The Administrative Court affirms that failure to set a national minimum wage violates international treaties

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Administrative Judiciary Court, First Circuit

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Lawsuit No. 21606 of Judicial Year 63

The Egyptian Administrative Judiciary Court delivered a judgment affirming that the state's failure to establish a national minimum wage violates both domestic constitutional obligations and binding international human rights instruments.

FACTS:

An employee working at a public enterprise sector milling company filed a lawsuit requesting an urgent injunction against the government's failure to establish a national minimum wage. Earning a basic monthly salary of 368 Egyptian pounds (approximately $67 USD at the time) to support a spouse and five children, the plaintiff argued that this income fell drastically short of basic living expenses. Prior to the litigation, a formal telegraphic warning was sent to the Minister of Planning demanding the implementation of a minimum wage in accordance with labor regulations. When the administration took no action, the plaintiff challenged this omission as a negative administrative decision. The plaintiff argued that this refusal violated the Egyptian Constitution, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the Arab Charter on Human Rights.

The lawsuit progressed through several procedural stages before the Administrative Judiciary Court, where multiple individuals submitted requests to intervene in support of the primary claim. The State Lawsuits Authority, representing the government, filed a defense arguing that the Court lacked jurisdiction because setting wages is a legislative act reserved for the Peoples' Assembly. The government also claimed that the plaintiff lacked standing to represent all workers. The Court dismissed the government's jurisdictional objections, asserting that the National Council for Wages decisions are administrative decisions subject to judicial review. It also filtered the intervening parties, accepting the intervention of those working in the public enterprise sector whose wages would be directly affected, while rejecting civil servants governed by a separate, specific statutory

salary structure.

THE COURT'S DECISION:

The Court ruled to suspend the negative decision of the National Council for Wages. In reaching this conclusion, the Court built its reasoning on a direct connection between domestic and international legal frameworks.

- **Domestic Legislation:** The Court relied on Article 34 of the Egyptian Labor Law (Law No. 12 of 2003), which mandates the creation of the National Council for Wages and tasks it with setting a national minimum wage that considers living expenses and balances wages with prices. The Court also cited constitutional provisions, specifically Articles 4, 13, 23, 26, 29, and 32. In that respect, the Court explained that the Constitution itself balances property and labor in pursuit of social justice. It protects property but subjects it to popular oversight and a social function serving the national economy. It also treats work as a right, and a duty, and obliges the State to safeguard workers' rights through fair compensation, a minimum wage, wages linked to production, a maximum wage, and a share in management and profits. Furthermore, the Court affirmed that the constitutional guarantee of a minimum wage is not merely a guiding principle. Rather, it constitutes a binding constitutional obligation on the legislator to enact a legal framework that defines the right's limits and ensures its protection, and on the executive authority to implement the constitutional and legal provisions that guarantee it, to achieve wage justice.

- **International Conventions:** The Court explicitly held that international charters guarantee the right of workers to a fair wage and a minimum wage. In that respect, it referred to the International Covenant on Economic, Social and Cultural Rights (ICESCR). The Court highlighted that Article 7 of the ICESCR obliges state parties to guarantee workers' right to just and favorable conditions of work, ensuring them fair wages and a decent living for themselves and their families. To establish the binding domestic applicability of this international instrument, the Court traced its legal integration: the Covenant was adopted by the UN General Assembly on 16 December 1966, signed by Egypt on 4 August 1967, and approved by Presidential Decree No. 537 of 1981. It was subsequently published in the Official Gazette on 8 April 1982, which gives it the full force of law within the Egyptian legal system.

Furthermore, the Court grounded its decision in the established frameworks of the International Labor Organization (ILO). It explicitly referenced Convention No. 26, adopted by the International Labor Conference in 1928, which deals with the creation of minimum wage-fixing machinery. The Court also noted that subsequent ILO conventions consistently reinforce the legal necessity of securing a fair and minimum wage for workers.

Conclusion of the Ruling:

Having found that the National Council for Wages had abstained to set a minimum wage, the Court held that this abstention constituted a negative administrative decision that was defective and contrary to law, and granted the request to suspend its execution.

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