

The meeting of the criminal court is valid only if *niaba* is represented in that meeting. Article 269 of the Criminal Procedure Code provides that “a member of the *niaba* must attend the criminal court sessions. The court shall hear the statement of the *niaba*’s member and shall decide on his demands.”

## 3. Court’s clerk

The court’s session is valid only if attended by a secretary whose function is to record the minutes of the session and enter into it the procedures that have been taken. The secretary and the judge must sign the minutes.

Criminal courts have several levels:

1. Summary (or *Juz’eya*) court.
2. Court of appealed misdemeanors and infractions.
3. Court of felonies.
4. At the peak of the criminal courts stands the court of cassation.

The ordinary criminal courts are a part of these courts. However, the Egyptian court system also includes specialized criminal courts and special criminal courts. Chief amongst the special criminal courts are the State’s security courts “emergency”.

## **I. Ordinary criminal courts**

### 1. Summary ( or *juz’eya*) courts

The summary court has one judge from the court of first instance. The court rules on every act that is deemed in law an infraction or a misdemeanor except for misdemeanors committed by the newspapers or other methods of publishing against a public servant or a person with a public representative character or assigned for a public service. The criminal court has jurisdiction to decide on these exceptional cases.

### 2. Court of appealed misdemeanors

The court of appealed misdemeanors is a court a court of first instance. It has a presiding judge and two other judges. It has jurisdiction to hear appeals filed against the judgments issued from the summary court.

### 3. Court of felonies

Sitting as 3 counselors, the court of felonies decides on every act which is in deemed in law a felony. In addition, the court hears misdemeanors committed by the newspapers or other methods of publishing against a public servant or a person with a public representative character or assigned for a public service.

### 4. Court of cassation

The court of cassation sits as five counselors. Final judgments issued by a court of the last degree on matters of felonies and misdemeanors may be challenged by way of cassation if the judgment breaches the law or is based on error in its application or construction or if the judgment is vitiated by invalidity in the judgment itself or in the procedures. A plea for review of the judgment may also be made before the court of cassation in final judgments imposing penalties on matters of felonies and misdemeanors as provided in law. It is worth noting, however, that the

court of cassation is not a degree of ordinary litigation which re-hears the case. A challenge by cassation is intended to safeguard against breaches of law or committing errors in applying the law. Thus, the purpose of the court of cassation is to put the law into force, apply its rules, and standardize the court judgments.

## **II. Courts of juveniles**

The court of juveniles sits as three judges. Two specialists assist the court; one of them at least is a woman. The presence of these specialists at the trial procedures is mandatory. Judgments issued by the court of juveniles may be appealed before a court of appeal sitting as 3 judges at every court of first instance. Two of these judges at least have the degree of court president. The court of juveniles have jurisdiction to hear cases related to children where a child is charged in connection with a crime or becomes deviant.

## **III. Courts of State's security "emergency"**

These courts are formed on a temporary basis and exercises its functions only when the emergency state is announced in the country. The courts of State's security "emergency", with its two tiers (summary and high courts) decides crimes committed in violation of the provisions of the orders issued by the President of the Republic or whoever acts as President when the state of emergency is announced in the country in accordance with Act 162/1958.

Each summary State's security court "emergency" at the court of first instance sits as one judge. The court has jurisdiction to decide crimes punishable by imprisonment and/or fine. Each State's security court "emergency" at the court of appeal sits as 3 counselors. The court has jurisdiction to decide crimes punishable by a felony penalty and such crimes as may be appointed b the President of the Republic or whoever acts as President no matter what the penalty decided for this crime may be.

There is one level of litigation at these courts. A judgment issued by these courts is final only after it is approved by the President of the Republic.

## **OVERVIEW OF THE NIABA'S FUNCTIONS**

*Niaba* is a branch of the Judicial. It represents the community and the public interests and seeks to achieve the law provisions. The Judicature Act 46/1972, as amended, addressed the affairs of the *niaba's* members in the same way as the judges' members and standardized the conditions for the appointment of both of them. It also addresses the questions related to their degrees, how their seniority is estimated, and how their salaries are determined. According to this Act, the *niaba's* members are punishable before the same disciplinary board who punishes the judges. The board even imposes the same penalties for both judges and *niaba's* members. Before the Disciplinary Board, the same rules and procedures are followed for the trial of both categories.

The *niaba's* affiliation to the judiciary is also stressed in Act 35/1984 amending certain provisions of the Judicature Act. According to this Act, the *niaba's* members may not be removed from their office. Commenting on this point, the Explanatory Note of this Act says "*Niaba* is an intrinsic branch of the judiciary. It assumes judicial functions in the criminal cases and contributes to establishing justice. Therefore, it is necessary to confer upon its members judicial immunity."

*Niaba* also has exclusive jurisdiction to initiate the criminal case by conducting investigation by itself. It can conduct investigation through law enforcement officers, by ordering the delegation of a judge for investigation, or by

instructing the accused to appear before the competent criminal court to stand trial. *Niaba* follows-up the criminal case before the courts until a final judgment is issued. At the court of cassation, there is an independent *niaba* which is formed in accordance with the provisions of the Judicature Act. This *niaba* may, upon the request of the court, attend the deliberations of the civil, commercial, and personal status courts but it will not have a counted vote in the deliberations. In addition to the foregoing, *niaba* assumes other responsibilities provided in laws or required by its administrative function. Chief amongst these functions are the following:

1. Supervise the prisons and other places where the criminal judgments are executed or prisoners are detained. The *niaba's* members visit prisons and such places, review their records, and contact any detained person.
2. Supervise the activities related to the courts' money.
3. Supervise the collection, keeping, and payment of fines and other types of fees decided in laws on criminal, civil, and personal status matters as well as bailments and deposits. The *niaba* is subordinated in this activity to the control of the Ministry of Justice.
4. Permit the governmental officials to visit the prisoners in prisons.
5. File civil actions in the cases provided in law. It also exercises mandatory or discretionary intervention in the cases provided in Article 88, 89, and 90 of the Penal Code.
6. Request that a merchant be adjudicated bankrupt.
7. Execute enforceable judgments in criminal cases.
8. take care for the interests of those who are partially or completely legally disabled and the absentees; take custody of their properties and supervise their management in accordance with the provisions of the law.
9. Issue criminal orders on infractions and on misdemeanor matters not punishable in law by imprisonment or fine of a minimum of more than 500 pounds in addition to the supplementary penalties, the refundable payments and the court's cost.
10. Issue interim decisions on the criminal or civil actions related to possession disputes and on disputes related to the possession of the matrimonial dwelling pursuant to the provisions of Act 100/1985 amending some provisions of the personal status acts.
11. Attend the general meetings of the courts; express opinion on the questions related to *niaba's* activities; and request that the general meeting of any court be convened.
12. File disciplinary actions against judges and *niaba's* members and prosecute these actions before the disciplinary boards; make remarks when considering a request for forced retirement or transfer of a judge to another job in case of disqualification of the judge.
13. Submit the cases in which capital punishment has been imposed to the court of cassation with memorandums of the *niaba's* opinion on these judgments.

#### **- National laws and regional and international conventions on *niaba's* activity**

→ The Constitution.

- Judicature Act
- Criminal Procedure Code
- Penal Code and special criminal acts
- Civil and commercial procedure code
- Child act
- Act regulating litigation on matters of personal status
- The international treaties and conventions to which Egypt has joined and ratified concerning extradition of criminals, transfer of convicts, and international judicial cooperation.

## CHAPTER (1) LEGAL STRUCTURE OF NIABA

### HIERARCHY AND AFFILIATION

The *niaba's* functions at the courts, except the court of cassation, are exercised by the Public Prosecutor, an assistant public prosecutor, senior general attorneys, general attorneys, chief prosecutors, prosecutors, *niaba* assistant (*musa'ed niaba*), and *niaba* officer (*me'awin niaba*).

The most senior assistant public prosecutor acts as Public Prosecutor and has all the Public Prosecutor's authorities in case that he is absent, his post falls vacant, or an impediment bars him for assuming his duties.

The functions of *niaba* at the court of cassation are performed by an independent *niaba* consisting of a director selected from the counselors of the court of cassation or the court of appeal or the general attorneys at least. The *niaba's* director is assisted by a sufficient number of prosecutors (A class) at least.

The functional hierarchy of the *niaba's* members from the highest rank to the lowest rank is as follows:

1. Public prosecutor.
2. Assistant public prosecutor.
3. Senior general attorney
4. General attorney
5. Chief prosecutor (A)
6. Chief prosecutor (B)
7. Prosecutor (*wakeel niaba*), class (A)
8. Prosecutor (*wakeel niaba*)
9. *Niaba* assistant (*musa'ed niaba*)
10. *Niaba* officer (*me'awin niaba*)

### **- Procedures and criteria for appointment, promotion, discharge, delegation, privileges, and immunity**

For a person to be appointed *niaba* assistant, he must meet the following conditions:

1. He must have the nationality of the Arab Republic of Egypt.
2. His age must be not less than 21 years old..
3. He must have obtained an LL.B. degree from a faculty of law in an Egyptian university or an equivalent foreign degree but in the latter case he must successfully pass the equalization test in accordance with the relevant laws and regulations.
4. He must not have been convicted by a court of law or a disciplinary board for an anti-honor offense even if he has been rehabilitated.
5. He must have good manners and reputation.

For a person to be appointed *niaba* officer (*me'awin niaba*), he must meet the above conditions and his age must be not less than 19 years old.

A person, who has not served as *niaba* officer, may be directly appointed as *niaba* assistant only after he passes an examination whose conditions and

procedures are determined by decision of the Minister of Justice with the approval of the Supreme Judicial Council. But, he must have been registered in the list of lawyers licensed to practice before the courts of first instance or, if he is not a lawyer, he must have served for two successive years in the legal profession.

If the person, who has passed the examination, is a member of a governmental legal department or a public organization or corporation or an economic unit thereof, his financial degree is transferred upon appointment from the budget of the body for which he has served to the budget of the Ministry of Justice.

Appointment in the job of Deputy Public Prosecutor and other jobs from *niaba's members* is made by promotion from the directly previous degree or from among the judiciary members. But, there may be directly appointed as Deputy Public Prosecutor, the technical officials at the Government's Lawsuits Service, their counterparts at the State's Council and administrative *niaba*, and assistant lecturers at the law departments in the Egyptian universities if any of them has served in his job or workplace for 3 years at least and hold a degree similar to that of the Deputy Public Prosecutor or receive a salary within the scale of this degree. As for lawyers practicing before the courts of first instance, they must have served for one year at least.

There may be directly appointed as Deputy Public Prosecutor (class A) or chief prosecutor (classes A and B) a person who meet the conditions required by law in those who are appointed judges or courts chairpersons.

The percentage of lawyers practicing the law profession may not be less than 25% of those who serve as Deputy Public Prosecutor or in jobs of lower degrees.

The Public Prosecutor is appointed by decree of the President of the Republic from among the deputy chairperson of the courts of appeal or the counselors of the court of cassation or the senior attorneys general at least.

The Public Prosecutor may request to return to service at the courts. In that case, his seniority among his colleagues is determined in light of his degree at the time when he was appointed Public Prosecutor but he continues to retain his salary and allowances in his personal capacity.

Assistant Public Prosecutor, Senior General Attorney, and the other *niaba's members* are appointed by decree of the President of the Republic after consulting the Supreme Judicial Council if the appointment is not accompanied with promotion. Where the appointment is accompanied with promotion or where the person appointed is not a member of *niaba* or a judge, appointment must be approved by the Council.

A person appointed as General Attorney must meet the conditions of appointment as a counselor at the courts of appeal. The date of appointment or promotion is deemed the date when the approval of the Supreme Judicial Council is given.

Before practicing their jobs, *niaba's members* swear the oath provided in the law. The Public Prosecutor swears in before the President of the Republic. The other *niaba's members* swear in before the Minister of Justice in the presence of the Public Prosecutor.

### **Transfer and delegation**

Decisions on the distribution and transfer of *niaba's members* are made by the Minister of Justice upon the proposal of the Public Prosecutor after consulting the

Supreme Judicial Council. The Public Prosecutor has the right to transfer a *niaba's member* within the jurisdiction area of the *niaba* institution in which he is appointed. He also has the right to delegate *niaba's members* outside that jurisdiction area for no more than 6 months. IN addition, he may, when necessary, delegate a chief prosecutor to act as general attorney for the main *niaba* institution for no more than 4 months renewable for one time. In this case, the delegated chief prosecutor will have all the authorities conferred by law upon the general attorney. The general attorney has the right to delegate a member in his jurisdiction area to assume the activities of another member in that jurisdiction area when necessary.

## **Discipline**

*Niaba's members* are subordinated to their superiors and the Public Prosecutor. All of them are subordinated to the Minister of Justice. The Minister has the right to control and supervise *niaba's members*. The Public Prosecutor has the right to control and supervise all *niaba's members*. The general attorneys at the courts have the right to control and supervise *niaba's members* working in their courts.

It is worth noting that the Minister's authority does not affect the substance of the judicial activity and is limited to the management of *niaba's* activities without interfering into the substance of its judicial activity.

The Minister of Justice and the Public Prosecutor may verbally or in writing give a warning to the *niaba's* member who commit a simple breach of their duties after hearing his statement.

The *niaba's member* may object to the warning issued to him in writing within a week from the date he is notified of that warning. The member's objection must be submitted to the committee referred to under paragraph (2) of Article (6) of Act 82/1969 concerning the Supreme Judicial Council.

The committee may, after hearing the statement of the *niaba's member*, conduct investigation on the involved fact or delegate one of its members. The committee may uphold the warning or deem it non-existent and notify its decision to the Minister of Justice. The person who issued the challenged warning may not be a member in the committee and he is substituted by the next senior member.

In all cases, if the infraction is repeated or continued after the warning becomes final, a disciplinary action must be filed.

The authority for imposing disciplinary action against *niaba's members* is vested in a Disciplinary Board. The Disciplinary Board is formed as follows:

1. President of the Court of Cassation (Chairman)
2. The most senior chairpersons of the courts of appeal (members)
3. The most senior counselors at the court of cassation (members)

The disciplinary penalties imposed on the *niaba's members* are the same penalties imposed on judges; i.e. reprimand and removal from office.

The Public Prosecutor files the disciplinary case upon the request of the Minister of Justice.

The Minister and the Public Prosecutor may suspend from work. the member with whom an investigation is conducted pending deciding he disciplinary action.

There are followed before the Disciplinary Board the same rules and procedures decided for the trial of judges.

These provisions do not prejudice the right to discharge the *niaba* officer or transfer him to another non-judicial job by a non-disciplinary decision after the approval of the Supreme Judicial Council.

## **Immunity**

*Niaba* is not responsible for the result of the action it files. Where an accused is announced innocent, he may not make recourse against *niaba* for damages or court's cost. But, this does not prejudice his right to file an action for litigation against the *niaba's member* if he commits in his work cheat, fraud, deception, or a gross professional mistake.

The action for litigation is filed before the court of appeal to which the *niaba's member* is affiliated. If the court holds that the litigation is valid, it shall announce the nullity of the *niaba's member's* acts and awards the accused damages and the court's cost (Article 499 of the Civil and Commercial Procedure Code). The State is responsible for paying the damages and cost decided against the *niaba's member* and may have recourse against him, as a master is liable for the damage caused by an illegal act of his servant (Articles 174 and 175 of the Civil Code).

In cases other than apprehension red-handed, a *niaba's member* may be arrested and remanded only after obtaining permission from the Supreme Judicial Council. Where a *niaba's member* is apprehended red-handed, the Public Prosecutor shall, upon arresting and remanding him, report to the Supreme Judicial Council within the next following 24 hours. The Council may order that the *niaba's member* remain in jail or be released with or without bail. The imprisoned *niaba's member* may request to give his statement before the Council when the question is submitted to the Council.

The Council determines the imprisonment period in the decision ordering the member's imprisonment or continued imprisonment. The above-said procedures must be observed each time the member's remand is extended after the lapse of the period decided by the Council.

Apart from the foregoing, no investigation procedure may be taken with the *niaba's member* and no criminal action may be filed against him for a felony or a misdemeanor except with the permission of the Supreme Judicial Council and upon the request of the Public Prosecutor.

## **TERMS OF REFERENCE**

### **THE PUBLIC PROSECUTOR**

The *Public prosecutor* represents the society in pressing criminal charges against offenders and follows up their processing and handling until a final court ruling is issued. The *Public Prosecutor* enjoys a general authority over the persons in charge of investigation and accusation. In addition, his authority covers all the provinces of the Republic and all types of crimes that occur in them.

The President of the Republic appoints The *Public prosecutor* by issuing a presidential decree. The president selects The *Public prosecutor* from the deputy chief justices of the courts of appeal, or the counselors of the court of cassation, or

the first general attorneys at least. The *Public prosecutor* supervises the work (s) of the niaba and has a legal and administrative authority over its personnel/members.

The *Public prosecutor* is entitled to exclusively assume his official duties by himself and for himself in the areas of specialization, which have assigned for him. On the other hand, he may assign any members of the prosecution to assist him and oversee legal cases on his behalf. The *Public prosecutor* is also entitled to add new powers to the members of specialized prosecutions who are handling certain types of crimes.

The *Public prosecutor*, by himself or through his special authorization, is responsible for undertaking the following assignments:

1. Pressing criminal charges against employees, personnel or law officers, who are accused of committing misdemeanors that have occurred while performing their official duties, or because of them. However, The *Public prosecutor* can not press charges against the previously mentioned persons, who have been accused of committing crimes that are specified by Article No. 123 of the Penal Code. Only the Public Attorney or the Prosecution Chief is entitled to file charges pertaining to these specific crimes, which are mentioned by the above-mentioned article.
2. Pressing criminal charges against staff members accused of committing crimes, which have been mentioned in Article No. 116A of the Penal Code. These crimes pertain to negligence by a staff member which inflicts a grave damage on the funds or interests of the authority in which he works, or entrusted to take care of. The Public Attorney may press such charges.
3. Pressing criminal charges against members of the board, who are accused of deliberately causing damages to the public fund (s) through negligence, or neglecting to protect it. These members are in charge of companies, which are governed by Law No. 203 of 1991 that organized the Public Enterprises Sector. The Assistant Public Prosecutor or the First General Attorney of the appeal prosecution can do so.
4. Canceling an order that has been issued by the Niaba, this calls for dropping legal charges against a person within a three-month period from its issuance. The *Public prosecutor* is entitled to do so as long as the Criminal Court or the Misdemeanors Court has not issued a verdict refusing the appeal demanding this matter.
5. Demanding the reconsidering of final court rulings in compliance with Article No. 441 and whatever follows it in the criminal procedure court.
6. Appealing against the orders/decisions that have been issued by the inspection and investigation authorities in ill gotten gain cases, which call for dropping legal charges against the accused persons. He may invoke the procedures that are listed by Law No. 62 of 1975, which deals with crimes of ill-gotten gains.
7. Appealing against rulings that have been issued by summary court in legal cases dealing with misdemeanors and contravention within a period of 30 days after their issuance. He may register his decision in the official record book of the specialized court, which hears the case.
8. Repealing the final judgments that have been issued by whatever court in cases, which are listed in Article No. 250 of the pleadings law.

9. Taking the necessary measures that ensure completing investigations of a given case if, the detention period of an accused person exceeds 90 days.
10. Presenting an official request to the Higher Judiciary Counsel demanding the arrest and temporary detention of a judge or prosecution staff-member and take any measure for interrogating him, or pressing legal charges against him in case of committing a felony or a misdemeanor.
11. Presenting an official request to obtain permission from the formed disciplinary council for arresting any State Council member, whose rank is a deputy and above. The request calls for temporarily detaining council member, taking any measure for interrogating him as well as pressing legal charges against him in case of committing a felony or misdemeanor.
12. Pressing these charges should be based upon the request/demand of the chief justice of the court in which the accused judge works. In case of pressing charges against a prosecution staff member, the request/demand should come directly from the Minister of Justice.
13. Issuing a warrant for arresting any member of the state cases' body, or detaining him briefly, or pressing legal charges against him for committing a crime while attending a court session to perform his official duties or because of them. Any deputy or assistant to the *Public prosecutor* or first general attorneys of the appeal prosecution can take the previously mentioned steps.
14. Pressing legal charges against a lawyer, who causes disorder while attending a court session to perform his/her duties, or takes an action that requires questioning him legally. The first general attorney of the appeal prosecution can also take these actions against the lawyer found guilty of committing the above-mentioned charges.
15. Requesting the lifting of parliamentary immunity of members of the People's Assembly and Shurah Council (lower and upper houses of the Egyptian parliament) in compliance with Articles Nos. 99 and 205 of the Constitution.
16. Issuing an impromptu order that temporarily prohibits the accused person, his or minor children from using their money or administering/running it whenever it is necessary. This order should be referred to the specialized criminal court at the legally specified time to demand a ruling that prohibits the accused from using or administering his/her money while investigating and collecting enough evidence to substantiate criminal charges/accusations pertaining to public money embezzlement or aggression on it. The order also covers other crimes against state-owned funds, or crimes in which the court demands the defendant to return the funds, or value of items taken, or pay damages to the claimant agency.
17. Demanding the Cairo Court of Appeal to obtain any data or information about the defendant's bank accounts, deposits, safe boxes, and dealings. The demanded data/information are to be released within the conditions that have been allowed by the law. The *Public prosecutor* has the authority to assign one of the first general attorneys to obtain these data.
18. Ordering the direct taking of the steps, mentioned in paragraph No. 17, if they will reveal facts about one of the crimes that are listed in the first section of the second chapter of the second book of penal code (terrorism crimes). Under such circumstances, the *Public prosecutor* can authorize one of the general attorneys to take these steps. In addition, the first general attorney of the appeal prosecution assumes all the duties/tasks of the *Public prosecutor*,

which he is entitled to perform in compliance with the laws and job terms of reference, in his own area/precinct of influence.

In order to perform his judicial and administrative supervisory tasks over the niaba staff-members and the law officers, the *Public prosecutor* is authorized to do the following:

1. Transferring prosecutors to the precinct of the court, where they are assigned/employed.
2. Delegating prosecutors to other precinct of the court, where they are assigned/employed, for a period of time that should not exceed six months.
3. Delegating one of the chief prosecutors to assume the duties of the general attorney for a period of time that should not exceed four months. During this four-month term, which is renewable only once, the delegated chief prosecutor performs all the tasks of the general attorney as specified by the law.
4. Proposing the appointment of prosecutors and transferring them to precincts, where they should belong.
5. Notifying any prosecution member for any slight negligence of his duties after hearing his statement (s). This notification can be oral or written.
6. Upon the request of the Minister of Justice and the *Public prosecutor*, he can call for a disciplinary motion (s) against prosecutors and suspend any prosecutor from work until the investigations against him are over and a decision concerning this motion is reached.
7. Calling for taking a disciplinary action against any law officer found guilty of violating the terms of reference of his job or neglecting it.
8. Providing the Minister of Justice with the niaba's observations about prisons and other places where court rulings are served/implemented.
9. Carrying out the assignments of the Minister of Justice and his under-secretary in compliance with the laws and rules that organize the work of niaba.
10. Calling for disciplinary action (s) against prosecution employees/clerics, suspending them, approving their vacations and enforcing the administrative penalties that have been taken against them. These penalties include warnings and salary deductions.

#### **Assistant Public Prosecutor**

- The assistants of the public prosecutor, who are appointed by a presidential decree, perform all the duties and tasks, which the Public prosecutor assigns them. The oldest assistant replaces the public prosecutor and assumes his official duties when he is absent, or his post is vacant, or is unable to work. At present, it should be noted, there is only one assistant public prosecutor.
- The assistant public prosecutor is the chairman of a niaba committee that is composed of the director of the general administration of prosecution and its general secretary. This committee is responsible for taking decisions pertaining to the work of prosecution clerks/incremental staff in terms of their appointment, transfer, promotion and annual increments. The committee

members are also in charge of holding promotion examinations/tests for prosecution clerks working in the courts of appeal and cassation.

#### SENIOR GENERAL ATTORNEY

- Every court of appeal should have a Senior General Attorney, who is appointed by a presidential decree.
- In his area of specialization, every Senior General Attorney practices the legal rights and assignments of the public prosecutor. He practices these rights and duties under the supervision of the public prosecutor on the pretext that he is responsible for pressing charges.
- Like the members of the prosecution, the Senior General Attorney is responsible for carrying out the ordinary tasks of the niaba in his geographical location (district). In addition, he has the right to monitor the performance of staff members, who are lower than his rank and work under him.
- In the court of cassation and courts of appeal, the Senior General Attorney participates in the disciplinary councils that are held for court employees/personnel.

#### GENERAL ATTORNEY

- In the districts, where their courts are located, the attorneys general assume all the official duties of the public prosecutor in pressing criminal charges against offenders and following up processing them. They are entitled to directly take any exceptional measure that is allowed for the public prosecutor. In order to this, they have to obtain an authorization from the public prosecutor to identify this exceptional measure.
- In the district, where his court is located, the General Attorney is entitled to monitor and supervise the work performance of the prosecution staff members working in this court.
- Whenever it is necessary, the General Attorney can delegate a district prosecution member to replace another member. This delegation can be done through a verbal order from the General Attorney. But this order should be mentioned in the case file. The prosecution judiciary inspection department must be immediately notified about this decision and the General Attorney must explain the necessity for making it.

Under other circumstances and if, the General Attorney decides to delegate a prosecutor to work in another district, he must inform the above-mentioned department in order to obtain the necessary permission from the public prosecutor. It is worth mentioning that all prosecution clerks work under the direct supervision of the criminal department head. In addition, it should be noted that these clerks are under the General Attorney, or whoever acts on his behalf. Moreover, the General Attorney, or whoever acts on his behalf in court of first instance is entitled to participate in the disciplinary councils that are held for employees working in this court, or the prosecution office that is located in this district.

The General Attorney, who is authorized to file disciplinary charges against prosecution employees, can reprimand the clerks working under him. This reprimand can take the forms of a warning or deduction from the wrongdoing clerk's salary. According to the written administrative and financial rules and regulations of 1979,

the General Attorney is also authorized to approve the annual holiday/leave for prosecution clerks working under him. In the districts, where the court of first instance is located, the General Attorneys, or those who assume their duties, are authorized to perform a set of exclusive tasks, which have been specified by laws. These tasks are:

1. Pressing criminal charges against offenders and referring them directly to the criminal court (s) or the high state security court (s), or juvenile court (s) (according to circumstance). The General Attorney should support his charges with a list of indictment and a report containing the statements of witnesses before referring them to court.
2. Pressing criminal charges against employees, public personnel, law officers who are found guilty of committing misdemeanors while performing their duties, or because of them. However, the General Attorney can press criminal charges against a public employee, who is accused of refusing to carry out Government decisions, law provisions, regulations, court rulings and orders. Only the chief prosecutor can file these charges against the employee, who commits these crimes.
3. Issuing orders that call for dropping criminal charges in felony cases.
4. Rescinding criminal orders/charges that have been made/filed by the chief prosecutors or deputies due to wrong application of the law. The canceling of these orders should be made within the period that has been set by the law.
5. Issuing temporarily and justified decisions for resolving civil or criminal disputes. The chief prosecutor is also entitled to issue these resolutions.

#### Chief Prosecutors, Prosecutors, and Niaba Assistants

In their respective areas of specialization, the chief prosecutors, prosecutors and niaba assistants are entitled to assume their normal official duties to press and process criminal charges against offenders. However, the law has set an exclusive specialization to some prosecution members. The above mentioned officials can not take an exclusive and exceptional measure, which the public prosecutor is entitled to adopt, unless they obtain a special permission from the public prosecutor. This permission should identify the true nature of this exceptional measure and its exact purpose.

The chief prosecutors – in their areas of their specialization – have jurisdiction to carry out the following assignments, which the law has specified as follows:

1. Pressing criminal charges against employees, public personnel and law officers who are accused of committing misdemeanors while performing their official duties, or because of them. However, the chief prosecutor can not press criminal charges against a public employee, who is accused of abstaining from carrying out the government decisions, law rulings and regulations, or court rulings and orders.
2. Rescinding criminal orders, which have been issued by prosecutors, due to wrong application of the law.
3. Signing the prosecution orders that call for repealing the court judgments.

The prosecutors are solely entitled to issue criminal orders pertaining to contravention or some misdemeanor cases. This authority is exclusive for them alone and can not be practiced by prosecution members, who are lower in rank.

### **Niaba officers**

Like *niaba* members, *niaba* officers can perform their legal work in all courts. However, they can not work the court of cassation. In the meantime, the *niaba* officers represent the prosecution in these courts, where they submit demands and present pleadings. A *niaba* officer, however, can not conduct a preliminary investigation without obtaining a previous delegation. In the meantime, a *niaba* officer can be assigned to investigate a whole case, where he can interrogate the accused person. This investigation, it should be noted, is a legal probe whose effect and value do not differ from any other investigation, which has been conducted by other *niaba* members.

### RELATIONSHIP BETWEEN THE ADMINISTRATION AND LEGISLATIVE AUTHORITIES AND LOCAL GOVERNING BODIES

As mentioned above, the *niaba* members work under the supervision of the Public Prosecutor, who is judiciary man and is not an administrator. The Minister of Justice exercises a sort of administrative supervision over the Public prosecutor, which does not exceed the level of guidance auspices. The Minister, for example, can not share the areas of specialization that are given to a prosecution member. He can not give him an order that commits the *niaba* member to take a certain decision while investigating a case. In addition, the Minister's order –if issued- does not have any legal value and does not restrict the freedom of the *niaba* member when he is handling a case. The *niaba* member's behavior is legally sound because the Minister's supervision is purely administrative and does not leave any legal impact over the prosecutor's work.

The members of the *niaba* are considered law officers in their areas of specialization. They are the directors of the law officers and their deputies. They work under the direct supervision of the public prosecutor, who orders the administration concerned to question any one of them found guilty of violating his terms of reference, or neglecting his assigned duties. In compliance with Article No. 22 of the penal procedure law, the public prosecutor can file disciplinary charge (s) against any prosecution member. All this verifies that the prosecution members work under the supervision of the public prosecutor and enjoy independence from the executive authority.

As a unit of the judiciary authority/estate, the *niaba* enjoys full independence from the parliamentary bodies as specified by the Egyptian Constitution, which separated between the three authorities/estates in the country. Therefore, no parliamentary law can give instructions or directives to the *niaba* or interfere in its own affairs. Consequently, the Minister of Justice can be questioned in parliament and serve notices that deal with the administration of justice without giving or revealing details about legal cases that are being investigated by the *niaba*. If the Minister were pressed to give details, it would be considered as interference in judiciary affairs and an aggression on its independence. However, the Public prosecutor can give his opinion about draft bills, which may include penal rulings, or draft laws that deal with the *niaba* and the judiciary authority before they are approved by the parliament. The Public prosecutor can participate in the meetings that are held by parliamentary ad hoc committees, which review and discuss these draft bills.

## INTERNATIONAL AND REGIONAL RELATIONS

Niaba complies with the exchange and cooperation demands that have been issued by foreign authorities as specified in the signed legal and judicial cooperation agreements between Egypt and other countries. In compliance with these agreements, the Niaba implements the provisions of the agreement. However, if there is no signed agreement with a given country, cooperation between the niaba and this country will be based on the principles of equal treatment, or international compliment. The Niaba applies these two principles to serve justice and according to the specific circumstances and conditions of every individual case. However, this sort of cooperation should not harm the interests of the state, or its sovereignty that have been identified and protected by the Egyptian law.

In the meantime, the public prosecutor has the right to seek direct cooperation from foreign authorities. But, he should take into consideration the measures set by the Egyptian law as well as the steps that are mentioned in the above paragraph that deal with the presence of international cooperation agreements/ treaties or not. When seeking cooperation with foreign authorities, the public prosecutor should take into consideration national interests of the state and its sovereignty. In the meantime, the Public prosecutor has the authority to extradite wanted foreign criminals.

However, he can not extradite wanted Egyptian criminals according to the Egyptian constitution. If there is already a signed extradition treaty between Egypt and a given country, the public prosecutor is entitled to implement its provision. But, if there were no signed agreement between Egypt and a foreign country, the public prosecutor can repatriate wanted foreign criminals in compliance with the principles of equal treatment or international compliments. This action should be based on the condition of each specific case and the rules of extraditing wanted foreign criminals as mentioned by the international law. The public prosecutor should stress the necessity of criminal duplicity and impossibility of repatriating foreign persons, who are involved in political and military crimes that have been committed here. He also must take into consideration that extraditing wanted foreign criminals should not contradict with, or harm the national interests or sovereignty.

### **SPECIALIZED NAIABAS**

There may, by decision of the Minister of Justice or the Public Prosecutor, be established specialized *niabas* concerned with investigation and disposal of certain types of crimes.

The Public Prosecutor may confer upon the specialized *niabas* a general jurisdiction over the whole country in the crimes lying with the jurisdiction of these *niabas*.

The decisions creating the specialized *niabas* and defining the crimes that these *niabas* investigate and dispose of are regulatory decisions which would not deprive the ordinary *niabas* from their general jurisdiction in respect of these crimes.

The following are the specialized *niabas* in Egypt:

1. High State's Security *Niaba*

The High State's Security *Niaba* has jurisdiction to dispose of several crimes, chief amongst which are the crimes causing harm to the government's security from outside the country. It also has jurisdiction to dispose of the crimes of bombing, bribery, and faith-related misdemeanors committed by the newspapers and others inside the country.

2. High Public Property Niaba  
The High Public Property Niaba has jurisdiction to investigate and dispose of the crimes of embezzlement of and assault against public property.
3. Financial and Commercial Niaba  
The Financial and Commercial Niaba has jurisdiction to investigate and dispose of the cases related to graft, customs smuggling, forgery and counterfeit, crimes of companies, banks, exchange, cash, and money smuggling.
4. Tax evasion prevention *niabas*  
It has jurisdiction to decide on crimes related to tax laws.
5. High personal status *niabas*  
It has jurisdiction to receive applications for filing cases on personal status affairs by *hisba* (on behalf of all Muslims). It also has jurisdiction to file cases on personal status affairs if the involved question is related to public policy or public morality.

The above 5 *niabas* are established at, and are directly subordinated to, the Public Prosecutor's Office.

6. Juveniles *niaba*  
It carries out *niaba's* activities before the juveniles courts. At each *niaba kulleya* (district *niaba*) nationwide, there is a *niaba* for juveniles.
7. Traffic *niaba*  
It has jurisdiction to investigate and dispose of misdemeanors and infractions provided in Traffic Act 66/1973. Summary (or *juz'eya*) traffic *niabas* are subordinated to the *kulleya* traffic *niabas* and are organs thereof.
8. Accidents *niabas*  
These *niabas* are established by decision of the competent General Attorney at the headquarters of *kulleya niabas* at Cairo, Giza, and Alexandria governorates. They have jurisdiction to receive reports of, and investigate, the crimes drug bringing and trafficking and other drug-related crimes. They also have jurisdiction to decide on crimes of suspicious terrorism, bomb obtainment, and transport obstruction.
9. Personal status *niabas*  
They represent *niaba* before the courts on personal status cases in which *niaba's* intervention or opinion-giving is mandatory. They also care for the interests of the partially or completely legally disabled and absentees and take custody of their properties and supervise the management thereof in accordance with the provisions of the law. *Juz'eya niabas* on personal status affairs are an organ of a *kulleya niaba* except for Cairo, Giza, Alexandria, and Tanta where there is a *kulleya niaba* on personal status affairs to which several *juz'eya niabas* are subordinated. A suitable number of *niaba's* members of different degrees work in these *niabas*

All the above specialized *niabas* are part of the judicial structure of *niaba* and their members are members of ordinary *niaba* of different degrees. They are appointed as part of the transfers of the *niaba's* members which is conducted every year upon the proposal of the Public Prosecutor and after the approval of the Supreme Judicial Council. The *niaba's* members may be transferred among the specialized *niabas* and from and to the non-specialized *niabas* as part of the annual transfer movement.

**CHAPTER (2)**  
**WORKING CONDITIONS AND TOOLS**  
**OF NIABA'S MEMBERS**

**Physical and financial conditions**

The number of *niaba's members* in Egypt in the judicial year 2003/2004 has reached 3282 members. They can be broken down as follows:

<u>Job Title</u>	<u>No.</u>
• Public prosecutor	1
• Assistant public prosecutor	1
• Senior general attorney	18
• General attorney	67
• Chief prosecutor (A)	182
• Chief prosecutor (B)	112
• Prosecutor ( <i>wakeel niaba</i> ), class (A)	1187
• Prosecutor ( <i>wakeel niaba</i> )	501
• <i>Niaba</i> assistant ( <i>musa'ed niaba</i> )	649
• <i>Niaba</i> officer ( <i>me'awin niaba</i> )	551

In addition, there are 13 chairmen of the courts of appeal who are delegated to work at the *niaba's* Judicial Inspection Department.

The number of *niaba's* members in 2001 was 3232 members with total annual salaries of EGP 217,752,101 compared to 3071 members in 2002 with total annual salaries of EGP 240,320,445.

The headquarters of *niabas* are situated in buildings independent from the police stations and departments or any other governmental buildings. Only are the court rooms located in separate parts in the same building where *niabas* are situated. The construction, equipment, and maintenance of all these buildings are the responsibility of the Ministry of Justice's Court Building Fund. A counselor ranking a chairman of the court of appeal, delegated to the job of Assistant Minister of Justice for the Affairs of Court Building Fund. The *Niabas* Department subordinated to the Public Prosecutor's Office provide the necessary materials and stationery including the relevant publications, forms, papers, equipment such as typewriters, fax machines, computers and necessary accessories, and transports. It also supervises *niaba* administrative staff members; it prepares the decisions concerning their appointment, promotion, transfer, delegation, punishment, and inspection of their activities.

**Administration**

The Public Prosecutor, with his authority to supervise and instruct all *niaba's* members, gives the necessary verbal and written instructions for executing the functions vested in him in his capacity as the representative of the criminal corps in prosecuting the criminal action. The *niaba's* members exercise their functions in their capacity as his representatives. The instructions are conveyed by telephone, fax, correspondence concerning a particular case, or periodic circulars laying down general rules on particular issues. The circulars are distributed to all the *niaba's* members. In 2003, the Public Prosecutor issued 26 circulars in addition to the permanent instructions. All these circulars were compiled and printed in one book containing. The book is re-printed, revised, and updated; new instructions are added and canceled ones are removed, when necessary. A revised copy of these instructions was issued in 2002. Another copy is in the making. The Public

Prosecutor has already issued a decision forming a committee made up of a number of senior *niaba* and judicial counselors for this purpose.

The Senior General Attorney distributes the work among the members of the appellate *niaba*. The General Attorney distributes the work among the members of *Al niaba Al kulleya* (or district *niaba*). The Chief Prosecutor or the Director of *Al niaba Al juz'eya* (summary *niaba*) distributes work among its members. At every *niaba*, there is a book in which the distribution of work among the *niaba*'s members is established.

Also at every *niaba*, there is a book in which all cases are registered. The books differ depending on their types and the kind of information established in them which depend on the type of *niaba*; *juz'eya*, *kulleya*, appeal, or specialized). They also differ according to the kind of case. *Niaba*'s clerks establish the case information in these books under the supervision of *niaba*'s members.

*Niaba* also uses in its activity different kinds of printed forms which are filled in manually by *niaba*'s clerks. Examples of these forms are: order to bring an accused, order for physical coercion, order for search for a convict, form of an enforceable judgment, form for sending drugs for analysis, order for remand, criminal order, forms for execution of judgments, file for shelving a case). In addition, there are forms for criminal orders on traffic cases which are filled in by *niaba*'s members.

Communication with the supporting agencies is made by letters delivered by courier or by mail. Telegrams and telephone are also used but in case of telephone communication, the communication is established in writing in the investigation report or in a special book prepared for this purpose.

### **Daily, monthly, and annual workload**

The workload differs from one *niaba* to another depending on the number and density of population. Statistical and other semi-annual statements are being prepared which indicate the number of cases coming to the *niaba* and the number of the remaining cases as per the information contained in the *niabas*.

### **Work problems and difficulties:**

The basic problem facing judicial work in general and *niaba* in particular is the ever-increasing number of cases referred to *niaba*. This increase is certainly associated with the growth of population in the country, which requires a parallel increase in the number of *niaba* members and significant expansion in creating premises to accommodate them.

Despite stringent economic circumstances, the state has given utmost priority to the needs of the judicial authority, including *niaba*. It annually recruits new *niaba* members, pursues an ambitious program to establish new prosecution premises and courts in addition to continually upgrading and restoring existing premises and facilities. However, there is urgent need to promote and intensify these efforts to cope with the steady increase in the number of cases resulting from the growth in population and the appearance of new types of crimes. Such crimes require substantial time and effort until the necessary skills needed to handle them have been acquired both through practice and training programs.

## **CHAPTER (3) SOLUTIONS AND DEVELOPMENT PROJECTS**

### **I. Legislative amendments:**

Experience strongly confirms that the steady increase in criminal cases represents a heavy burden on Criminal Courts in their different degrees. The longish procedures of a traditional criminal case can also be a nightmare for litigants. It has, therefore, become absolutely necessary to seriously consider alternatives to the traditional criminal case in some particular crimes.

The Public Prosecution institution has made several contributions towards streamlining litigation and delivering timely justice and pursued ongoing endeavors to study the best solutions to present obstacles, which may impede judicial activities and obstruct the course of justice. Within the context of these efforts, the public prosecutor has commissioned a selected team of *niaba* members and judges – in collaboration with the Institute for Developing and Studying Legal Systems (IDSLS) in California, USA – to research a program for developing criminal justice in Egypt. The program is designed in light of comparisons with the legal systems applied in some foreign countries with the aim of resolving the intensifying imbalance between the increasing number of cases and the limited number of judges.

The Egyptian team and the US workgroup of researchers from IDSLS exchanged visits and compared notes on what they believed to be the most serious impediments to the course of criminal justice in Egypt using advanced criminal management systems as benchmark. This study spurred the convention of a conference on developing criminal justice in Cairo under the auspices of the Minister of Justice in October 2003. Discussions within the different workshops of the conference arrived at the following recommendations:

- 1- There is a need to enable *niaba* to issue criminal orders in the misdemeanors, which are not punishable by imprisonment.
- 2- Legislators are called upon to amend some of the provisions of the Criminal Procedures Law, expanding the jurisdiction of the Public Prosecution to issue criminal orders instead of having to file lawsuits in court.
- 3- Niaba's members are called upon to issue minimal criminal orders in the case of fines, considering that these orders are meant to be settlement arrangements designed to elicit the approval of the accused.
- 4- Legislators are called upon to endorse the lapse of the lawsuit in a minor crime if it is associated with a serious crime that could be resolved by a negotiated conciliation.
- 5- There is a need to expanding the scope of conciliation stipulated in the Criminal Procedures Law so as to apply to a greater number of crimes which have intrinsic affinities with the crimes stated by the legislators in the aforementioned law.
- 6- Legislators are urged to suspend the execution of any penalty, even if confirmed, if a conciliatory settlement could be reached.
- 7- There is a need to examine the system of written confessions as an alternative to traditional criminal lawsuits in some crimes, in accordance with constitutional legitimacy and the system of written law that underlies penal and procedural rules in the Egyptian law.
- 8- Legislators are called upon to introduce a new set of alternative penalties and instituting the necessary controls to implement them. Alternative penalties are a very effective means of avoiding the shortcomings of short-term imprisonment penalties. They also promote the objectives of modern penal policies, which seek to rehabilitate more than punish.

- 9- Legislators are urged to amend the Criminal Procedures Law to ensure that legal representation is guaranteed for every defendant in a felony during investigation and during trial in some significant cases.
- 10- There is a need to activate the legal aid system to offer legal support for defendants who cannot afford to hire lawyers. The state should ensure that lawyers are present with the defendants at all stages from early inquisition to trial. This will uphold constitutional legality and protect the right of defendants for legal defense, which is a mainstay of the Egyptian law.

## II. Training

A broad range of training programs are offered to members of the Public Prosecution in cooperation with different scientific and research centres. These include the National Centre for Judicial Studies affiliated to the Ministry of Justice, The National Centre for Social and Criminal Research, the specialized legal centres affiliated to the faculties of law at Egyptian universities, governmental agencies and international organizations. Training programs cover a variety of legal, economic and social fields. Basic training courses are offered to new *niaba* members and regular training programs are carried out afterwards. This includes on-the-job training, qualifying courses to work in the judiciary, refreshing courses, UN human rights protection programs, seminars, conferences, workshops, external programs in collaboration with international agencies in addition to language and IT training courses. The objectives of these training programs are:

- Promoting the legal and jurisprudence background of the new *niaba* members to groom them for prosecution work.
- Providing *niaba* members with information and recent developments in the field of combating crime.
- Polishing the theoretical and practical experiences of *niaba*'s members by exchanging skills and expertise.
- Enhancing awareness of the latest trends of prosecution work on national and international levels.
- Building the capacity of *niaba*'s members.

### Fields of training:

#### 1. Qualifying training

A six-month basic training program is organized for all new *niaba* members to prepare them for the functional tasks of *niaba*. This is a two-fold program:

##### *a. Qualification*

This includes all the subjects needed to formulate the legal mindset of the members of *niaba* so that they understand the nature, mission and responsibilities of their work and be prepared to perform their roles satisfactorily.

##### *b. Practical applications*

This is a practical program based on researching actual cases. The cases are distributed to trainees to thrash them out in working groups with the purpose of familiarizing them with the nature of their work, the type of cases they will encounter and ways of investigating and making decisions.

#### 2. Regular training

This is a periodic training program for all *niaba* members. Every course places special emphasis on a particular type of cases or issues, such as public funds, narcotics, juvenile cases, manslaughter, environment issues, personal statute cases, human rights-related cases, intellectual property cases ... etc. The objective of this training is to brief *niaba*'s members on new issues that they might encounter in the course of their daily work. The training is offered in the form of courses, seminars, symposia and workshops on the job. The duration of training ranges from one-day training to several days, including field visits to places associated with the relevant issues either within the country or outside.

### 3. Specialized training:

Training courses are organized for members of specialized prosecution offices with the objective of refreshing their information and expanding the debate over the handling of the new types of crimes which they investigate. The purpose is also to enhance their experience regarding some of the fields they work in, such as abuse of illegal seizure of public funds, personal statute cases, the stock exchange market, banking credit, money laundering ... etc. These courses generally include visits to the places associated with the relevant issues of the training inside or outside the country. The last course in this series was held in collaboration with the Egyptian Stock Exchange and followed by a visit to some financial institutions in Canada.

### 4. Training of members of specialized *niabas*:

These courses are designed for new members in specialized prosecution offices with the intention of preparing them for their new responsibilities. The fields of training cover public funds, tax evasion, financial and trade affairs, personal statute issues and other fields. The purpose of the training is to familiarize new members with the issues they will deal with and make them better enabled to handle these issues.

### 5. Refreshing training:

Training courses are organized for *niaba*'s members to enhance their background knowledge of legal, economic and social aspects of the judicial work, as well as social issues of interest in the society. Eligible candidates for these courses should have at least three years of experience in their respective fields in order to refresh their information and build on the knowledge they have obtained during the basic training they have received at the beginning of their professional careers with the prosecution. The duration of refreshing courses is approximately 12 weeks.

### 6. Training on international judicial cooperation:

*Niaba*'s members at the International Cooperation Office (affiliated to the Public Prosecutor's Office) and other members are dispatched to some foreign countries to be briefed on their legal systems. This enables them to make well informed decisions on the best avenues to promote international judicial cooperation, especially the legal and administrative aspects associated with the extradition of criminals, the transfer of convicts and modern trends of litigation and conducting prosecution work. Members of the prosecution also take part in official delegations involved in the drafting of treaties and international conventions whose application is related to prosecution work, such as the treaty on fighting organized crime in Palermo and the treaty on combating corruption crimes in Vienna. Members of the prosecution are also strongly encouraged to pursue postgraduate studies in the legal specializations related to their work. They are given fully paid sabbatical leaves during their study in Egyptian or foreign universities.

### 7. Developing linguistic skills:

Language training courses are organized for all *niaba*'s members at different foreign cultural centres with the objective of polishing and promoting their language skills and proficiency.

### 8. Developing IT skills:

Training courses are organized for *niaba*'s members to develop their computer skills and their ability to handle modern information technology systems. They are also trained on the new software applications introduced at their respective workplaces as a step towards computerizing the entire prosecution work.

### 9. Preparing *niaba*'s members to join the judiciary:

Training courses are offered to *niaba*'s members nominated to join the judiciary to prepare them for working as *sitting* judges (the legal rules related to the judge's job, managing the sessions).

### **The entity supervising the training**

The Training Department at the Judicial Inspection Administration is responsible for proposing, designing and developing training programs. The programs are then submitted to the public prosecutor for approval. The Training Department then supervises the implementation of the training programs after the approval in accordance with the general training plan of the *niaba*.

## **III. Improving the tools of work at *niaba*:**

### 1. Automating the judicial work:

The *niaba* handles several roles and responsibilities. These include investigating different cases, following up on the progress of cases, examining grievances and complaints, attending sessions, preparing memos for court hearings, examining court orders and challenging them if there is a legal reason to do so. The *niaba* also follows up on the enforcement of rulings passed by Criminal Courts. As mentioned above, the work of *niaba* is handled through a specific division of labor based on specializations and seniority levels within the hierarchy of *niaba*. Some issues are centrally managed, including new appointments, staff affairs and training. Some issues are also centrally handled by the office of the Public Prosecutor, who can delegate them to other *niaba*'s members assisted by prosecution administrative staff.

In the pursuit to achieve quick justice and out of the Ministry of Justice' belief in the need to streamline litigation procedures to preserve the constitutional rights of litigants, the state believed it would be worthwhile to make use of modern IT systems. These systems can develop the performance of the *niaba* in accordance with the nature of the work and the issues handled by the prosecution nationwide. This was also believed appropriate because of the availability of modern premises that can accommodate the machines and systems needed for computerizing the work of the *niaba* and availability of human resources that can handle these technologies effectively. The public prosecutor has, therefore, commissioned the Judicial Inspection Administration to conduct a comprehensive study to identify the *niaba*'s needs of IT systems and other applications that can streamline the work of the prosecution. The study was completed taking into consideration the key learnings of previous similar studies (a detailed report on the project of developing the work of *niaba* using IT systems is attached to this paper). The project recommends the

designing of systems and applications, building databases and photo archives for the following:

- Technical departments and the *Niaba* Department at the public prosecutor's office.
- Specialized *niabas*, including financial and commercial *niabas* and tax evasion *niaba*.
- High Personal Status *Niaba*, Appellate *Niaba* in Cairo for Personal Status, and *Niabet Al Qahera al kulleya* (Cairo district *niaba*) for personal status affairs.
- Standardizing the use of electronic systems and applications of the Giza prosecution for personal statute and other prosecution offices in Cairo and Giza.

It is worth mentioning that the project has already been initiated. The office of the public prosecutor and affiliated offices have been computerised and so have the Judicial Inspection Department, some specialised prosecution offices, the personal statute prosecution, the personal statute appeals prosecution in Cairo and the traffic prosecution in Cairo, Giza and Alexandria.

## 2. legal information:

The use of electronic libraries and legal data banks is considered essential in this regard. Although the Ministry of Justice, courts and prosecution offices are supplied with legal libraries, the use of information technology and computers would have a great impact on making legal information and data accessible to *niaba*'s members at all times. In addition to making *niaba*'s members abreast of the latest legislative amendments and the rulings of the court of cassation and the constitutional court, computers allow for a very easy search for information, thereby promoting a speedy and accurate application of the law.

## 3. Administrative organization:

The instructions issued by the public prosecutor to members of the prosecution in the form of periodical dispatches and the contents of the manual of general instructions for prosecutors constitute the backbone of their daily work. In addition to summing up all the administrative and organizational controls for the work of *niaba*'s members, they also include clear legal information and guidance that help prosecutors handle the different cases they encounter on daily basis. It is, therefore, useful for prosecutors to be able to access these sources of information at all times. This could be guaranteed by incorporating the instructions of the public prosecutor in the electronic data base project.

## **CONCLUSION**

The most sublime objective in any human society is the achievement of timely justice for individuals. The steady increase in the number of cases coupled with the scarcity of resources and manpower makes this objective difficult to achieve. But there is a three-fold solution to this complexity:

First: Decreasing the number of cases which the *niaba* investigates before referring them to courts for traditional trials. There should be alternatives to filing criminal lawsuits either by expanding the jurisdiction of *niaba* to issue criminal orders in certain cases or expanding the scope of conciliation in the cases where negotiated conciliation is considered a legally acceptable arrangement. Another alternative is adopting legal systems applied in other countries and adapting them as needed to suite the Egyptian legal system in addition to

making the necessary legislative amendments to apply them in accordance with the Egyptian constitution and general norms.

Second: Upgrading the efficiency of niaba's members by offering them continuous training and providing them with the modern tools to be able to perform their functional tasks more accurately and professionally.

Third: Making use of modern technology in automating the judicial and administrative work in a manner that suits the nature of this work in addition to the creation of electronic legal data banks.