

EGYPT

CAT Article 20 Examinations Re: Systematic Torture

CAT A/51/44 (1996)

V. ACTIVITIES OF THE COMMITTEE UNDER ARTICLE 20 OF THE CONVENTION

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B. Summary account of the results of the proceedings concerning the inquiry on Egypt

1. Introduction

180. Egypt acceded to the Convention on 25 June 1986. The Convention entered into force on 26 June 1987, on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession. That date is also the date of entry into force of the Convention for Egypt.

181. The Committee began its confidential procedure under article 20, paragraphs 1 to 4, of the Convention with regard to Egypt in November 1991 and concluded it in November 1994. Further consultations with the State party, in accordance with article 20, paragraph 5, of the Convention, took place by way of correspondence from April to May 1996. On 20 November 1995, the Committee decided to include a summary account of the results of the proceedings relating to the inquiry on Egypt in its present annual report. The text was adopted by consensus on 7 May 1996.
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2. Developments of the procedure

182. At its seventh session, held from 11 to 21 November 1991, the Committee considered information on Egypt submitted by Amnesty International pursuant to article 20 of the Convention. Pursuant to rule 75, paragraph 1, of its rules of procedure, the Committee decided to invite Amnesty International to submit additional relevant information substantiating the facts of the situation, including statistics.

183. At its eighth session (27 April-8 May 1992), the Committee had before it the additional information requested from Amnesty International, information submitted by other

4/ Mr. Pikis, a new member of the Committee, did not participate in the adoption of the text. He takes the view that as he was not a member of the Committee during the inquiry and consequently did not take part in the deliberations leading to the decision of 20 November 1995 or the decision itself, it would not be right for him to take part in the formulation or adoption of the text of the summary account of the results of the proceedings relating to the inquiry.

non-governmental organizations, the reports of the Special Rapporteur of the Commission on Human

Rights on questions relating to torture ^{5/} and preliminary observations made by the Government of Egypt on the initial information submitted directly to it by Amnesty International.

184. On 5 May 1992, in accordance with its mandate under article 20 of the Convention and rule 76 of its rules of procedure, the Committee invited the Government of Egypt to cooperate with the Committee in its examination of information on allegations of the systematic practice of torture in Egypt and requested the Government to submit its observations on the information by 31 August 1992. The Committee also decided to request further information from non-governmental sources.

185. The replies from the Egyptian authorities to the information transmitted to them in May were received in October and November 1992 and, therefore, could not be considered by the Committee at its ninth session, held from 9 to 20 November 1992. The Committee decided however to continue consideration of the information on Egypt at its tenth session in April 1993 when the replies received from the Government of Egypt would be available in all working languages. Additionally, the Committee decided to establish an informal working group composed of Messrs. Hassib Ben Ammar, Alexis Dipanda Mouelle and Bent Sorensen in order to analyse the information received and to submit proposals for further action to the Committee at its April session. Further observations were submitted by the Government of Egypt in April 1993.

186. Having taken note of the report and recommendations of its working group, the Committee, at its tenth session (19-30 April 1993), decided to undertake a confidential inquiry in accordance with article 20, paragraph 2, of the Convention and rule 78 of its rules of procedure, and designated Messrs. Dipanda Mouelle and Sorensen for that purpose. Mr. Ben Ammar had informed the Committee that he was unable to participate in the inquiry. The decision was transmitted to the Government of Egypt on 27 April 1993.

187. Messrs. Dipanda Mouelle and Sorensen submitted a progress report to the Committee at its eleventh session (8-19 November 1993). In preparing the report, they took into account information furnished by the Government of Egypt in reply to a list of issues they had submitted to the Egyptian authorities, at the latter's request, at the end of August 1993; information received from three non-governmental organizations during the period May-October 1993; as well as the views of an Egyptian human rights expert designated by the Government, who had met with Messrs. Dipanda Mouelle and Sorensen in the beginning of November 1993.

188. By its decision of 18 November 1993, the Committee requested the Government of Egypt to agree to a visit to Egypt of the Committee members making the inquiry, to take place not later than 15 March 1994. The Committee also informed the Government of Egypt that the purpose of the visit was not to accuse the State party, which was making a sincere effort to comply with its obligations under the Convention, but to ascertain in close cooperation with the Government whether or not torture was systematically practised, particularly by members of the security forces. The Government was invited to respond to the request for a visit by 31 December 1993.

^{5/} E/CN.4/1990/17, E/CN.4/1991/17 and E/CN.4/1992/17.

189. On 15 December 1993, the Government was provided, at its request, with a copy of the progress report and conclusions and recommendations prepared by the two Committee members making the inquiry.

190. In its response, dated 31 December 1993, the Government stated that it was entirely ready to engage the Committee in requisite consultations and a dialogue, with a view to agreeing on a framework within which the visit could take place.

191. Without prejudice to any further decision of the Committee, Messrs. Dipanda Mouelle and Sorensen found it appropriate to draw the attention of the Government of Egypt to the general principles earlier established by the Committee that guide the missions of members of the Committee designated to undertake an inquiry in accordance with article 20 of the Convention. They also made a number of proposals concerning the visit to Egypt, which could constitute the main elements of its framework. Those proposals and the general principles were transmitted to the Government on 28 January 1994.

192. Messrs. Dipanda Mouelle and Sorensen submitted a second progress report (covering the period November 1993-March 1994) to the Committee at its twelfth session, held from 18 to 28 April 1994. The Committee endorsed their proposals concerning the framework of the visit to Egypt and discussed the matter with the accredited representative of the Government of Egypt at a closed meeting on 28 April 1994. The Committee once again requested the Government of Egypt to agree to a visit to take place not later than 17 September 1994.

193. The Committee invited the Government to reply to its request by 17 June 1994 and stated that should no reply or a negative reply have been received by that date, the Committee would continue with the procedure provided for under article 20 of the Convention.

194. On 15 June 1994, the accredited representative of the Government reiterated Egypt's determination to comply with its obligations under the Convention and to continue its dialogue with the Committee. His Government was ready to send appropriate representatives to Geneva to discuss with the two designated Committee members all matters related to this subject.

195. In response to the request of the Government of Egypt, Messrs. Dipanda Mouelle and Sorensen met an Egyptian delegation on 3 November 1994 in Geneva. The delegation was composed of the Permanent Representative of Egypt to the United Nations Office at Geneva and four high-ranking officials from the Egyptian Ministries of Justice and the Interior. In drafting their conclusions, the two Committee members took into account the views of the Egyptian delegation. They submitted their final report to the Committee at its thirteenth session, held from 7 to 18 November 1994.

196. On 14 November 1994, the Committee endorsed the conclusions submitted to it, decided to transmit the final report and conclusions to the Government of Egypt, and invited the latter to inform the Committee by 31 January 1995 of the measures it intended to take concerning the Committee's conclusions.

197. The reply of the Government of Egypt, together with its observations on the inquiry report, were transmitted to the Committee on 31 January 1995, and considered by it at the fourteenth

session (24 April-5 May 1995).

198. Having completed all the proceedings relating to the inquiry, the Committee on 4 May 1995 invited the Government to communicate its views on the question of whether a summary account of the results of the inquiry should be included in its annual report to the States parties and the General Assembly.

199. In its reply of 26 June 1995, the Government of Egypt reiterated the view already expressed in a note dated 21 April 1995 that there was no justification for publication and cited a number of specific principles on which it based its opposition. Furthermore, the Government stated that the overall repercussions of a publication could prove highly prejudicial not only to Egypt's relations with the Committee but also to the principles and purposes of the Convention. In a further communication dated 3 May 1996 the Permanent Mission of Egypt to the United Nations Office at Geneva stated the following:

"The Permanent Mission reaffirms what was stated in the above-mentioned letter and would like to draw the attention of the distinguished members of the Committee against Torture to the sad and barbaric terrorist incident which took place last month in Cairo taking the life of and injuring many tourists as well as nationals. The Permanent Mission wishes that the Committee against Torture would reconsider its position regarding paragraph 5 of article 20 of the Convention against Torture in order not to give a wrong indication to the terrorist groups and their supporters as explained in paragraph 6 of the said letter."

Paragraph 6 of the letter referred to by the Permanent Mission of Egypt reads as follows:

"6. If a summary account of the results of the confidential proceedings concerning Egypt were published in the Committee's annual report, this might be interpreted as signifying support for terrorist groups and would encourage the latter to proceed with their terrorist schemes and to defend their criminal members who engage in acts of terrorism by resorting to false accusations of torture. In other words, it might ultimately be interpreted as signifying that the Committee is indirectly encouraging terrorist groups not only in Egypt but worldwide. This is definitely not one of the objectives specified in the Committee's mandate."

200. However, in view of the number and seriousness of the allegations of torture received by the Committee and considering that the Government of Egypt did not avail itself of the opportunity it had been offered to clarify the situation by accepting a visit of the Committee members making the inquiry, the Committee is convinced that the publication of a summary account of the results of the proceedings concerning the inquiry is necessary in order to encourage full respect for the provisions of the Convention in Egypt.

3. Conclusions of the Committee

201. The Committee notes that since November 1991, information on allegations of torture in Egypt has been provided mainly by: (a) reports of the Special Rapporteur of the Commission on Human Rights on questions relating to torture; (b) Amnesty International; (c) the Egyptian Organization for Human Rights; and (d) the World Organization against Torture. Other non-governmental sources

have occasionally provided information during the inquiry.

202. The Committee is aware of the fact that most of the allegations received by it have been made in a particular context: a wave of violence has developed in Egypt over the last few years as a result of terrorist acts perpetrated by extremist groups against tourists, foreign residents, Egyptian Christians, policemen, high-ranking officials of the army and members of the Government and the parliament. Those acts have entailed the adoption by the authorities of repressive measures such as the renewal of the state of emergency in the country until April 1997, mass arrests and severe penalties, often the death penalty, for those found guilty of terrorism.

203. The Government of Egypt states that it remains committed to applying the articles of the Convention in spite of the terrorist crimes that the country has witnessed - the aim of which is to overthrow the democratic system - and that it promotes the principle of constitutional legitimacy and the rule of law in order to counter those crimes.

204. Non-governmental organizations active in the field of human rights, while explicitly condemning terrorist acts committed in Egypt by extremist groups, report that in this climate of confrontation torture by police forces, especially State Security Intelligence, has been regularly practised. Torture seems to be used not only to obtain information and extort confessions, but also as a form of retaliation to destroy the personality of the person arrested in order to intimidate and to frighten the family or the group to which the person arrested belongs.

205. The Government of Egypt had the opportunity to make observations on those allegations both in writing and in meetings between its representatives and the members of the Committee making the inquiry. The latter were provided by the Government with statistics concerning cases in which custodial sentences had been handed down against offenders or in which compensation had been awarded to the victims. The Government states that violations of the laws prohibiting torture constitute exceptional individual cases, which the two branches of judicial authority (the Department of Public Prosecutions and the Judiciary) are investigating with a view to handing down legal judgements. In this connection, the Committee has been provided with detailed information regarding the Egyptian legal system and on court judgements imposing penalties, awarding compensation or ordering a search of places of detention.

206. From the observations submitted by the Government it appears that, generally, Egypt has a legal and judicial infrastructure that should enable the State party to combat the phenomenon of torture in an effective way. However, it also appears that judicial remedies are often a slow process leading to the impunity of the perpetrators of torture. In addition, the Committee was unable to find in the replies and comments submitted by the Government, information that would have dissipated one of its most serious concerns, namely the role of State Security Intelligence with regard to the practice of torture in Egypt.

207. The Committee takes note of the fact that most of the allegations of torture received from non-governmental organizations are directed against members of State Security Intelligence and are consistent in describing the methods applied by them; it also takes note of the fact that the Government of Egypt categorically denies any involvement of State Security Intelligence in acts of torture or ill-treatment or even in the detention and interrogation of arrested persons and, as

indicated by the Government, notes with concern that no investigation has ever been made and no legal action been brought against members of State Security Intelligence since the entry into force of the Convention for Egypt in June 1987.

208. Furthermore, the Committee is seriously concerned by the fact that the information received from non-governmental sources consistently describes State Security Intelligence premises and military camps of the Central Security Forces as places where torture allegedly occurs. The same sources report that since these places are not included in one of the categories of places of detention specified in the Organization of Prisons Act, they are not subject to inspections and investigations concerning allegations of torture.

209. The Government points out that the task of State Security Intelligence is one of collecting information and carrying out investigations. The Government states, in this connection, that State Security premises are administrative buildings and that Central Security camps are military installations and, that, therefore these places are not among those where people may be detained. However, the Government also indicates that if a report or a complaint is received regarding any form of violation of a citizen's rights, or the ill-treatment of a citizen, the Department of Public Prosecutions may take all the legal measures required to investigate the complaint including by inspecting those places and that security personnel committing a criminal act are accountable to the courts.

210. According to the Government, most of the allegations concerning torture in Egypt relate to individuals who have been accused or convicted of acts of terrorism. Those persons, or individuals or non-governmental organizations speaking on their behalf, have made allegations concerning their subjection to torture in order to prevent their conviction.

211. The Committee is mindful of the fact that it is the responsibility of the Government of Egypt to combat terrorism in order to maintain law and order and it deplors and condemns unequivocally any act of violence and terrorism perpetrated by groups trying to destabilize the Egyptian institutions. The Committee wishes to point out, however, that under article 2, paragraph 2, of the Convention, no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for torture.

212. The Government of Egypt, which has undertaken to respect all the provisions of the Convention, including those of article 2, paragraph 2, should take measures to ensure that those provisions are implemented strictly by all State authorities. In this connection, the Government should make particular efforts to prevent its security forces from acting as a State within a State, for they seem to escape control by superior authorities.

213. In its observations, the Government, while affirming its commitment to the provisions of article 2, paragraph 2, of the Convention, totally rejects the use by the Committee of individual allegations, the credibility of which has not been established, to accuse a State party rashly of systematic practice of torture in its territory, particularly in the absence of an objective interpretation of that concept.

214. In this regard, the Committee wishes to recall its views, expressed in November 1993, on what

the main factors are that indicate that torture is systematically practised in a State party. Those views are the following:

"The Committee considers that torture is practised systematically when it is apparent that the torture cases reported have not occurred fortuitously in a particular place or at a particular time, but are seen to be habitual, widespread and deliberate in at least a considerable part of the territory of the country in question. Torture may in fact be of a systematic character without resulting from the direct intention of a Government. It may be the consequence of factors which the Government has difficulty in controlling, and its existence may indicate a discrepancy between policy as determined by the central Government and its implementation by the local administration. Inadequate legislation which in practice allows room for the use of torture may also add to the systematic nature of this practice." ^{6/}

215. In the case of Egypt, the Committee finds that there is a clear contradiction between the allegations made by non-governmental sources and the information provided by the Government with regard to the role of the Egyptian security forces and the methods they use. This contradiction confirms the Committee's conviction that a visiting mission to Egypt would have been extremely useful to complete the inquiry. Unfortunately, the Government of Egypt did not avail itself of the opportunity it had been offered to clarify the situation by accepting the visit.

216. The Government of Egypt states that at no stage of its dialogue with the Committee did it protest against the request for a visiting mission to Egypt. However, it continuously affirmed the need to discuss the framework through which the visit could take place, in the light of a clear understanding of the articles of the Convention, as one of the important factors in its decision-making on the subject.

217. The Committee wishes to recall, in this connection, that proposals concerning the visit to Egypt, as referred to in paragraphs 185 and 186 above, were transmitted to the Government of Egypt on 28 January 1994 and brought to the attention of its accredited representative on 28 April 1994. No replies to those proposals were received.

218. In the absence of a visit to Egypt, the Committee therefore could neither support the Government's position nor call into question the allegations of torture, and it had to draw its conclusions on the basis of the information available to it.

219. The Committee considers that the information received with regard to allegations of the systematic practice of torture in Egypt appears to be well founded. Its conclusion is based on the existence of a great number of allegations, which came from different sources. These allegations

^{6/} Official Records of the General Assembly, Forty-eight Session, Supplement No. 44 (A/48/44/Add.1), para. 39.

largely coincide and describe in the same way the methods of torture, the places where torture is practised and the authorities who practice it. In addition, the information comes from sources that have proved to be reliable in connection with other activities of the Committee.

220. On the basis of this information, the Committee is forced to conclude that torture is systematically practised by the security forces in Egypt, in particular by State Security Intelligence, since in spite of the denials of the Government, the allegations of torture submitted by reliable non-governmental organizations consistently indicate that reported cases of torture are seen to be habitual, widespread and deliberate in at least a considerable part of the country.

221. The Committee recommends that Egypt reinforce its legal and judicial infrastructure in order to combat the phenomenon of torture in an effective way. In this connection, the Committee wishes to emphasize that it had recommended to the Government of Egypt, in November 1994, that it should set up an independent investigation machinery, including in its composition judges, lawyers and medical doctors, that should efficiently examine all the allegations of torture, in order to bring them expeditiously before the courts. This independent group should also monitor the safeguards against torture guaranteed to persons deprived of their liberty under Egyptian law, in particular by having access to all the places where allegations of torture have been reported, by alerting immediately the authorities concerned whenever those safeguards are not fully respected, and by making proposals to the authorities concerned to ensure that those safeguards are respected in all places where persons are detained.

222. In addition, the Egyptian authorities should undertake expeditiously a thorough investigation into the conduct of the police forces in order to establish the truth or otherwise of the many allegations of acts of torture, bring the persons responsible for those acts before the courts and issue and transmit to the police specific and clear instructions designed to prohibit any act of torture in the future.