

## EGYPT

### CAT A/44/46 (1989)

123. The initial report of Egypt (CAT/C/5/Add.5) was considered by the Committee at its 14<sup>th</sup> and 15<sup>th</sup> meetings, held on 20 April 1989 (CAT/C/SR.14-15).

124. The report was introduced by the representative of the reporting State who stated that his country ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment without making any reservation, which showed the determination of Egypt to apply all the provisions of the Convention. It was in that spirit that the initial report of Egypt had been prepared, which without giving detailed information on the application of each article of the Convention gave only a general picture.

125. The representative stated that since the Convention had become part of the internal law of Egypt, the definition of torture in article 1 of the Convention was therefore an integral part of the Egyptian Penal Law.

126. With regard to article 3 of the Convention, the representative stated that agreements on extradition entered into by Egypt with other States provided for particular judicial procedures. Under the Egyptian law, no foreign resident would be forced to return to any country, including his own. He pointed out that there had been no case of any person extradited to a country where he was likely to be tortured.

127. The Committee noted that, although Egypt had ratified the Convention without delay and had not made reservation on article 20 of the Convention, Egypt had nevertheless not yet made the declarations under articles 21 and 22 of the Convention.. Furthermore, members of the Committee observed that the report did not follow the general guidelines it had adopted for the preparation of reports by States parties, and, in particular, did not contain information on the application of each of the articles of the Convention.

128. It was noted that the definition of torture of article 126 of the Egyptian Penal Code, mentioned in the report, was more restrictive than the definition of torture in article 1 of the Convention. In that respect, it was asked whether, since the Convention was now an integral part of the law of Egypt, that definition in the Egyptian Penal law had been amended. It was also asked whether the provisions of the Convention could be directly invoked before tribunals in Egypt.

129. The Committee commended the reporting State for having provided in its report figures relating to complaints of torture which had been received in the last five years by the Office of Public Prosecutions. It wished to know how many of the 450 complaints of torture given in the report had been investigated and how many offenders had been found guilty and what was the nature of penalties imposed.

130. The Committee requested further information on the Egyptian judicial system: in particular, who had the power to detain a person and for how long could a person be detained before being brought before the court, and whether the detainee could communicate with his family and had access to legal defence. Members of the Committee wished to know what were the different cases of flagrante delicto recognized under Egyptian law and whether the principle of habeas corpus was applicable under the Egyptian legal system. The members wanted to know what effects would a state of emergency have on the provisions of the Convention.

131. Information was also sought as to whether evidence obtained by torture was completely excluded. It was also asked whether the Egyptian penal law recognized extraterritorial jurisdiction in cases involving offences of torture and whether extradition would be permitted under the Egyptian law even if the alleged offender would risk being tortured if he was returned.

132. Members of the Committee asked for further information on the nature and modalities of fair compensation to torture victims, whether that was limited only to monetary compensation or whether social and medical assistance was also made available to torture victims for their rehabilitation, and whether medical centres of rehabilitation for torture victims existed in Egypt.

133. The Committee wished to know how the education of public officials mentioned in article 10, paragraph 1, of the Convention was organized, whether information concerning prohibition of torture was made available to the general public, and whether the Egyptian Government had encountered problems in its implementation of the Convention.

134. With regard to article 11 of the Convention, the Committee sought further information on the mechanism for inspection of prisons, and wanted to know which authority received complaints from inmates of prisons.

135. In response to the questions raised by the members of the Committee, the representative of the reporting State emphasized that the Convention had become an integral part of the Egyptian legal system. It had been possible for the courts to consider directly the provisions of the Convention ever since its entry into force. With reference to the 450 cases of complaints of torture mentioned in the report, he said that any complaint submitted to the Office of Public Prosecutions was investigated, and, like all other crimes, needed to be proved. He stated that 44 officers had already been prosecuted before the criminal courts; other complaints were still under investigation, and evidence might not have been found to support them. He assured the Committee that the Office of Public Prosecutions had investigated those cases and that the results would be incorporated in the written report which he had promised to supply to the Committee.

136. The representative of the reporting State said that the Egyptian judicial system was highly complex, but its main feature was entirely independent. Officials of the Office of Public Prosecutions obeyed no authority other than that of their conscience and had the right to dismiss members of other authorities or judicial bodies. He explained that the guarantee that the accused should be afforded protection was independent of the prosecuting authorities.

137. He stated that any person detained even under the state of emergency must immediately be informed of the reason in writing and be allowed to contact any person of his choice. He should be treated as a detainee, and not as a prisoner who was awaiting trial or had already been sentenced. Detainees were not detained in locations other than recognized prisons. To detain a person elsewhere than in prison was an offence under article 91 bis of the Prison Act. He said that the Egyptian Penal Code and case law clearly stated that it was not permissible to prevent the accused from meeting his defence counsel and that detainees also enjoyed the same right.

138. In response to the question regarding suspension of application of article 2 of the Convention in exceptional circumstances, he said that not even in a state of emergency could the law governing such a situation authorize the crime of torture. Furthermore, the law governing the state of emergency set forth procedures whereby victims might apply for redress before the courts if they had a grievance.

139. He said that the definition of flagrante delicto was given in article 30 of the Egyptian Code of Criminal Procedure, which stated that an act was regarded as being committed in flagrante delicto if the victim pursued the perpetrator or if the perpetrator was pursued by the public or was found to be carrying incriminating instruments, weapons, papers or other evidence, or if he bore marks on his person linking him with the crime.

140. The representative of the reporting State stated that the ill-treatment referred to in the report was a legal term defined in the Penal Code. A separate section of the Code listed all forms of ill-treatment which were punishable if inflicted by public officials. Article 126 of the Penal Code provided that any person who ill-treated another would be punished in the same way as the official who perpetrated the ill-treatment. He stated that there had been various well-known judgements in which accused persons had been acquitted because they had claimed that their confessions had been obtained by torture.

141. He stated with regard to compensation, that both criminal and civil proceedings could continue, with a view to enforcing a penalty and to obtain compensation. The State guaranteed fair compensation, but did not specify the amount of such compensation, which was determined by the judicial authority upon submission of the case. He further pointed out that, with regard to the victim of torture, in addition to its obligation to provide fair compensation, the State tried to eradicate the consequences of such ill-treatment by providing, and paying for, medical treatment. A number of psychiatric treatment centres had been established for victims who were referred there for rehabilitation.

142. In response to questions regarding education and information, he said that Egypt was currently undergoing a sort of scientific renaissance. Police were trained in a large academy, containing faculties specializing in various aspects of police work, social sciences, psychiatry and the law. Since the convention was now regarded as an integral part of domestic law, it was of course on the curriculum of those training institutions. He stated that the crime of torture was receiving a good deal of attention in the media.

143. The representative of the reporting State said that Egyptian prisons and their supervision were regulated by the Prison Act (No. 396) of 1956. The Public Prosecutor was the person primarily

responsible for prison supervision, since he arranged periodic inspections. If complaints were received from prisoners, families or legal counsels, prisons were also visited without warning to ascertain whether the law was being applied.

144. In concluding consideration of the report, members of the Committee requested the Government of Egypt to provide copies of judgements delivered in Egyptian courts in cases where torture had been proved, as well as those judgements defining ill-treatment, so that the Committee could see how much concepts were understood by Egyptian courts. The Committee also wished to receive the legislative texts that had been referred to by the representative of the reporting State. Finally, members of the Committee requested that they be supplied with written replies to some of the questions raised by the Committee that had remained unanswered.

## **CAT A/49/44 (1994)**

74. The Committee considered the second periodic report of Egypt (CAT/C/17/Add.11) at its 162<sup>nd</sup>, 163<sup>rd</sup> and 170<sup>th</sup> meetings, held on 12 and 18 November 1993 (see CAT/C/SR.162, 163/Add.1 and 170), and adopted the following conclusions and recommendations:

### **A. Introduction**

75. The Committee thanks Egypt for its report and the written replies to the questions raised by the members of the Committee during its consideration of the State party's initial report (CAT/C/5/Add.23).

76. It welcomes the willingness of the Government of Egypt to continue the dialogue with the Committee, as shown by the presence of a large, high-level delegation, which it thanks for the replies given to its questions.

77. It nevertheless deplores the fact that the report was not prepared in accordance with the Committee's general guidelines and that the information does not follow the sequence of articles 2 to 16 of the Convention. Although the report contains a wealth of information on legislation, with an accompanying annex in which the articles of the Convention are compared with some articles of the Constitution and those of other legislative provisions, it provides very little information on the application of the Convention in practice, even though the representative of the State gave other additional information in his oral introduction.

78. It also deplores the fact that the replies given by the Egyptian delegation were often more general than specific.

79. The Committee considers that it would have been particularly useful for additional information to have been made available, including statistics on investigations into allegations of torture, legal proceedings and sentences handed down against persons responsible for acts of torture and ill-treatment.

80. The Committee thanks the State party for the core document (HRI/CORE/1/Add.19), which was prepared in accordance with the consolidated guidelines for the initial part of reports of States parties to be submitted under the various international human rights instruments.

81. The Committee regrets that some documents and information on statistical data needed for a practical understanding of the report were not annexed to the report at the time of its submission and were not distributed to the members of the Committee until during the 162<sup>nd</sup> meeting.

### **B. Positive aspects**

82. The Committee notes with satisfaction that the renewed dialogue with the State party has enabled it to assess the extent to which domestic legislation is in keeping with the provisions of the Convention,

as well as the factors and difficulties impeding their application.

83. It also notes that, in general, the legal situation is satisfactory, in so far as litigants and the Egyptian people seem to have confidence in the ordinary law courts.

84. It welcomes the fact that non-governmental organizations active in the field of human rights have the opportunity to express themselves freely and to visit certain places of detention.

#### C. Factors and difficulties impeding the application of the provisions of the Convention

85. The Committee notes that the state of emergency proclaimed in Egypt without interruption since 1981 is one of the main obstacles to the full application of the provisions of the Convention.

#### D. Subjects of concern

86. In the light of a good deal of concordant and specific information received from a number of reliable non-governmental organizations and from the Special Rapporteur of the United Nations Commission on Human Rights to examine questions relevant to torture, the Committee is concerned about the fact that torture is apparently still widespread in Egypt.

87. The Committee is also concerned about shortcomings in suitable preventive measures to combat torture, including the length and conditions of police custody and administrative detention and the slow pace of trials of persons responsible for acts of torture or ill-treatment.

88. It is also concerned about the existence in Egypt of many special courts, such as the military courts whose functioning would suggest that they are subordinate to the head of the executive branch, since some provisions of the Act on the State of Emergency authorize the President of the Republic to refer cases to the State security courts and to approve the decisions handed down.

89. Aware that, in recent years, terrorism has created a disturbing and alarming situation in Egypt and mindful of the fact that it is the Government's responsibility to combat terrorism in order to maintain law and order, the Committee nevertheless notes that the different measures taken or to be taken for that purpose must never result in non-compliance with the Convention by the State party or in any case justify torture. It should be recalled in that respect that, under article 2 of the Convention, no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political stability, an order from a superior officer or a public authority or any other public emergency, may be invoked as a justification of torture.

#### E. Recommendations

90. The Committee suggests that the State party should provide in its penal legislation for all forms of torture, fully incorporating all elements of the definition contained in article 1 of the Convention.

91. The Committee also suggests that the State party should include in its next periodic report, which is due in 1996, all the details and information relating to the many questions and inquiries which were not answered during the discussion.

92. The Committee also suggests that the State party should establish machinery for a systematic review of interrogation rules, methods and practices, particularly in police premises, in order to honour its commitments under article 11 of the Convention.

93. It recommends that the Government of Egypt should continue its efforts to introduce other reforms to penal legislation, particularly with regard to the reduction of the excessive powers granted to the executive by certain legislative provisions and the length and conditions of police custody and administrative detention.

94. The Committee recommends that, while paying particular attention to the protection of the rights of persons arrested and detained, the State party should intensify the educational, training and information programmes provided for in article 10 of the Convention, for all the officials concerned.

95. The Committee recommends that the Egyptian authorities should undertake and expedite serious investigations into the conduct of the police forces in order to establish the truth of the many allegations of acts of torture and, if the results of the investigations are positive, bring the persons responsible before the courts and issue and transmit to the police specific and clear instructions designed to prohibit any act of torture.

96. The Committee, which appreciates the ratification by Egypt of most human rights Covenants and Conventions, hopes that the Egyptian Government will respond favourably to these suggestions and recommendations and that it will spare no effort to put them into practice.

## **CAT A/54/44 (1999)**

197. The Committee considered the third periodic report of Egypt (CAT/C/34/Add.11) at its 382nd, 385th and 389th meetings, held on 7, 10 and 12 May 1999 (CAT/C/SR.382, 385 and 389) and has adopted the following conclusions and recommendations.

### **1. Introduction**

198. The Committee welcomes the third periodic report of Egypt, submitted some two and a half years late, but generally in accordance with the requirements for such a report. The Committee also welcomes the verbal introduction to the report by the Egyptian representatives.

### **2. Positive aspects**

199. The release of large numbers of persons held under the Emergency Act, 1958.

200. The reduction of complaints of maltreatment by persons detained under the Emergency Act, 1958.

201. The broad literacy and educational programme undertaken by the Egyptian Government.

202. The creation of the Office of Human Rights in the Public Prosecutor's Department to investigate complaints of, inter alia, torture.

203. The Committee was pleased to learn of improvements in the quality of some of the Egyptian prisons.

204. The Committee was also pleased to learn that "hundreds" of torture victims have been compensated by the Egyptian civil courts.

205. The Committee is encouraged by the extensive dialogue in which it engaged with the Egyptian delegation.

### **3. Factors and difficulties impeding the application of the provisions of the Convention**



206. The ongoing state of emergency in response to the persistent terrorist threat. This seems to have created a culture of violence among certain elements of the police and security forces. Such terrorist threat, of course, may not be invoked as justification for breaches of the provisions of the Convention, especially articles 1, 2 and 16.

#### 4. Subjects of concern

207. The large number of allegations of torture and even of death relating to detainees made against both the police and the State Security Intelligence.

208. Despite the improvements made by the Government, the conditions of some prisons in Egypt.

209. The allegation from the World Organization against Torture of treatment of female detainees, by both the police and the State Security Intelligence, which sometimes involves sexual abuse or threat of such abuse in order to obtain information relating to husbands or other family members.

210. The Committee is seriously concerned at allegations that persons have been held in police or State Security Intelligence custody in defiance of court orders to release them.

#### 5. Recommendations

211. The Committee recommends that Egypt take effective measures to prevent torture in police and State Security Intelligence custody and that all perpetrators be vigorously prosecuted.

212. It also recommends that effective steps be taken to protect women from threats of sexual abuse by police and officers of the State Security Intelligence as a means of obtaining information from them.

213. It further recommends that a proper registry of detainees, both police and State Security Intelligence, which is accessible to members of the public, be established and maintained.

214. The Committee encourages the Egyptian Government to continue with its policy of upgrading its prison facilities.

215. The Government of Egypt should provide the Committee with information in writing concerning the number and circumstances of deaths in custody over the past five years.

216. The Committee urges Egypt to consider making a declaration in favour of articles 21 and 22 of the Convention.



## **CAT A/58/44 (2003)**

37. The Committee considered the fourth periodic report of Egypt (CAT/C/55/Add.6) at its 532nd and 535th meetings, held on 13 and 14 November 2002 (CAT/C/SR.532 and 535), and adopted the following conclusions and recommendations.

### **A. Introduction**

38. The Committee welcomes the submission of the fourth periodic report of Egypt, which was submitted on time and in full conformity with the Committee's guidelines for the preparation of periodic reports. The Committee also welcomes the open dialogue with the representatives of the State party during the oral examination of the report and the additional information submitted by them. The Committee notes that the report contains very useful information regarding the adoption of new legislation aiming at the implementation and dissemination of the Convention.

### **B. Positive aspects**

39. The Committee welcomes the following:

- (a) The enactment of legislation banning flogging as a disciplinary penalty for prisoners;
- (b) Circular letter No. 11 of 1999 regulating the procedures for the unannounced inspections which the Department of Public Prosecutions has an obligation to conduct in places of detention, particularly if it receives written or verbal reports or notifications indicating that a person is being held illegally at a police station or other place of detention;
- (c) Decisions taken by the Egyptian courts to refuse any confession made under duress as evidence;
- (d) The efforts of the State party to give greater emphasis to human rights training of law enforcement officials and public servants;
- (e) The establishment of a Human Rights Committee in 1999 with the mandate to study and propose ways and means of ensuring a more effective protection of human rights;
- (f) The establishment in 2000 of the Directorate-General for Human Rights Affairs at the Ministry of Justice, whose functions are to assume responsibility for the fulfilment of the legal aspects of international obligations arising from human rights instruments, including the preparation of replies to international bodies, promote greater public awareness and provide training on these matters for members of the judiciary and the Department of Public Prosecutions;
- (g) The State party's efforts to set up a national human rights commission.

C. Factors and difficulties impeding the implementation of the Convention

40. The Committee is aware of the difficulties that the State party faces in its prolonged fight against terrorism, but recalls that no exceptional circumstances whatsoever can be invoked as a justification for torture, and expresses concern at the possible restrictions of human rights which may result from measures taken for that purpose.

D. Subjects of concern

41. The Committee is concerned about the following:

(a) The fact that a state of emergency has been in force since 1981, hindering the full consolidation of the rule of law in Egypt;

(b) The many consistent reports received concerning the persistence of the phenomenon of torture and ill-treatment of detainees by law enforcement officials, and the absence of measures to ensure effective protection and prompt and impartial investigations. Many of these reports relate to numerous cases of deaths in custody;

(c) The Committee expresses particular concern at the widespread evidence of torture and ill-treatment in administrative premises under the control of the State Security Investigation Department, the infliction of which is reported to be facilitated by the lack of any mandatory inspection by an independent body of such premises;

(d) The many reports of abuse of under-age detainees, especially sexual harassment of girls, committed by law enforcement officials, the lack of monitoring machinery to investigate such abuse and prosecute those responsible, and the fact that minors kept in places of detention have contact with adult detainees;

(e) The reports received concerning ill-treatment inflicted on men because of their real or alleged homosexuality, apparently encouraged by the lack of adequate clarity in the penal legislation;

(f) The continued use of administrative detention in Egypt;

(g) The fact that victims of torture and ill-treatment have no direct access to the courts to lodge complaints against law enforcement officials;

(h) The excessive length of many of the proceedings initiated in cases of torture and ill-treatment, and the fact that many court decisions to release detainees are not enforced in practice;

(i) The legal and practical restrictions on the activities of non-governmental organizations engaged in human rights work;

(j) The significant disparities in compensation granted to the victims of torture and ill-treatment.

E. Recommendations

42. The Committee recommends that the State party:

(a) Reconsider the maintenance of the state of emergency;

(b) Adopt a definition of torture which fully corresponds to the definition in article 1, paragraph 1, of the Convention;

(c) Guarantee that all complaints of torture or ill-treatment, including those relating to death in custody, are investigated promptly, impartially and independently;

(d) Ensure that mandatory inspection of all places of detention by prosecutors, judges or another independent body takes place, and does so at regular intervals;

(e) Ensure that all detained persons have immediate access to a doctor and a lawyer, as well as contact with their families;

(f) Eliminate all forms of administrative detention. In addition, the premises controlled by the State Security Investigation Department should be subject to mandatory inspection, and reports of torture or ill-treatment committed there should be investigated promptly and impartially;

(g) Ensure that legislation gives full effect to the rights recognized in the Convention and institute effective remedies for the violation of such rights; ensure in particular that proceedings take place within a reasonable time after the submission of complaints, and that any court decision to release a detainee is actually enforced;

(h) Abolish incommunicado detention;

(i) Ensure that all persons convicted by decisions of military courts in terrorism cases shall have the right to have their conviction and sentence reviewed by a higher tribunal according to law;

(j) Halt all practices involving abuse of minors in places of detention and punish the perpetrators, and ban the holding of under-age detainees with adult detainees;

(k) Remove all ambiguity in legislation which might underpin the persecution of individuals because of their sexual orientation. Steps should also be taken to prevent all degrading treatment during body searches;

(l) Establish the State's jurisdiction over all persons alleged to be responsible for torture who are

present in the country and are not extradited to other States in order to be brought to justice, in accordance with the provisions of articles 5 to 8 of the Convention;

(m) Ensure that non-governmental organizations engaged in human rights work can pursue their activities unhindered, and in particular that they have access to all places of detention and prisons so as to guarantee greater compliance with the ban on torture and ill-treatment;

(n) Establish precise rules and standards to enable the victims of torture and ill-treatment to obtain full redress, while avoiding any insufficiently justified disparities in the compensation which is granted;

(o) Continue the process of training law enforcement personnel, in particular as regards the obligations set out in the Convention and the right of every detainee to medical and legal assistance and to have contact with his or her family;

(p) Consider adopting the declarations referred to in articles 21 and 22 of the Convention;

(q) Widely disseminate the Committee's conclusions and recommendations in the State party in all appropriate languages.

43. The Committee reiterates to the State party the recommendations addressed to it in May 1996 on the basis of the conclusions the Committee reached under the procedure provided for in article 20 of the Convention, and requests the State party to inform it of the steps it has taken to implement them.

44. Bearing in mind the statements made by the State party concerning its willingness to cooperate with the United Nations human rights treaty bodies and mechanisms, the Committee recommends that the State party agree to a visit by the Special Rapporteur on torture of the Commission on Human Rights.