

EGYPTE

The Human Rights Centre

for the Assistance of Prisoners (HRCAP)

NGO Response to the Government of Egypt's Report to the UN the Committee against Torture.

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Preface:

The Egyptian Government submitted its fourth periodical report to the UN Committee Against Torture on 19/11/2001 in fulfillment of its international obligations in accordance with Article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by the Egyptian government, published in issue number 11 of the Official Gazette on 11/11/1982. According to the aforementioned Article " The States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention."

HRCAP believes it its duty to submit comprehensive comments on the Egyptian government's report with relation to the government's commitments, for the following reasons:

1-The Egyptian government did not disclose the report to the Egyptian public or human right organizations. They - the human rights organizations- were not allowed to participate in the preparation and evaluation of the report. This action on part of the Egyptian government represents a standard policy reflecting a general absence of transparency. The government's actions are characterized by startling double-standards as it presents itself to the world as a state that respects human rights, while viewing with animosity and suspicion the institutions and individuals working in this field, considering them to be political opponents that challenge its authority. HRCAP believes that its response to the Egyptian government's report informs both intellectuals and those concerned with the content of the government's report on the one hand, and exposes the fact. On the other side the government's report was keen on presenting as brilliant and ideal image, which does not honestly reflect the truth about human rights conditions in Egypt on the other.

2-Presenting HRCAP's comments to the UN Committee Against Torture not only helps the

committee evaluate the Egyptian government's performance in the area of human rights—an important UN mechanism to monitor, protect and strengthen human rights in different countries—but also helps acquaint the Egyptian government with the comments of non-governmental organizations working in the field of supporting and monitoring human rights conditions in Egypt.

HRCAP believes in the constructive role that the UN and its sub-committees can play in evaluating the performance of governments and encouraging them to improve human rights in their countries and fulfill the commitments they took upon themselves to do all they can to allow their citizens to enjoy the basic rights stated in the Covenant. Within this context, HRCAP believes that addressing official reports represents a clear message to governments that human rights organizations perform their duty of monitoring the level of state commitment to the principles of international human rights treaties, and that this may improve state performance.

The HRCAP comment includes the following points:

- I. The Legal and Political Environment surrounding the enforcement of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- II. The in force of the Emergency law in Egypt and Public Liberty
- III. The Crime of Torture in Egypt
- IV. Detention in Egypt
- V. The conditions of detainees and Prisoners in the Places of detention in Egypt

I. The Legal and Political Environment surrounding the enforcement of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

First: The Executive Authority's Unique Legal and Constitutional Situation

Section V of Egypt's permanent Constitution issued on 11 September 1971, amended by People's Assembly resolution issued at the 30 April 1980 session, defines the main characteristics of the ruling regime in Egypt. This section is divided into 10 chapters as follows:

- President of the Republic,
- The Legislative Authority,
- The Executive Authority, under which there are four branches:
 - The President of the Republic,
 - The Government,
 - Local Departments,
 - Specialized National Councils,
 - The Judiciary Authority,
 - The Supreme Constitutional Court,
 - Socialist Public Prosecutor General,
 - The Armed Forces and the National Defense Council,
 - The Police,
 - The Shura Council,
 - The Press

A thorough reading of the articles of this section show that the president enjoys a privileged position compared with the different components of the ruling regime as, according to the Constitution, he is also in charge of the Executive Authority and participates with the ministers in policymaking.

- The head of the state is the president. The president draws the borders between various authorities. He carries the main responsibility for preserving national unity, the safety of the nation, monitoring the performance of state institutions in their constitutional roles and preserving of socialist gains. Article

127 of the Constitution provides a clear example of Separation of Branches.

- The head of state may appoint a maximum of 10 People's Assembly members and one-third of the Shura Council.
- The head of state may call the People's Assembly to convene, end its ordinary session and call an extraordinary meeting.
- He may also dissolve the Shura Council and People's Assembly when necessary.
- The president of the republic has the right to issue and object to laws in both ordinary and exceptional situations.
- The president is in charge of the Executive Authority.
- The president also lays down the general state policy with the participation of his cabinet.
- He appoints and relieves from office the Prime Minister and his deputies, ministers and their deputies.
- He declares states of emergency.
- The president of the republic is the chairman of the Supreme Council for Judiciary Authorities, the establishment of which he supervises.
- The president is the supreme commander of the Armed Forces. He declares war and concludes cease-fire agreements and treaties, in addition to being the chairman of the National Defense Council in charge of handling the nation's protection and security.
- The president is the head of the Police Authority.

Within this context, HRCAP would like to make the following three main remarks:

1. Before the 1980 amendment, the Egyptian Constitution stipulated that a president could be elected for a maximum of two consecutive four-year terms. This provision was amended by other articles in accordance with the People's Assembly decree issued at the 30th April 1980 session. According to this amendment, an unlimited number of referendums may be conducted concerning the presidential candidate
2. The citizens do not directly elect the president. He is nominated by the parliament then his name is presented to the public as a sole nominee in a public referendum the result of which is a 99% acceptance every time.
3. The authority vested in the head of state, which is also the head of the Executive Authority, include the authorities of almost all other state institutions. The president has the power to issue and repeal laws and to lay down general state policy, which fall within the competence of parliament. He may even choose a number of People's Assembly members, in addition to one-third of the Shura Council members, forming a political bloc on the Council which allows him to play a role within it. In addition to heading the Supreme Council, which controls all the judicial authorities, the president is also the arbiter between the different authorities, a function which falls within the competence of the Judicial Authorities.

With heading the Police Authority and the National Defense Council, as well as his position as a supreme commander of the Armed Forces, the president of the republic possesses an exceptional decision making power in the face of the Legislative and Judicial authorities, even if the former shares some of the president's authorities. This is clearly apparent when we consider the competencies granted the president in the Constitution. The president alone enjoys 35 competencies and authorities (63%) of the total 55 articles listing competencies and authorities in the Constitution, while the Judicial Authority enjoys four (2%), both councils of the Legislative Authority enjoy 14 competencies and authorities (25%), the Socialist Public Prosecutor enjoys one authority, and the Supreme Press Council enjoys one.

On the other hand, according to the Constitution, the Legislative Authority enjoys few authorities in the face of the Executive Authority. For example, Article 115 of the Constitution states that: "...the People's Assembly may not modify the draft budget except with the government's approval." The People's Assembly does not have the power to approve the government statement. Article 133 of the Constitution states that: "...the People's Assembly discusses this program." As for the Shura Council, the president appoints one-third of its members. Moreover, the government is not accountable to the Shura Council. Article 159 of the Constitution states that "it is consulted" but has no decision-making power.

Despite the broad competencies and authorities vested in the president, he remains above political questioning before the parliament, or legal questioning before regular courts, except in the case of high treason and other criminal acts. The Constitution prescribes that an accusation shall be issued by two-thirds of the Council members and the president shall be tried before a special court.

No law dealing with the trial of the president, Prime Minister or Minister has been issued to date.

Second: The Egyptian Parliament and its Role within the Political System

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The Constitution and the parliament regulations defined the political role of the People's Assembly in discussing the government's statement, and the government's annual plan and general budget projects.

After the ministry is formed, during the opening of the People's Assembly ordinary session, the Prime Minister should submit the Cabinet plan to the People's Assembly for discussion.

Article 111, Section V (Parliamentary Political Procedures) of the People's Assembly Internal Regulations stipulates that the Prime Minister should submit the Cabinet program at the inauguration of the People's Assembly regular session. The People's Assembly discusses the Prime Minister's statement on the Cabinet program. The parliament may not reject the government's program—thus dismissing the government—or accept it—thus granting it confidence. The parliament merely discusses and comments on the program. As for approving the state general budget and plan, Article 115 of the Constitution states that the People's Assembly "may not modify the draft budget except with the government's approval." Thus, the People's Assembly can only discuss the government's statement, and approve or reject the plan and budget, but not introduce changes to them. The government's statement represents an additional opportunity for the government to announce and defend its policies with no actual restrictions from the People's Assembly.

According to the Constitution, the suggestion and promulgation of laws is not restricted to the People's Assembly. Articles 112 and 147 of the Constitution state that the president shares with the People's Assembly the right to promulgate and object to laws, as well as issue laws through presidential decrees. This allows the president to exercise full legislative authority. Moreover, the president may conclude treaties & agreements, declare a state of emergency, and prepare executive regulations.

This is not affected by the fact that, according to Article 86 of the Constitution, the People's Assembly enjoys original legislative authority as it doesn't have any significance in view of the previously stated authorities of the president in the legislative field.

Although the People's Assembly participates in the legislative operation (the only function, from our viewpoint, in which the People's Assembly can play a role) reports monitoring parliament activities have shown a striking decline in interest in the legislative role on the part of the members. The number of those who discussed draft laws during the seven legislative period's fourth regular session, for example, dropped to 6.1% of the members.

The control role of the People's Assembly is also compromised by the fact that the president appoints and relieves ministers regardless of the party which enjoys the majority in the parliament

Article 124 and 125 granted People's Assembly members the right to pose questions to the prime minister, any of the ministers and any of their deputies on any topic that falls within their competence, as well as posing interpellations to hold them accountable. The law governing the People's Assembly prescribed control measures over the People's Assembly concerning the questions, interpellations, notifications, demands to withdraw confidence, suggestions and fact-finding committees.

Article 126 of the Constitution states that ministers are responsible before the People's Assembly for the general state policy. The People's Assembly may decide to withdraw confidence from any of the Prime Minister's deputies, any minister or any minister's deputy. However, this was restricted in Article 127, which gave the president the right, in case the People's Assembly held the prime minister responsible, to return the report to the People's Assembly within 10 days. If the People's Assembly insisted on the decision, the president may submit the matter to public referendum. If the referendum results support the government, the People's Assembly is automatically dissolved. Otherwise the president accepts the ministry's resignation. Article 127 places a strong restriction on the independent will of the Legislative Authority by requiring either the president's approval of the People's Assembly decision concerning the responsibility of the Prime Minister, or a public referendum. Moreover, the decision to submit the matter to a public referendum according to this article is left to the president to decide. This means that the president may choose not to submit the dispute to a referendum, and instead use his right according to Article 136 to present the issue of dissolving the People's Assembly to public referendum. Thus, in exercising its role of control over the Executive Authority the People's Assembly risks dissolution. It is worth considering that it is unlikely that a public referendum will support the People's Assembly against the government as long as the Interior Minister—a member of the government—supervises the referendum. In this case the government is both opponent and judge.

The role of parliament is generally restricted by its own internal regulations, which represent the organizational framework of its work. For example, Article 2 of the internal regulations guarantees the members freedom of expression. However, this freedom is restricted by the need for criticism to be objective and constructive! What may seem objective and constructive to one person may not seem so to another. This is the text usually used by the government to control the majority and get rid of members it considers a nuisance or a threat to its status before public opinion. The internal regulations also grant the

government obvious privileges relative to parliament. For example, Article 201 of the Regulations State that the government must be notified of the listing of an interpellation on the parliament's agenda. This is viewed by some as giving the government the opportunity to postpone the hearing of the interpellation and to take political advantage of this provision, which may lead to postponing the interpellation until the parliamentary term is over. The regulations also grant ministers the right to talk whenever they request, as well as the right to postpone replying to means of supervision over their actions. These provisions render the issue of accusing the government and requesting a withdrawal of confidence in it more complicated than withdrawing parliamentary membership.

The regulations generally tend toward facilitating matters for members in cases of giving up exercising their supervisory and legislative duties, while it tends to make it difficult for them when they wish to perform such duties. The regulations have a number of complicated measures for listing an interpellation. The regulations curiously state that the number of signatures on a suggested draft law not exceed 10 members. On the other hand, Article 170 of the internal regulations states that over 10 members should approve in writing the continued consideration of a draft law that was suggested by a former member.

Third: The Egyptian Judiciary System

On the surface, Egypt enjoys a stable judicial system. Some defendant rights are guaranteed. Although, Article 165 of the Constitution explicitly states that the judicial authority is independent, and Article 166 states that the judiciary is independent and prohibits the intervention of any authority in "matters of justice". However, the Executive Authority, controlled and headed by the President of the Republic, interferes with the appointment of judges. The Judiciary Authority Law 46 of 1972 acknowledged on principle that holding judiciary positions, whether by appointment or promotion, takes place through a presidential decree.

The same law also prescribes that the president solely appoints the prosecutor general from the prosecutors and heads of the Court of Appeal, counselors of the court of cassation, or attorneys general, which leaves the Supreme Judiciary Council no role –whether by acceptance or even expressing opinion- in selecting the person who holds the highest judiciary position in public prosecution.

Law 47 of 1972 and the amendments thereof prohibit the State Council from hearing any case filed against decisions related to acts of sovereignty, about which the Constitutional Court at the 21 January 1984 session concerning lawsuits number 48 of 4th Higher Judiciary Constitutional year said are: "those decisions stemming from the higher policy of the state, with its higher power internally and externally with the aim of achieving the interests of the whole political group, organizing its external relations and safeguarding its internal security."

Moreover, due to the continued enforcement of the state of emergency, there are many exceptional courts, such as State Security Courts, which were established according to the Emergency Law, and Military Courts where defendants lack many legal guarantees such as the right to file grievances against court rulings before a higher judiciary court.

Fourth: Rendering Constitutional Rights Void through Organizing them by Law

The Egyptian Constitution includes reasonable provisions that stress public rights and liberties. But the constitutional legislators paved the way for violating such liberties and rights when they referred the rendering of these constitutional rights to the law. This matter will add more restrictions on the citizens in regard to these liberties and rights.

For example, Article 44 of the Egyptian Constitution states that: "Homes shall have their sanctity and they may not be entered or inspected except by a causal judicial warrant as prescribed by the law." While Article 45 of the Constitution stipulates that: "Correspondence, wires, telephone calls and other means of communication shall have their own sanctity and their secrecy shall be guaranteed. They may not be confiscated or monitored except by a causal judicial warrant and for a definite period and according to the provisions of the law." In addition, Article 50 stipulates "No citizen shall be prohibited from residing in any place or be forced to reside in a particular place except in cases defined by law." Where Article 54 states "Citizens shall have the right to peaceful and unarmed private assembly, without the need for prior notice. Such private meetings should not be attended by security men. Public meetings, processions and gatherings

shall be allowed within the limits of the law.” Article 55 states “Citizens shall have the right to form societies as defined by law.” Article 62 states “Citizen shall have the right to vote, nominate and express their opinions in referenda according to the provisions of the law. Their participation in public life is a national duty.”

Consequently, the legislative authority—which is controlled by one party—and its constitutional legislation which match with the ICCPR would become ineffective.

Although there is a Constitutional Court in Egypt, because of the slow litigation procedures in general, and the impossibility to directly litigate before such court, legal provisions which contradict the Constitution may last for 10 years before being repealed. Above all, some provisions that could be unconstitutional were not laid before the court for decision. Consequently, many violations are committed against rights stipulated for Egyptian Citizens in the ICCPR and the Constitution.

For example, case no. 11 of the supreme constitutional, year 13, in which the verdict was issued on 8/7/2002, pronouncing the unconstitutionality of Article 24 of the Political Rights Acts and stressing the necessity of judicial suppressions and scrutiny of elections.

Fifth: Continued Enforcement of the Emergency Law for 23 Consecutive Years

A state of emergency has been in effect since the assassination of President Anwar Sadat in 1981, having been renewed every three years. In 2003, this state of emergency will have been in effect for 22 years, which is obviously the entire period of the Mubark regime. It is worthy mentioning that the third and sixth articles of the Emergency Law empower the President of the Republic or his deputy—the Prime Minister or the Minister of Interior—to impose restrictions on the freedoms of assembly, movement, residence, passing through certain places or at certain times; to arrest and detain those suspected of endangering security and public order; to search individuals and places without following the provisions of the Code of Criminal Procedure.

Moreover, they are empowered to order censorship of correspondence of all kinds, as well as on newspapers, publications, drawings and all means of expression and advertising before they are published; order their confiscation or suspension or shut down printing houses provided that the censorship is applied to matters related to public peace or national security.

It is worth noting that none of the conditions laid out in the Article 148 of the Constitution or Article 4 of the ICCPR to declare the Emergency Status are applicable in Egypt.

Sixth: Civil Society Institutions in Egypt

Although there is much evidence of newborn civil society institutions in Egypt, Egyptian laws controls these institutions and wishes to eradicate them. Civil society institutions are subject to many laws (for example, Law 40 of 1970 governs political parties). The Political Parties Affairs Committee controls the approval of the establishment of political parties, as well as suspending any party or political party newspaper or any other decision issued by the party that the committee finds conflicts the high national interest. It can also prevent any person from joining any political party or political activity and request a prompt court verdict to dissolve any political party and dictate to whom the assets and funds will be transferred.

The political party committee has approved only five of the applications submitted. It is worth noting that it rejected 50 applications for establishing new parties, i.e. it approves only 10% of the applications submitted.

The committee also freezes 7 parties of 16 working parties in Egypt. (35% of the total working parties).

In addition, the Association Act no. 84 of 2002 provides the government with a full control of civil work in Egypt. As it permits the government the right to reject the registrations of any civil association as well as the right to freeze its activities and seize its properties and premises.

The Egyptian government uses military resolution no. 4 of 1992 in order to seize the human rights activists who works in civil companies and away from the control of the ministry of social affairs. It states the penalty of imprisonment of not less than 7 years for receiving outside funds.

I. The implementation of the Emergency law in Egypt and Public Liberty

A state of emergency has been in force in Egypt since the assassination of President Mohamed Anwar Al Sadat on 6/10/1981, having been renewed every three years. The latest renewal will end in 2003.

Emergency law gives the executive branch nearly unlimited power to curtail individual liberties and constitutional rights by restrictions on assembly, residence, and the arrest of any suspect or individuals thought to pose a danger to public order or security. Additionally, individuals may be detained and houses and buildings searched without reference to the Code of Criminal Procedure. This constitutes a violation of Articles 41, 42, 50 and 54 of the Constitution. It also constitutes a violation of Articles 9 and 12 of the International Covenants on Civil and Political Rights.

Article 3 of Law 162/1985 (which amends Law 37/72) empowers the martial governor or his deputy to monitor mail or media (including advertising) prior to publication and to confiscate it. Monitoring of the press is confined to issues involving national security. This violates Articles 45, 48, and 49 of the Constitution and it also violates Articles 17 and 19 of the ICCPR.

A result of declaring a state of emergency is the transfer of power from -civilian to military institutions. State Security and High State Security Courts now have jurisdiction over any crime against the orders arising from the state of emergency. In addition, the president or his representative can refer crimes that come under normal law to the State Security Courts as well. Moreover, the president is empowered to appoint two high ranking military officers as judges in the Lower State Security Courts or as additional members of the High State Security Courts. This is a violation of constitutional and international standards regarding the separation of powers and the independence and immunity of the judicial systems stated in Articles 165 and 173 of the Egyptian Constitution and Article 14 of the ICCPR.

It is worth noting that, according to Article 9 of the Emergency Law, the president or his representative can refer crimes that come under normal law to the State Security Courts as well. This is a violation of Article 40 para 9 of the Egyptian Constitution, which stipulates the "equality of citizens" as well as the right of every person to litigate or to be referred to a competent judge (Article 68).

According to Article 11 of Act 47/1972 regarding the State Council, the presidential declaration of the state of emergency cannot be appealed, as it is considered to be acts of sovereignty. Acts of sovereignty were described by the Supreme Court of Cassation in the verdict issued on 21/1/1984 case no. 48/4 as "those acts which are issued in accordance to the high policy of the state due to its sovereignty and power inside or outside the country, aiming to achieve the public political interests."

The continuation of the state of emergency until the present is considered a grave violation of Article 4 of the Covenant and Article 148 of the Egyptian Constitution, as well as the provisions of Article 1 of Emergency Law no.162/1958. According to these articles and provisions, the state of emergency should be declared only in exceptional circumstances, such as war, the threat of war, internal disorder, disasters, which constitute a threat to national security and public order.

The Supreme Constitutional Court explained in its ruling in case 22/6, issued on 25/2/1977 that "the Emergency status would be considered constitutional only if the reasons for its declaration are embodied. The first reason for such declaration would be war or war threats that endanger the national security and public order the matter which request exceptional measures to be carried out, the measures have stated in the Emergency law."

In fact, none of the reasons for the declaration of a state of emergency exists in Egypt. In addition, the periodic Egyptian report to the Human Rights Committee did not include the reasons for its declaration. For a long period the Egyptian government used the terrorist attacks of the Islamic militants as an excuse to renew the state of emergency. The Egyptian government has declared the eradication of the terrorist movement in Egypt and the continuation of the state of emergency has thus become unjustifiable and unconstitutional.

On 11/1/2002, an article in *Al Ahram* newspaper stated that the delegate of the National Security Subcommittee of the US Congress praised the Egyptian government experience in eradicating terrorism, and expressed its hope that this experience would spread all over the world.

On 27/1/2002, *Al Ahram* quoted the Minister of the Interior from a televised interview on the eradication of terrorism as a result of the security policies that eliminate the sources of terrorism.

Despite the commitments which the Egyptian government has made before the Egyptian Parliament while requesting the renewal of the state of emergency that the Egyptian government would use the powers delegated by virtue of the Emergency law only to combat terrorism, after the eradication of terrorism, there is an obvious misuse of these powers. For example, there is misuse of administrative detention, as the Ministry of the Interior is used to combat some crimes that could be handled through the normal courts and according to the normal law codes, while some cases are not even penalized by law. During the last currency crisis, many individuals were detained on allegations of dealing in the dollars on the black market. Others were detained on allegations of drug dealing. The Ministry of the Interior's issuing of blank detention orders and circulating them to police stations assists in the misuse of this power, vested in them by the Emergency Law, Police officials are detaining people because of personal disputes between the police officer and the citizen, or for blackmail, or to cover the illegal detention of a citizen. (For Cases studied, please refer to annex no.1).

It is worth noting that the government has set forth an amendment (Amendment no.79 of 1992, article 7 para. 2) to the code of criminal proceedings that –allows the police officers to detain the accused person for seven days without charging him or referring him to the Prosecutor General. Before this amendment the law did not allow them to detain the accused person for more than 24 hours before referring him / her to the prosecutor.

Besides, the fact that safeguards on the use of the Emergency Law are impractical, claiming that there is judicial scrutiny of the Ministry of the Interior orders of detention is only partially true. According to Article 3 of emergency law no 50 of 1982, the detainee has to wait for thirty days after his detention to file a complaint. The court makes the decision after 15 days of the complaint being filed. Moreover the Minister of the Interior is empowered to challenge the court verdict within 15 days of the release verdict. This means that the person will be detained for 60 days before his freedom is restored. Moreover, the detention orders are issued for the one basic reason that the individual “may pose a danger to social security” which means that the justifications for the detentions are not completely true.

III. The Crime of Torture in Egypt

First: Although Egypt has ratified the Rome Declaration concerning the International Criminal Court, Yet Egypt did not ratify the International Criminal Court Statute, which has become effective starting July 2002. Jordan has ratified while Egypt is still refusing to commit to the safeguards stipulated by the court for the victims.

Second: According to Article 63/3 of the Code of Criminal Procedure “the prosecution general or Attorney General or the Head of the Prosecution office are only entitled to litigate against any public employee or civil servant or a police officer, for committing a felony or misdemeanor during performing his duties.” Article 232/1 of the Code of Criminal Procedures also states that cases should be referred to the misdemeanor courts by order issued by the investigation judge or the court of appealed misdemeanors. Regarding the cases, against a public servant or a police officer who committed a felony during the performance of his duties unless those crimes stated in Article 123 of the penal code.

Hence the victim of torture or any member of his families that have been tortured cannot appeal directly against the police official who tortured him. The only body that can litigate against a police officer is the general prosecution.

The fourth periodic report that the Egyptian government presented to the UN Committee against Torture on 19 February 2001 showed that public prosecution had only referred 78 officers to the criminal court during the period from 1997 to 2000. The report did not mention the number of torture grievances received by the prosecutor general's office and relevant prosecution offices in Egypt.

During this same period, from 1997 to 2001, the Human Rights Center for the Assistance of Prisoners submitted statements concerning 2,000 complain of torture which took place in police stations and prisons and this is separate from and additional to the reports and statements submitted by other human rights organizations including the Egyptian Organization for Human Rights(EHOR). HRCAP would like to draw attention to the fact that the Office of the Prosecutor General has not yet fulfilled its promise, given

continuously since 1994, to disclose the results of the investigation into the torture death of lawyer Abdel-Hareth Madani, despite the local and international reactions to this incident. On the other hand, some deputy prosecutors do attempt to take measures such as prompt referral of victims to forensic doctors to document the victims' injuries before they heal. However, there is still a need for a general plan and specific instructions from the prosecutor general to his deputies to guarantee that the crisis of torture in police stations is dealt with adequately and seriously.

Third: The lawmakers did not define the crime of torture, besides they stipulated a special condition to consider the act " a crime of torture", this condition is that the victim should be a "defendant". According to the definition in Article 126 of the Penal Code, torture only occurs in the case that the victim is "an accused". Article 126 states that "any public servant or employee who orders or personally tortured a culprit of a suspect to compel him or her to confess, shall be punished by hard labor or imprisonment ranged from 3 to 10 years. If the torture victim dies, the penalty inflicted would be as prescribed for deliberate murder". The article did not consider torturing the victim relatives or friends as torture. In this case, according to Article 129 of the penal code the crime is considered not to be one of torture, but a misdemeanor offense arising from the use of cruelty.

With respect to the punishments laid out for the use of torture and duress, the difference between the two is large. In the case of torture, the punishment described in Article 126 of the Penal Code is imprisonment for a period ranging from three to ten years. If the victim dies, the perpetrator will receive the same punishment as for deliberate murder. But in the case of the use of duress or cruelty, the punishment, as stated in Article 129, is imprisonment for no more than one year and a fine of no more than LE 200.

Article 127 of the Penal Code applies to those cases which involve the use of torture on a convicted prisoner to extract information from him. The article prohibits the imposition of a punishment more than that legally stated by the court.

Article 126 of the Penal Code is not applicable when an official or an employee use torture against a defendant for purposes different to that of forcing him to confess. This occurs, for instance, when torture is used for disciplinary purposes and to threaten, frighten, take revenge, etc. In such cases, the normal penal rules apply.

Article 126 of the Penal Code has also been criticized because it punishes the civil servant or public employee who has committed or ordered the torture, but fails to punish him if his role was only to "consent to", "condone", "instigate", or "cover" it.

Article 282 of the Penal Code states that

In all cases, anyone who arrests a person on no legal grounds, threatens him with death or tortures him physically, shall receive a temporary imprisonment sentence with hard labor.

Although this article raises the punishment for illegal arrest accompanied with death threats or physical torture to the level of those stipulated for criminal acts, it does not make a distinction between these acts being committed by one individual against another or by an official authority against an individual. It should have stiffened the punishment in the second case on the basis that public officials commit the crime not in their personal capacity but relying on the power given to them by their position and status.

According to the above, the lawmakers differentiated between torturing a defendant or suspect to compel him or her to confess a crime and torturing a relative or a friend and considered misuse of power .

Fourth: In conflict with the Egyptian constitution and international treaties, Law no. 396/1956, which organizes prisons and includes legal provisions and codes that permit the use of cruelty for security purposes. Article 2 of this law permits the warden to give orders to shackle the prisoner inside or outside the prison, if necessary to prevent his escape.

Without a doubt, this procedure contradicts international conventions and the Egyptian Constitution. The prison administration can implement use many other security measures to prevent the escape of the prisoner without shackling his legs, which is a violation to the human dignity.

In addition, Article 43 of this law stipulates the possibility of using incommunicado imprisonment as a disciplinary measure. It stipulates the period of the incommunicado imprisonment not be more than 15 days. It also permits the transfer the prisoner to the disciplinary cell for not more than 6 months, and prevents him from having visitors or correspondence during his stay in the disciplinary cell. From our point of view, such disciplinary measures are inhuman and degrade the dignity of prisoners and detainees, as well as endangering the prisoner's health. Though Article 43 stipulates one week of incommunicado detention, prison administrations routinely violate this stipulation. The medical check up prior to the incommunicado

detention is also often ignored.

In addition, it has been also noted that prison administration is also implementing disciplinary measures other than those stipulated by law. Such as ordering the prisoners to take off their cloth and raise their hands facing the wall during the inspection control visits as well as using bad words and insulting the prisoners. In fact no legal provisions stipulates this ill-treatment.

In his statement to the HRCAP, the detainee Ahmed Mukhtar Mohamed a 31year old resident of Alexandria, stated that he was detained on 8/11/1994 in case no.235 of 1994 military, and that he was sentenced to three years of imprisonment. After he completed his sentence he was detained until February 2002. During that period he was transferred from one prison to another, including Istqbal Torah, Abu Zaabal industrial, Alwadi Algadid, and Damanhor. He reported that he was beaten on his first admission to the prison. He added that the prisoners call this “the reception ceremonies“. He described the “reception ceremonies” as a process in which the newcomer is ordered to take off his clothes and walk in a lane between two lines of guards who beat him and call him with feminine names to humiliate him.

Nashaat Eid Basyoni, who was imprisoned in Abu Zaabal prison from 21/10/1997 to 21/10/2001, confirmed the statement. .

Fifth: The Code of Criminal Procedures still considers the burden of proof of the crime of torture is similar to burden of proof in any other crime. The Code does not penalize the perpetrator unless he tortured the victim personally or directly ordered it. The code is also very strict in terms of the matching of the victim’s statements and the forensic medical report. If there is any difference between the victim’s statement and the forensic report, the victim’s statement will not be considered. Then the charge will be changed from torture to illegal detention, Obviously there is a different penalty for the two crimes.

The following case is of three police officers who tortured a citizen to death. The forensic medical report was positive:

The Late Naser Gaber Hasan

On 4/11/1997, the victim was arrested and accused of robbery. On the following day, a member of the intelligence division reported to his superior that, around 4:00 am ,while he was passing by the criminal registration desk, he found a person sitting alone who asked him for a glass of water. He fetched the glass of water for the victim and left. When returned, he found the victim laying on the floor in all his clothes, with a wire around his neck. At one end of this wire there was a piece of cloth. He noticed also that there was a wound on his left hand.

The prosecution investigated the case, and questioned Major Elhami Abdul Moniemd Abu Zaid, the intelligence adjutant. Elhami stated that the deceased was summoned to the police station on the fourth of the November 1997, and that he stayed there until 5/11/1997. He added that he only knew that the victim was summoned to the police station to be questioned regarding the case 10091/1997 -Al Atreen Criminal. Elhami denied knowing the personnel responsible for questioning the victim. Elhami explained that it could be possible that the victim had pulled the two ends of the wire with his hands, and that the contusions on his left hand could have occurred because of the victim attempting to commit suicide.

On the other hand, the victim’s brother stated that his brother was arrested 13 days before the date of his death. He added that he visited his brother in the police station and he met with a police officer named Sherif Abdul Hamid. Abdul Hamid informed him that his brother was accused of a crime and asked him some questions about his brother’s conduct and behavior. Later he allowed him to see his brother in the office of the chief of Intelligence. He found his brother, who unable to stand, leaning to the wall and looking at the floor in accordance with the police officer’s orders. The victim’s brother also added that Sherif Abdul Hamid and others forced him (the victim) to enter a room where he was tortured and tied up by his legs to the ceiling and that they connected an electrical source to his genitals.

The forensic medical report pointed out the difficulty that the victim would have had hanging himself in order to commit suicide, as hanging needs another object to hang the body on. It could be possible if the wire was pulled from the behind it may cause the necessary pressure over the neck. It was unbelievable that the victim could cause it to himself. It was also impossible to believe that the victim has hanged himself by pulling the wire to ends.

On 3/3/2001 the prosecution filed the case as misdemeanor according the penal code no. 280. On 25/9/2001 the prosecution referred Colonel Salama Fouad Hussain and the police officers Ashraf Atya Mohamed, Shreif Abdul Hamid Ghareb, Elhami Abdul Moniem Abu Zaid, Mohamed Hussain Hafez and Mohamed Bader Abdul Hamid to the court for prosecution. The court penalized the third, fourth and seventh

defendants with 100 LE fine, and pronounced the rest innocent. The court also ordered the defendants to pay 2001 LE as a temporary compensation.

The interior ministry does not exert the sufficient efforts to restrict the phenomenon of torture. It does not take deterrent measures against officers accused of torture. On the contrary, in some case such officers are promoted, which gives them the sense that there is no official objection to their resorting to torture as long as it does not lead to death. In some other cases, such as the case of the late Fatah A l Bab Abdul Moniem, who was arrested by Helwan Police forces and tortured for 24 hours. Fatah died because of the torture. The Ministry of the Interior's Public Relations Department delegated a police officer to express the condolences of Mr. Hasan Al Alfi, the Minister of the Interior, to the family and paid the victim's family a sum of money (LE 2000). The Minister of the Interior ordered the accused officer to be transferred. It was very strange that the Al Gomhrya Newspaper published a photo of the ministry of Interior delegate giving the LE 2000 to the victim's family. The newspaper considered such act reflects the Ministry of the Interior's respect to the principles of human rights.

IV. Detention in Egypt

The HRCAP would like to present the following points:

1. Illegal Detention
2. Detention According to the Emergency Law- Reasons, procedures and complaint against:
3. The excessive use of provisional Detention
4. Compensation for illegal detention orders under Egyptian law.

First: Illegal Detention:

Despite the fact that Article 40 of the Code of Criminal Procedures states that no one shall be detained unless by order of the legal authorities. But the penalty never suits the crime of illegally detaining a citizen as Article 280 of the Penal Code penalizes the arrest or detention of individuals unless by order of the authorized authorities and in accordance with those situations prescribed in the laws and regulations. The article states that: “Anyone who arrests or detains a person without an order by the authorized person, and for reasons other than those stated in the laws regarding the arrest of suspected people, shall be punished with imprisonment or a fine of no more than LE 200.”

This article penalizes the arrest or detention of a person without an order from the authorized body, i.e. the Public Prosecutor or the investigation judge. However, the penalty is not proportional to the crime. Any assault on the freedom of an individual, his detention for a short or long period constitute, a violation of his rights and freedoms. The penalty is ineffectual and does not constitute a deterrent. The judge may, out of pity, impose the minimum penalty.

The Egyptian penal code increased the penalty to temporary hard labor if the arrest, in the case prescribed in Article 280, was carried out by a person impersonating an officer of the law by a false quality (dressed and acting as police official) or by producing a forged warrant.

Thus, if a police officer illegally detains an individual and keeps him in an illegal place for detention, he will only be fined. But if another person, dressed as a police officer, illegally detains an individual, he will be sentenced to temporary hard labor.

Second: Detention According to the Emergency Law: Reasons, procedures and complaint against:

Article 3 of the Act 62 of 1958 vested security officials with broad powers and authorities, including the power to detain individuals on suspicion.

It is worth noting that the government has set forth an amendment to the Code of Criminal Proceeding (Amendment no.79of 1992, article 7 para. 2) that—allows police officers to detain the accused for seven days without charging him or referring him to the prosecution general. Prior to this amendment, the law did not allow the accused to be detained for more that 24 hours before he was referred to the prosecution.

Notwithstanding that the Emergency law safeguards are impractical, claiming that there is judicial scrutiny of the detention orders of the Minister of the Interior is partially true. As according to the third article of the Emergency law no 50 of 1982, the detainee has to wait for thirty days after his detention to file a complain. The court make the decision after 15 days from file that complain. Moreover the Minister of the Interior is empowered to challenge the court verdict within fifteen days of the release verdict. Which means that the person will be detained for 60 days until he restores his freedom.

Moreover, the detention orders are issued for one basic reason that the individuals in question “may pose danger to social security”, which means that the justification for the detentions is not completely true. It has been found out that 75% of the detention orders have been repealed by the State Security Courts because there was no serious evidence of such a danger, as, for example, in the following cases: 8843/2002, 9574/2002,5138/2002, and 2362,2002.

Article 3 of the Emergency Law did not contain any provisions that guarantee that the authorities would not arbitrarily detain a detainee following release to prevent the phenomenon of recurrent detention. According to the HRCAP records, hundreds of individuals have been detained for more than five years despite the fact that they have obtained many judicial verdicts of release. But the authorities circumvent such judicial verdicts by transferring the detainees to another place until new detention order will is issued.

“ Please refere to Annex 2 for cases of recurrent Administrative detention ”

Third: The excessive use of preventive detention powers:

Provisional detention is dealt with in the Codes of the Criminal Procedures Articles 134 to 143. Article 134 states that if it is found out, after the interrogating the defendant or in case of his escape, that the offence committed is a felony or misdemeanor which carries a penalty of more than 3 months imprisonment and the evidences are sufficient, then the investigation judge is empowered to order the provisional detention of the defendant. It is also permitted for the judge to order the detention of the defendant if his place of residency is unknown. Article 137, states that the prosecution is empowered to order the detention of the defendant provisionally at any time. Article 142 stipulates the period of provisional detention to be not more than 15 days, but permits the investigation judge—according to the prosecution reasons and recommendations—to renew the defendant’s detention for a period of not more that 45 days.

In fact the use of provisional detention as a punishment is unconstitutional and Contravenes Articles 66 (no penalty shall be inflicted except by judicial sentence) and 71 (any person arrested or detained shall be informed forthwith of the reasons for his arrest or his detention. Any person may lodge a complaint to the courts against any measure taken to restrict his personal freedom).

As a matter of fact, provisional detention is a penalty inflicted on people who have not been convicted of any crime. In addition the accused person cannot complain against such procedure before any judicial body, nevertheless, his detention may last for more than 6 months.

The HRCAP has monitored and documented the excessive use of provisional detention orders by the investigative bodies, to punish people who have not been convicted yet of a crime, while the investigative bodies are afraid would not be penalized if they were referred to the court. (For cases studied please refer to annex 3)

It is worth noting that the lawmakers included a very important exception to the article 7 para 2 of the act no105 of 1980. They vested the State security prosecution with the powers of an investigation judge regarding the felonies that comes under the authority of the High State Security Courts. Such an exception to the Codes of Criminal Procedure nos. 201,202,203 which vested the prosecution the right to detain the accused person provisionally for 4 days before referring his file to a judge for decision.

Moreover, combining two powers in the prosecution, the prosecution and the magistrate, contradicts the safeguards stated in Article 64 of the Codes of Criminal Procedure, as it states “ If the general prosecution recommends that a Judge would pursue the investigation in the process of felonies and misdemeanors.” Consequently, the general prosecution could request from the head of the first magistrate court to set-forth such recommendation at any stage of the case. While Article 65 states that “ the minister of Justice is empowered to request from the court of appeal to nominate a counselor to investigate a crime or crimes of special kind. Since then, the nominated counselor will the only person responsible for the investigation.”

The general prosecution is a branch of the Ministry of Justice. The Minister of Justice has the right to scrutinize their members in accordance with Article 125 of the Judicial Authority Act no. 46 of 1972. Since the Minister of Justice is a member in the government and is responsible for executive policy, one cannot consider the Prosecution members as independent.

The new amendments by Act no. 97 of 1992 to combat terrorism added to the State Security Courts more exceptions which are a violation of the rights and safeguards stipulated for the citizens. Article 7 Bis. of this act states that “the general prosecution is competent to prosecute and investigate ithe crimes of the State Security Courts according to the rules and procedures stated in the code of the criminal procedure unless the law states otherwise. The general prosecution is vested with the powers of the investigation judge in felonies that are referred to the state Security courts.

Article 7 bis. gives the general prosecution the power to investigate the crimes stated in chapter 1 of Part II of Volume II of the Penal code. In addition, Article 143 of the Code of Criminal Procedure the general prosecution also has empowered the competence of the investigation judge and the Court of Appeal for Misdemeanor.

The general prosecution has been vested exceptional powers and entitled to order the detention of any defendant for 45 days—as Investigation Judge—and it is also vested the competence of the court of Appealed Misdemeanor and can order the detention of the accused person for a period of six months. The accused person can appeal or complain against such an order.

The other amendments are also considered a grave exceptions. As Article 7 para 3 and 4 of the Act no.97 of 1992 states that, “the Judicial apprehension officer (Police officer) is empowered to take the suitable provisional procedures against those who—due to enough evidence—will be charged with committing any of the crimes laid out in Volume II, Chapter 1 of the Penal Code. The judicial Apprehension officer has to request the general prosecution to permit him to arrest the defendant within 24 hours. The general prosecution—to maintain the Social security—would permit the apprehension of the defendant for 7 days. The police officer has to interrogate the defendant and refer him to the prosecution by the end of the 7 days.

Such an amendment is a grave violation of the rules and principles of the Code of Criminal Procedure, As Article 36 Code of Criminal Procedure states that the police officer must refer the defendant to the competent prosecution within 24 hours.

Fourth: Compensation for wrongful detention orders:

The law permits the victims to request compensations for torture or wrongful detention. The amount of the compensation is always left to court to decide, and it is usually less than it should be, as judges bear in mind that the government will pay such compensation.

(For examples of Cases of compensations, please refer to Annex 4)

V. The conditions of detainees and Prisoners in the Places of detention in Egypt

First: General remarks on the Law no.396 of 1956 on Prisons and its amendments

On the 29th of November 1959, the President of the Republic issued presidential decree-law no.396/1956, which deals with prisons in Egypt. The new law repealed decree-law no.180/1949, which organized the internal prison charter as well as repealing decree-law no.21/1936 regarding press crimes, which was amended by the law no. 636/1954.

The HRCAP would like to make five remarks regarding this decree-law

1. This law was issued by decree from the President of the Republic without being approved by the Egyptian Parliament although there was no urgent necessity for such action.

In fact, the period after the 23rd of July revolution has been characterized with such legislative status and we can easily figure out that the President of the Republic has been granted more rights and access to legislative process and given powers by which he can ignore the parliament. As a matter of fact, nowadays this situation could be open to constitutional challenge, especially after the decision of the Supreme Constitutional Court, which declared the Presidential decree-laws which overstep Parliament, as unconstitutional in case of no urgent necessity.

2. This law repealed decree-law no.21/1936, which had been amended by Law no 636/1954 regarding crimes of expression which treats those convicted of crimes of expression as provisionally detained, and gave them many advantages, such as buying newspapers from outside the prison, meeting with their lawyers in private at any time, receiving medical treatment inside or outside the prison and using their own clothes and personal tools ...etc.

3. Law no. 396/1956 which deals with prisons in Egypt, permits the President of the Republic to build special prisons and states the categories of the prisoners to be housed in them, as well as states the method

to treat them and the conditions for their release. But the law did not stipulates the reasons for building these prisons, and this may lead to the misuse of these places and implementing special kinds of penalties.

4. An additional clause was added to the Article 1 of law no. 396/1956 which organizes the prisons in Egypt which permits the Minster of the Interior to designate some premises as detention places such as (camps, houses, the Ministry of The Interior building, or the state security premises). The only authority that is authorized to inspect these places is the Prosecutor General or his deputy—who should be a head of prosecution.

In fact this is a very serious exceptional provision, as it permits the Minister of the Interior to choose any place as a place of detention. Nevertheless, it neglects to lay out the conditions for the suitability of a place to become a place of detention and it has limited the inspection on these places to the Prosecutor General or his deputy. As a matter of fact, the Prosecutor General could not perform such inspection himself due to the huge load of responsibilities that he undertakes. On the other hand, the procedures to nominate a head of prosecution to carry out inspections are very complicated and slow. Consequently, those detained in these places would be liable to torture and ill-treatment more than those in detained in public prisons.

5. The Prisons law repealed the special treatment of prisoners of conscience and at the same time permits better treatment for convicted police officials in accordance to Presidential decree no.1346/1960 which stipulated that “In Each security forces camp there should be one room will be dedicated for the police officers detained proccationally or pending investigation”.

Above all, law no.396/1956 includes many provisions that include inhuman penalties and degrading punishments, such as the shackling of prisoners’ feet in order to prevent their escape.

Though flogging has been repealed by law no.152 on 14/2/2002, there are more penalties and disciplinary measures that need to be reconsidered by the Egyptian government.

Second: Judicial supervision of the places of detention

1- The Prosecution general and Judicial Supervision

Articles 85 and 86 of law 396/1956 stipulate the judicial supervision of Egyptian prisons for the following categories:

First Category: The public prosecutor and the head of the Court of Cassation and his deputy are given the right to enter and exercise judicial oversight in all prisons and places of detention in Egypt.

Second category: The heads of the Courts of Appeal, their deputies, as well as the heads of Preliminary Courts and investigation judges are empowered to supervise and inspect prisons and places of detention, each one within his area of concern.

Third Category: deputy public prosecutors are entitled to supervise prisons in their area of concern, except those places which are considered places of detention according to Ministry of the Interior orders.

It is worth noting that, the judicial supervision has become more unpractical as it is unimaginable that the Prosecutor general will – give up his responsibilities to perform such inspections on prisons or place of detention. In addition the prosecution deputies are performing routine inspections on the places of detention. Besides some of the Prosecutor General deputies were police officers. In addition some police officers have more professional to hide the evidences of torture or the tortured victims or those illegally detained.

2- Judicial verdicts concerning the guarantees of prisoners’ rights:

All the procedures carried out by the prison administration are judicial procedures which can be legally challenged before the Administrative Court. These procedures such as the administration refusal to transfer the prisoner to the hospital or denying his right to attend the educational exams and closing the prison before visitors.

The penalty inflicted on those refusing to implement the court verdicts is the imprisonment of the official person who refuses to implement the verdict as well as dismissing him from his position. The Ministry of the Interior, however, is not implementing the judicial verdicts or it is circumventing the implementation of these verdicts. For example, when the courts order a prison to be opened for visiting, the Ministry of the Interior opens the prison for one hour and then closes the prison again and bans visiting.

The insistence on refusing to implement the verdicts of the Administrative Courts is unconstitutional,

since constitutional law emphasizes the separation of powers as well as the illegality of having administrative orders being immune from legal challenge. What is left to the judiciary in terms of dignity and respect if we deny their responsibilities and the jurisdiction of their verdicts? What will be the consequences of having a judiciary whose verdicts are routinely ignored by the government or individuals?

Ignoring verdicts not only is a violation of the judiciary, but also have serious negative effects on the detainees and their families. The case of Sami Mohammed Othman Ghazal is illustrative in this regard, as the continuing refusal to implement the release verdicts had a negative effect on his medical condition. He suffered from tuberculosis.

The following table shows his detention certificate.

	Release Date	Detention Date	Time period
		28/3/1995	First detention order
1	30/7/1995	7/8/1995	
2	27/11/1995	2/12/1995	
3	1/12/1997	8/12/1997	
4	3/7/1999	12/7/1999	
5	28/9/1999	1/10/1999	
6	19/1/2000	21/1/2000	
He was declared dead on the 10/2/2000			

The continued refusal of the executive branch to implement verdicts is a violation of the judiciary's authority, the Constitution, and the principles of democracy. Since the detention orders are illegal and contradict various laws, it eventually makes the state liable to pay compensation and damages to the aggrieved parties. These compensations are a waste of money and a drain on the state's resources which should be directed towards other more beneficial activities, rather than being used to pay for the consequences of illegal administrative orders.

The refusal of the regime to implement judicial verdicts is a constitutional violation whereby the government provides the worst example by avoiding the implementation of verdicts. The most dangerous result of these actions is that a sense of illegitimacy will prevail in society and no one will respect the law since the executive branch clearly does not respect it. This may result in an undervaluing of the Constitution, its laws, and the judiciary.

The refusal to implement verdicts is spreading an atmosphere of distrust among the people as individuals go to the courts to seek justice only to find that the verdicts carry no weight. People will cease to trust in the law and resort to the methods of barbarians to protect and obtain their rights.

Ignoring judicial verdicts will cause the entire judiciary to lose its prestige and dignity. It is especially dangerous that public servants feel they can ignore these verdicts with impunity.

The refusal of the administration to implement certain rulings of the judiciary will cause all laws and rulings to lose their value because of their lack of effectiveness.

The above evidence shows that the judicial branch in Egypt has lost a great deal of its independence due to the expanded power of the executive branch. Together with the total subordination of the legislative branch to the executive branch, this development suggests that the bases of a democratic system in Egypt are being destroyed.

Third: The importance of disciplinary punishment within the framework of Respecting the human dignity and Applying the System

Law no.396/1956 and its executive chart laid out many legal provisions that set the legal framework to impose disciplinary and punishment inside the prisons. The following are types of punishment imposed to the prisoners:

Warning.

Deprivation of some privileges merited by his category or class for a period not exceeding thirty days.

Delay of the prisoner's promotion to higher category for a period not more than six months in case of

an imprisonment term or more than one year if he is sentenced to hard labor.

Demotion of the prisoner's category or class to a lower class or category for a period of not more than six months in case of an imprisonment term or more than one year if he is sentenced to hard labor.

Isolate the prisoner in incommunicado detention for not more than fifteen days.

Place the prisoner in the disciplinary cell for not more than six months.

The law makes clear that the priority of the philosophy of discipline and punishment imposed inside the prisons is to maintain order and security. But it has been framed with conditions and rules that should not, from a legal point of view, be violated. Yet practically, it faces many practical problems. These start with the misuse of the right of imposing punishment and end with the lack of legal provisions that ensure its proper implementation. Although the International Covenant stresses respect for human dignity, it has been noted that the disciplinary instruments violate these rules. For example, incommunicado detention is a routine punishment for any offense. According to the prison administrators incommunicado detention is the proper punishment to deter prisoners' misconduct.

This is not acceptable, especially if we bear in mind the inadequacy of the places of close confinement by any of the standard minimum rules stipulated by the International Covenant and treaties. In most prisons the cell assigned for incommunicado detention is always very small, 1-2 by 2-3 meters. Most of these cells are dark and the floor is made of asphalt. This cell may house 3 inmates at a time. There are no bathrooms. The prisoner is permitted to go outside twice a day for fifteen minutes to use the bathroom. But in some cases the prisoner is prevented from leaving the incommunicado cell and will be given a bucket to comply with needs of nature. Moreover the incommunicado prisoner is not entitled to receive visits and he receives his food once per day.

Beyond such inhuman treatment, the prison administrator also invents new rules not stated by law. For example, the law bans any visits during the incommunicado, yet the prison administration permits him to receive visits after additional period equal to his confinement in the incommunicado in addition to the previous period before the incommunicado waiting for his next visit scheduled, i.e. if it is scheduled that the prisoner would receive a visit after one week and then he was punished incommunicado for three days, his next scheduled visit after 13 days from his release from the incommunicado.

(For cases studied please refer to Annex 5)

Fourth: The Prisoners rights to pursue their educational career

The Prison Administration's denies access of books to prisons for many reasons, such as closing some prisons to visiting or communicating with the outside world such as (the High Security Prison, Istiqbal Tora, and Fayoum) the prison administration refuses to permit the study books for the student prisoners; moreover they seize the books they find in while performing search campaigns.

On one hand, there are no specified classrooms for studying inside prisons. On the other hand, the prison administration refuses to allow the prisoners to attend exams, claiming that the faculties are out of the prison area.

In addition, the prison administration used to house student prisoners and non-student prisoners in the same cells, which prevents the student prisoners from having the proper atmosphere for studying.

The prison administration is bound to pay the school expenses for inmates willing to pursue their educational careers. Nevertheless the financial funds are limited and not enough to assist all prisoners to

pursue their educational career or to join the universities.

During 2001, the HRCAP filed many lawsuits litigating against the prison administration to allow the prisoners and detainees to attend their exams.

(For cases studied in that regard please refer to Annex 6)

Fifth: The right to medical care

Egyptian Prisoners and detainees are suffering from many medical and health problems. Some problems are due to a lack of funds but others are due to the misuse of the medical facilities as means of rewarding or punishing detainees. Following is a list of some prisoners and their condition: (For examples and cases studied please refer to annex 7)

Sixth: The Right to receive visits and correspondence:

The Human Rights Center for the Assistance of Prisoners monitors many violations of the right to visitor from and correspondence with the outside world.

It has been also noted that there is a great variation in practicing this right, depending on the category of the detainee or the prisoner. Prisoners and detainees held for criminal offenses enjoy this right to a greater degree than those detained for political reasons. There is also variation among the political detainees as well—for example detainees from the “Islamic Group” are entitled for more visit than those of “Al Jihad”.

Prisoners and detainees are not geographically distributed according to their area of residence. Consequently most of the prisoners’ families cannot afford to visit, especially when the prisoner or detainee is imprisoned in a remote prison such as Al Wadi Al Gadid.

There can be no doubt that the condition of visiting places and the surrounding atmosphere are very important in maintaining social and family ties and preserving dignity of the prisoners and their families.

The closing of prisons to visits is another problem that faces the families of the detainees. It is not permissible to claim that Article 42 of the prison law allows for absolute prevention of visits for security reasons. Instead, this permission is only applicable for specified periods. Failing to recognize this constitutes a violation and moral abuse of the prisoners’ and their families’ human dignity. It is unimaginable that complete closure is in accordance with the intention of the those who drafted Article 42.

(For cases studied please refer to Annex no.8)

ANNEXES

Annex 1

The following is a brief sample of cases of wrongful administrative detention:

1. Mohamed Abdul Raouf Mohamed Husain. Student. Detention order no.: 17525.
2. Hamdi Abdul Raoud Mohamed Husain. Student. Detention order no.: 17523.
3. Abu El Qomsan Ahmed Omer. Student: Detention order no.:17526.
4. Jomhori Ahmed Omer Tolbah. Student. Detention order no.:17524. These four are residents of Luxor.

They have been accused of insulting a public employee. They were detained for 15 days pending investigation, and when they were released on bail on 22/9/2001, the Ministry of the Interior issued a detention order against them on the same day. They are currently being held in **Prison 430**, Wadi Al Natroon.

5- Amro Ibrahim Ahmed Basuoni

A 41 years old resident of Abdin, Basuoni, is a merchandiser. He was arrested and accused of possession of drugs. On 18/6/2001 the prosecution released him on bail. He was detained again on 22/6/2001. When he filed a complaint against the detention order the court ordered his release on 5/1/2002. But unfortunately, the Ministry of the Interior detained him on the day of his release. He filed another complaint on 5/2/2002, but he remains in detention.

Due to the excessive misuse of powers vested by the Emergency Law, and the lack of professional mechanism, the phenomenon of torturing the citizens inside the police station has spread. The police are misusing their right to detain individuals for a week before referring him to the prosecution. They torture them until they make a confession against themselves or others. Some give false confessions to escape being tortured. The following case study is evidence of the misuse of power vested in police officers by the Emergency Law.

Case study of Mr. Mohamed Bader eldin Gomaa.

Back ground Information:

On 24/2/1996, the victim, a resident of Alexandria Governorate reported the disappearance of his daughter at the Al Montazah Police Station. Later, the police found a dead body for a girl of the same age of the disappeared girl (9 years old). The descriptions of the disappeared girl roughly matched the found body. The police arrested the father and accused him of murdering his daughter. The victim was detained and tortured for 14 days to compel him to make a confession and testify that he had murdered his daughter. Then he was referred to the prosecutor general and his case was given the number 43806/1997 criminal. The prosecution ordered his detention pending investigations from 17/9/1996 to 18/2/1997. Then he was re-detained in Al Montazah Police Station, where he was tortured by beating and electric shocks. Moreover, the police officers brought his wife and threatened him that the other detainees would rape her if he did not confess. Finally, he agreed to confess that he had murdered his daughter because of her misconduct. In his confessions he stated that he tortured his daughter using a hose and then cut her hair and beaten her, in the meanwhile, he put some tissues in her mouth to prevent her from asking for help. When she died, he put her body in a car, and got rid of the body in a waterway, near to the railway.

After his testimony, he was referred to the general prosecutor to confirm his testimony. The court sentenced him for five years of imprisonment.

Later, the victim's daughter was found alive. She had lost her way home, and had been placed in one of the social care institutes, where she remained until her mother found her. However, when the mother reported that she had found her daughter, she was detained illegally in Al Montazah Police Station, along with her daughter, for thirteen days. Fortunately, when the Deputy Prosecutor was inspecting the police station, he asked the mother for the reason of her detention along with her daughter. She told the whole story. He promptly, reported the case to his superiors and to the competent authorities. The case was reopened and on 17/10/1998, the court ordered the release of the victim and declared him innocent. The court ordered the prosecution of 13 Police officers of different ranks.

The police officers that were referred for prosecution are:

1. Major General the Assistant of the Minister of Interior and the Head of Alexandria Police Administration.
2. Major General Saeed Abdul Fatah.
3. Colonel Mohamed Saeed (Head of the criminal Intelligence).
4. Colonel Ataya Mahmud Razeq.
5. Colonel Mustafa Omran.
6. Lieutenant Colonel/ Alaa Shawki

7. Major Sami Anwar
8. Major Wael Mohiel Deen
9. Major Yaser Zuhni
10. Major Mohamed Fawzi
11. Major Islam Henadi
12. Major Emad Zuhair

They were accused of use of violence and cruel treatment with the victim and his wife, of compelling the victim to confess to a crime never happened, and of detaining the child “Gehad” and her mother for no legal reason for thirteen days in order to mislead **Justice**.

The accused police officers have not yet been summoned before the prosecution.

Annex 2

The following list presents some cases of recurrent detention

Efaat Ibrahim Saleh

34 years old, from Helwan District, he is detained in Abu Zaabal Prison. He was detained on 7/3/1993. He received 11 verdicts of release in regard to the complaints he submitted to the State Security Courts (Emergency). His medical condition is bad. He suffers from spinal problems and he is unable to move.

Abdul Maqsoud Abdul Hafeez Abdul Maqsoud

36 years old, married with 4 children, he was detained on 4/10/1995. His current prison is Wadi Al Natron 1. He has received 8 verdicts of release. His medical condition is bad. He suffers from chest allergy and high blood pressure.

Nadi Qorani Ibrahim Mohamed Hasan:

Detained on 16/10/1996, he has received 3 judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency) His current prison is El Wadi El Gadid Prison His general medical condition is bad. He is suffering from prolapsed cartilage.

Tareq Naim Ryadh:

Detained on 14/10/1993, he has received 14 judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency) His current prison is El Wadi El Gadid Prison. His general medical condition is bad. He is suffering from phthisis.

Ahmed Eid Motwali:

Detained on 15/11/1996, he has received 9 judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Abu Zaabal Prison. His general medical condition is bad. He is suffering from Heart diseases and psychological problems.

Gaber Ahmed Taha Mohamed

Detained during 1993, he has received many judicial verdicts of release in response to the petitions he has

submitted to the High State Security Court (Emergency). His current prison is Al Wadi AL Gadid. His general medical condition is bad. He is suffering back pain.

Belaidi Alsyed Mezar Saad

Detained on 3/6/1994, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Al Wadi Al Gadid . His general condition is bad. He is suffering from kidney and eye problems.

Ashraf Abdul Halim Ramdan

Detained on 11/2/2002, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Wadi Al Natron 430 Prison. His general medical condition is bad. He is suffering from Diabetics.

Hegazi Abdul Fatah Mohamed

Detained on 15/6/1994, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Al Fayoum Prison. He is suffering from fracture of the left arm.

Tarek Ahmed Khalil Ibrahim

Detained on 12/1/2002, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency) His current prison is Damnhor Prison.

Essam Abdul Fatah Abdul Aal

Detained on 11/1995, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Al Wadi Al Gadid Prison. His general medical condition is bad. He is suffering from Chest Allergy and Anemia.

Ali Robi Ali Ginadi

Detained on 5/10/1997, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Wadi Al Natron 1 Prison.

Abdul Moniem Ali Abdul Naeim Abdul Rahman

Detained on 22/1/1995, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Wadi Al Gadi Prison. His current condition is bad. He suffers from anemia or scabies.

Kamal Hidaya Rehan

Detained on 22/1/1995, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Wadi El Natroon 2 Prison. His medical condition is bad. He suffers from ulcers, epilepsy and anemia.

Mahmod Abdul Radi Abdul Mawgod

Detained on 2/10/1994, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Al Wadi Al Gadid Prison.

Magdi Othman Mahmud Idres

Detained on 7/10/2000, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Abu Zaabal Prison.

Gamal Hasan Mohamed Mowad

Detained on 4/01/1995, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Al Fayoum Prison.

Mohamed Hemdan Mohamed Hamdan

Detained on 1/3/1994, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Abu Zaabal Prison.

Farag Mohamed Rashidi

Detained in 1992, he has received 2 judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Al Wadi Al Gadid Prison.

Rabea Tamam Mohamed

Detained on 9/1997, he has received 8 judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Al Fayoum. His general medical condition is bad. He is suffering from a prolapsed disk and has difficulty breathing.

Abdul Latif Ali Abdul Latif Hussain

Detained on 17/4/1996, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Al Wadi Al Gadid Prison. His general medical condition is bad. He is suffering from heart and kidney problems

Alsyed Alsyed Mohamed Daraz

Detained on 5/3/1993, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Al Fayoum Prison. He is suffering from kidney problems.

Ahmed Alsyed Abdul Rahim Hasan

Detained on 14/4/1994, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Wadi Al Natroon 2 Prison.

Ragab Taha Mohamed Abdul Maqsoud

Detained on 5/12/1995, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Wadi Al Natroon 1 Prison.

Shaaban Ismail Emam

Detained on 31/11/1993, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Abu Zaabal Prison. His general medical condition is bad. He is suffering from polyneuritis.

Aqel Mohamed Mohamed Mahmoud Aqel

Detained on 1995, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Al Fayoum Prison. His general medical condition is bad. He is suffering from liver and kidney problems.

Ali Abo Zaid Hasan Bakeer

Detained on 7/3/1995, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is AL Wadi Al Gadid Prison.

Abdulah Mursi Mahmud Mohamed

Detained on 1/11/1997, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Al Wadi Al Gadid Prison. He is suffering from Piles.

Farghli Syed Abdul Ghani Mohamed

Detained in 30/6/1994, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Wadi Al Natroon 1 Prison. His general medical condition is bad. He is suffering from phthisis.

Mamdoh Taha Al Amin

Detained on 23/1/1995, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Al Fayoum Prison.

Mahmod Yasin Alsayed Al Shafai

Detained on 24/11/1994, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Istqbal Torah Prison. His general medical condition is bad. He is suffering from post operative problems following an operations for piles and an appendectomy.

Mohamed Syed Kamel Ahmed Hamad

Detained on 7/4/1993, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Abu Zaabal Prison.

Mohamed Ali Abdul Rahman Orabi

Detained on 14/12/1992, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Al Fayoum Prison.

Mohamed Ahmed Abdul Aati Taha

Detained on 2/1/1995, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Al Wadi Al Gadid Prison. His general medical condition is bad. He is suffering from general weakness and kidney problems.

Mahmod Hafez Mahmod

Detained on 9/1999, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Wadi Al Natroon 440 Prison. His general medical condition. He is suffering from diabetes, rheumatism and scabies.

Naser Galal Tawfiq Rashwan

Detained on 1/1/1994, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Al Menai Prison.

Hasan Hasan Ismail

Detained on 19/3/2002, he has received many judicial verdicts of release in response to the petitions he has

submitted to the High State Security Court (Emergency). His current prison is Wadi Al Natroon 420 Prison.

Sadawi Abdul Azim Hasan

Detained on 2/9/1995, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Al Wadi Al Gadid Prison.

Ahmed Abdul Qader Gomaa AbdulAlah

Detained on 12/1994, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Al Wadi Al Gadid Prison.

Mohamed Ataya Abdul Hamid Ibrahim

Detained on 29/3/1995, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Al Fayom Prison. His general medical condition is bad. He is suffering from epilepsy.

Moatez Ali Abdul Karim Abdul Ghani

Detained on 11/6/1994, he has received many judicial verdicts of release in response to the petitions he has submitted to the High State Security Court (Emergency). His current prison is Al Fayoum Prison. His general medical condition is bad. He suffers from ulcers, paralysis and heart problems.

Annex 3

1. Abdul Naser Ismail Khaled

A 23 years old driver. Resident of Mansouria, Embaba. He was arrested on 7/4/1999 and was released pending case no. 7682/1990 on 11/6/1999. On the 21/5/2002 the court proclaimed him innocent.

2. Tarek Emam Hussian Mursi

A 33 year resident of Al Munerah Al Sharqya, Embaba. He was arrested on 20/2/1999 and he was released pending the case no. 5110/1999, on 8/3/1999. He was accused of possessing drugs for the purpose trading. On 11/5/2002 the court pronounced him innocent.

Annex 4

Table Shows Compensation Cases

Name	Case no.	District	Place of Torture	Torture	Date of Detention & Release	Compensation Amount
1. Abdul Ghani Alaref Ibrahim	4556/98	Giza	Istqbal Tora	Beaten, tortured	9/8/95 24/2/96	1000
2. Omer Abu Daif Mohamed Idris	5564/99	Cairo	Unknown	Humiliated. Beaten.	2/2/95 24/8/97	1500
3. Ibrahim Ibrahim Mursi	17019/98	Gharbya	Damnhor	Beaten w/ sticks. Electric shocks Insulted.	26/11/95 1998	1500
4. Abdul Fatah Ahmed Mahmod	5573/98	Sohag	Unknown	Beaten w/ sticks and tortured with electric shocks. Strippe	13/7/95 12/2/98	2000

5.	Omer Mohd Ahmed Mohd	1055/99	Giza	Istqbal Tora	Beaten with clubs. Insulted and stripped.	8/8/95	27/6/98	3000
6.	Mahmod Saad Ibrahim	8648/99	Daqhlia	Istqbal Torah	Beaten, flogged, and forced to creep.	28/7/95	24/1/28	3000
7.	Hemdan Thabet Mansour	1446/99	Cairo	Istqbal Torah	Beaten with clubs and wires.	15/4/95	20/2/99	3000
8.	Khamis Alsyed Mohamed	7542/99	Alex	Unknown	Beaten, flogged, insulted.	16/6/96	25/1/97	1500
9.	Hamada A.Hadi Ahmed	2779/98	Qena	Istqbal Torah	Beaten, hung from his hand. He is paralyzed.	25/2/96	1998	2000
10.	Emam Maraai Emam	336/99	Cairo	Al Wadi Al Gadid	Beaten with clubs and wires.	8/1/96	9/96	1000

Annex 5

Cases studied of incommunicado

Essam Gad

He is serving a sentence for a criminal offense in Al Qata Prison. He was placed in incommunicado for more than 3 months as punishment for fighting with another prisoner. **The Prison Administrator** got angry with him and placed him in closed confinement and threatened that he would not come out alive

Mohamed Mohamed Abdulla

A 26 years old laborer and resident of the Alsahel district, he was convicted of robbery and sentenced to 3 years of imprisonment. His current prison is Abu Zaabal. He was placed in incommunicado for two months because he refused to be ill-treated by the guards.

Hemat Mustafa Hagag

A 22 years old a mother, her daughter was one year old on 28/3/2001. She was sentenced to 3 years imprisonment for drug dealing. Her current prison is Al Qanater prison for women. She was punished by incommunicado for quarrelling with another inmate. She was kept with her daughter in the incommunicado cell for three days.

Annex 6

The following table presents the cases, which the HRCAP filed to assist detainees and prisoners to attend their exams and pursue their educational careers:

	Plaintiff	Appeal No.	Session	Current Prison
1	Abdul Wahab Mohd A.	1030/56	Still running	Al Fayom
2	Hani Khalifa Ahmed	1031/56	Still running	Al Fayom
3	Waleed Abdul Majeed	1032/56	Still running	Abu Zaabal
4	Wael Abdul Latif Mohd	1033/56	Still running	Al Fayom
5	Essam Eldin Abdul Nabi	1034/56	Still running	Al Wadi Al Gadid
6	Abdul Hamid Mohamed	1035/56	Still running	Damnhor
7	Alaa Eldin Abdul Nabi	1036/56	Still running	Al Wadi Al Gadid
8	Mahmod Ahmed Mahmod	1037/56	Still running	Al Wadi Al Gadid
9	Mohamed A.Halim A.Syed	1038/56	Permitted to attend Exams	Damnhor
10	Zaki Zaki Alsyed	1039/56	Still running	Liman Torah
11	Husam Aldin Musa A.	1040/56	Still running	Damnhor
12	Mamdoh Mohamed Abdula	1339/56	Still running	Damnhor
13	Khamis A.Syed A.Maqsod	1340/56	Still running	Abu Zaabal
14	Mohamed Ahmed Abdula	1341/56	Still running	Al Wadi Al Gadid
15	Waleed Mohd Fathi Khaled	1342/56	Still running	Wadi Al Natroon
16	Ahmed Ismail Ryadh	1343/56	Still running	Damanhor
17	Esam Taha Al Amin	1445/56	Still running	Assuit
18	Refaat Husni Abudl Aati	1446/56	Permitted to attend exams	Al Wadi Al Gadid
19	Hani Mohd A.Fatah	1447/56	Still running	Al Fayum
20	Abdul Rasol Hasan Abdula	1448/56	Permitted to attend exams	Damanhor
21	Ahmed A.Baset A.Hamid	1449/56	Still running	Al Wadi Al Gadid
22	Abul Qasim Hasan Abdula	1450/56	Permitted to attend Exams	Damnhor
23	Mamdouh Taha Al Amin	1451/56	Still running	Abu Zaabal
24	Ahmed Badawi Ahmed	1559/56	Permitted to attend Exams	Al Wadi Al Gadid
25	Alaa edin Badawi Ahmed	1560/56	Still running	Al Wadi Al Gadid
26	Bader Shaaban Ahmed	1561/56	Still running	Wadi Al Natron
27	Ahmed Farouq Khaled	1568/56	Still running	Alwadi Algadid
28	Mohamed Husni Farghali	1569/56	Still running	Istqbal Torah
29	Ahmed Mukhtar Mohamed	1570/56	Still running	Damanhor
30	Eid Ali Mohamed A.Gawad	1571/56	Still running	Al Wadi Al Gadid
31	Saad Ali Mohamed	1573/56	Still running	Al Fayum
32	Ahmed Shaban Abu Alghait	1574/56	Still running	Abu Zaabal
33	Waleed Hamed A.Fatah	1675/56	Permitted to attend exam	Wadi Al Natroon 2

34	Mutwali Sulaiman A.Majed	1676/56	Still running	High Security
35	Mutasim Mohamed Kamel	1677/56	Still running	Wadi Al Natroon 1
36	Emad Hamed A.Fatah	1678/56	Permitted to attend exam	Wadi Al Natroon 2
37	Khaled A.Rahman Ali	1823/56	Still running	Damanhor
38	Alqazafi Mohd A.Rahman	1824/56	Still running	Wadi Al Natroon
39	Hussam Salamah Mustafa	1825/56	Still running	Damanhor
40	Mohamed Syed Mohd	1826/56	Still running	Wadi Al Natroon
41	Ahmed A.Rahman Ali awad	1827/56	Still running	Damanhor
42	Alsyed Alsyed Ahmed	1828/56	Still running	Wadi Al Natroon 1
43	Yaser Kamel Hasan	2361/56	Still running	Damanhor
44	Hisham Hamdi A.Salam	2566/56	Still running	Abu Zaabal
45	Yousif Yehya Yousif	2779/56	Still running	Al Wadi Al Gadid
46	Ahmed Fakri Ahmed	3225/56	Still running	Abu Zaabal
47	Ahmed Fakri Ahmed	3226/	Still running	Abu Zaabal
48	Amr Ibrahim Ghulam	3223/56	Still running	Wadi Al Natroon
49	SalahAshmawi Mohd	3239/56	Still running	Damanhor
50	Ayman Mohd A.Majeed	4041/56	Still running	Abu Zaabal H.S
51	Moamen Ahmed Ali	4035/56	Still running	Wadi Al Natroon
52	Abdul Moniem Ahmed M.	4042/56	Still running	Abu Zaabal
53	Hasan Sadqi Mohamed	4040/56	Still running	Al Wadi Al Gadid

Annex 7

The lack of medical health Care

Ahmed Zaki Syed Ahmed

Detained on 22/11/1993, he has been transferred through many prisons. His current prison is Abu Zaabal. His medical condition has deteriorated badly. He suffers from liver problems, piles and chest allergies.

The HRCAP is following his case and has submitted complaints and reports on 16/1/2001, 20/10/2001 and on 20/11/2001 to the Minister of the Interior, the Public Prosecutor and the prison administration. Despite his bad medical condition, the HRCAP has not received any response from the aforementioned authorities.

Ibrahim Mohamed Hamed Othman

He was detained on 13/1/1993. His current prison is Al Fayoum, his medical condition has deteriorated badly. He suffers from general weakness and severe eye problems.

On 10/1/2001 and 21/1/2001, the HRCAP submitted complaints and reports to the Minister of the Interior, the Public Prosecutor and the prison administration. As yet no change has occurred, and the aggrieved may lose his eye sight completely.

Ahmed Abdul Rahman Ali

He was detained on 16/12/1991. His current prison is Damnhour. He is diabetic and suffers from a prolapsed disk prolapsed. He also suffers from poliomyelitis.

The HRCAP follows his case and submitted complaints and reports on 21/1/2001, 28/5/2001, 5/6/2001 and on 9/10/2001 to the Minister of the Interior, the Public Prosecutor and the prison administration. Despite his bad medical condition, the HRCAP has not received any response from the aforementioned authorities.

Khaled Mohamed Mohamed Abu Zaied

He was detained on 13/6/1994. His current prison is Wadi Al Natroon. He suffers from respiratory infection and general weakness.

The HRCAP submitted complaints and reports on 16/1/2001, 3/7/2001 and on 9/10/2001 to the Ministry of the Interior, the Public Prosecutor and the prison administration. Despite his bad medical condition, the HRCAP has not received any response from the aforementioned authorities.

El Syed Abdul Rahim Hasan Atalah

He was detained on 20/8/1994. His current prison is Al Wadi El Gadid. He suffers from a prolapsed disk, eye problems, chest allergy and general weakness.

The HRCAP submitted complaints and reports on 16/11/2001, 9/1/2001 and on 28/1/2001 to the Ministry of the Interior, the Public Prosecutor and the prison administration. Despite his bad medical condition, the HRCAP has not received any response from the aforementioned authorities.

Hamada Abdul Tawab Idrees

His current prison is Al Wadi Al Gadid. He was detained on 17/1/1997. He is suffering from a compound fracture of his left leg and eye problems.

The HRCAP submitted complaints and reports on 21/1/2001, 25/7/2001, 12/9/2001, 17/9/2001, 16/10/2001 and 14/12/2001 to the Ministry of the Interior, the Public Prosecutor and the prison administration. Despite his bad medical condition, the HRCAP has not received any response from the aforementioned authorities.

Khalid Abdul Tawab Abdul Hamid

He was detained on 22/12/1994. His current prison is Al Fayoum. He suffers from high blood pressure, colitis, heart problems and a chest allergy.

The HRCAP submitted complaints and reports on 3/1/2001, 28/1/2001, 3/2/2001, 7/8/2001 and on 9/10/2001 to the Ministry of the Interior, the Public Prosecutor and the prison administration. Despite his bad medical condition, the HRCAP has not received any response from the aforementioned authorities.

Ibrahim Ali Bayazed

He was detained on February 1997. His current prison is Damnhour. He sustained an injury during his imprisonment. He was operated on but is still suffering. The HRCAP submitted complaints to the Ministry of the Interior, Prison Administration and the Public prosecutor on 30/1/2001, 9/2/2001, 2/6/2001 and on 25/11/2001 but has not received any response as yet.

Gamal Mohamed Abu Zakri

His current prison is Damnhour. He was detained on 7/1993. He is suffering from rheumatism and high blood pressure. The HRCAP submitted complaints to the Ministry of the Interior, the prison administration and the Public Prosecutor on 13/1/2001, 28/1/2001 and on 25/11/2001, but has not received any response as yet.

Ahemd AbdulAla'h Abdul Warth

He was detained on 29/8/1993. His current prison is Wadi Al Natroon (2). He suffers from high blood pressure and heart problems. The HRCAP submitted many complaints on 5/11/2001 and 20/11/2001 to the Ministry of the Interior, Prison Administration and the Public prosecutor but has not received any response as yet.

Annex 8

The following table presents the cases which the HRCAP filed in favor of the detainees families to open some prisons for visiting:

No	Plaintiff	Relation	Detainee	Case No.	Date of verdict	Prison
1	Haleema Badawy Altaher	Mother	Mohamed Ahmed Murad	6301/51	15/07/97	High Security Tora
	Mahrousa Eid Mahrous	Mother	Mahmoud A-Fatah Murad			
	Suad Mohammed Hasan	Mother	Mohamed Hamdy Mohamed			
	Howayda Ali Mohammed	Mother	Mohamed A-Salam Mohamed			
	Raga'a Soliman Murad	Wife	Abdel-Salam Alsayed			
	Sayeda Abas Mahmoud	Sister	Ahmed Abas Mahmoud			
	Fathiya Mohamed Ahmed					

2	Al-Khaliq Omary A-Khaleq	Father	Wael A.Khaliq Omary	6306/51	157/97	Fayoum
	Zeinab Hasan	Spouse	Taha Mahmoud Mohd			
	Mohammed Eid Abdel-Hameed Tolba	Father	Ahmed Eid A.Hameed			
	Nadia Emam Ali	Sister	Ahmed Emam Ali			
	Ezzat Rady Yousif	Brother	Gamal Rady Yousif			
	Roqaya A-Muhsen	Spouse	Saad Nour El-Deen Abdou			
	Heseen Abdel-Tawab Sayed Hasan	Father	Dahi A.Tawab Sayed			
	Hameda Abul-Fotouh Abul-Fotouh	Mother	Hussain Hendawi I.			
3	Mahmoud A-Lateef Omara	Father	Salah Mohamed A-Latif	6276/51	22/07/97	Estiqbal Tora
	Nehmedo Eisa Ahmed	Mother	Ahmed Abul-Dahab Heseen			
	Fathiya Mohammed Ahmed	Mother	Hosam Mohamed Khamis			
4	Intesar Helmy Al-Mileegy	Wife	Mahmoud A-Fatah Moawad	10695/53	14/12/99	High Security
5	Farouq Zaki Mohammed	Father	Matrawy Farouq Zaky	10770/53	14/12/99	High Security
6	Hoda Mohamed A-Hamid	Sister	Ayman Mohamed A-Hamid	10771/53	14/12/99	High Security
7	Mohamed Abdel-Men'em Mohamed	Father	Omar Mohamed A-Men'em	10707/53	14/12/99	High Security
	Hoda Mohamed Alsayed	Mother				
8	Hanem Seleem Ali	Mother	Shehta Ahmed Alsayed	10697/53	14/12/99	High Security
	Sabah Yehya Mohamed	Wife				
9	Suad Marzouq A-Aleem	Wife	Reda Gom'a Faragallah	10703/53	14/12/99	High Security
10	Sabah Abul-Abas Mohamed	Wife	Mohamed Sayed Mohamed Abdel-Gawad	10766/53	14/12/99	High Security

11	Ola Fahmy Mohamed Badr	Wife	Mohamed Ebrahim Ebrahim	10708/53	14/12/99	High Security
12	Ne'ama Al-Men'em Zaki	Mother	Ahmed A-Maqsod Alsayed	10709/53	14/12/99	High Security
	Osama Abdel-Maqsoud	Brother				
13	Aisha Mohamed Ramadan	Mother	A-Hafiz Lashin A-Hafiz	10710/53	21/12/99	High Security
14	Basima Mohamed A-Aal	Mother	Sayed Atwa A-Men'em	10765/53	21/12/99	High Security
15	Amal Farghali Mubarak Ali	Wife	Yehya Ali Abdel-Hameed	10759/53	28/12/99	High Security

16	Sonya Salama Albitougy	Wife	Gom'a Alsayed Soliman	10758/53	28/12/99	High Security
17	Zakiya Mahmoud Alsayed Khatab	Mother	Nasr Sh'aban Sadek	10701/53	28/12/99	High Security
18	Amal Mohamed Farouk Almasy	Wife	Ahmed Mohamed Ahmed	1405/53	28/12/99	High Security
19	Amna Heseen Nageeb	Mother	Karam Mohamed Abdel- Reheem Hasan	11406/53	28/12/99	High Security
20	Thoraya Fouad Helmy	Mother	Reda Ramadan Mahdy Higazy	11375/53	02/01/00	High Security
21	Salih Mahmoud Salih	Brother	Ramzy Mahmoud Salih	18/54	04/01/00	High Security
22	Amal Mohamed Ahmed Alzayat	Wife	Ala'a Mohamed Abul- Nasr	11377/53	04/01/00	High Security
23	Halima Badawy Altaher	Mother	Mohamed Ahmed A- Hasan	763/54	04/01/00	High Security
24	Sharbat Shahry A- Wekeel	Wife	Mohamed Ahmed Murad Abul-Hasan	1137/53	04/01/00	High Security
25	Labiba Mohamed A-Aal Shereefa Ebrahim Ahmed Mona Ebrahim Ahmed	Mother Sister Sister	Mohamed Ebrahim Ahmed	11378/53	04/01/00	High Security
26	Rasha Abdel-Men'em Donya Mahmoud Tolba	Sister Mother	Tarek Abdel-Men'em Ahmed	11402/53	04/01/00	High Security
27	Howayda Ali Mohamed Hanim Osman Amar	Wife Mother	Mohamed A-Salam M	761/54	04/01/00	High Security

28	Intesar Helmy Alsayed	Wife	Mahmoud A-Fatah Mo'awad	10695/53	04/01/00	High Security
29	Souad Mohamed Hasan	Mother	Mohamed Hamdy Mohamed	74/54	04/01/00	High Security
30	Shahry Abdel-Wekeel	Father	Gamal Shahry A-Wekil	10699/53	04/01/00	High Security
	Hanim Osman Amar	Mother				
31	Sayeda Abas Mahmoud	Sister	Ahmed Abas Mahmoud	756/54	4/1/200	High Security
32	Shaheera Khattab	Mother	Emad-Eldin Mohamed Eisa	4709/54	04/01/00	High Security
33	Mokhtar Murad Ali	Father	Murad Mukhtar Murad	4714/54	04/01/00	High Security

34	Gamal Ebrahim Adam	Brother	Madany Ebrahim Adam	4712/54	04/01/00	High Security
35	Zahiya Thabit Abdel-Reheem	Mother	Mohamed A-Hamid Mohamed	4711/54	04/01/00	High Security
36	Ali Mohamed Osman	Father	Badry Ali Mohamed	13/54	04/01/00	Fayoum
37	Amal Eisa Ahmed Hasan	Sister	Ayman Eisa Ahmed Hasan	14/54	04/01/00	Fayoum
38	Mustafa Hamed A-Eneen	Father	Mohye-Eldin Mustafa Hamed	15/54	04/01/00	Fayoum
39	Ne'ama A-Mo'ez A-Hakeem	Sister	Adel Abdel-Mo'ez Abdel-Hakeem	16/54	11/01/00	Fayoum
40	Hosna Khalil Gad	Mother	Ebrahim Mohamed Hamed Osman	17/54	08/02/00	Fayoum
41	Sayeda Mahmoud Sobeeh	Mother	Mahmoud Taha Ahmed	19/54	08/02/00	Fayoum
42	Reda Kareem Thabet	Wife	Abdel-Rady Thabet Mohamed	20/54	08/02/00	Fayoum
43	Amal Eisa Ahmed	Sister	Ahmed Eisa Ahmed	14/54	08/02/00	Fayoum
44	Zeinab Hashim Mohamed	Mother	Mahmoud Khalaf Alaref Younis	21/54	08/02/00	Fayoum
45	Hamed Abdel-Fatah	Father	Emad Hamed Abdel-Fatah Ali	11381/53	08/02/00	Fayoum

46	Suad Mohamed Hasan	Mother	Safy-Eldin Heseen	762/54	08/02/00	Fayoum
47	Salah Soliman Alsayed	Brother	Ateya Soliman Alsayed	767/54	04/04/00	Fayoum
48	Kareema Ahmed Mohamed	Mother	Antar Ahmed Mohamed	772/54	04/04/00	Fayoum
49	Abdel-Razek Ateya Ali	Father	Alqazafy A-Razeq Ateya	773/54	04/04/00	Fayoum
50	Ebrahim Amin Ebrahim	Father	Mustafa Ebrahim Amin	11403/53	04/04/00	Fayoum
51	Enayat Abdel-Men'em Ahmed	Wife	Eid Khamees Ramadan	3257/54	11/04/00	Fayoum
52	Zeinab Mohamed Hasaneen	Mother	Adel Dahy Abu-Zeid	3254/54	11/04/00	Fayoum

53	Mohamed Abdel-Fatah Mahmoud	Father	Hany Mohamed Abdel-Fatah Mahmoud	2979/54	11/04/00	Fayoum
54	Ali Mohamed Salam	Father	Sa'ad Ali Mohamed Salam	3256/54	11/04/00	Fayoum
55	Ateya Abdel-Hameed Ebrahim	Father	Mohamed Ateya Abdel-Hameed	2984/54	11/04/00	Fayoum
56	Fathy Ahmed Abdel-Kareem	Brother	Abu-Bakr Ahmed Abdel-Kereem	3258/54	18/04/00	Fayoum
57	Eid Emam Eid	Father	Mohamed Eid Emam Eid	3255/54	18/04/00	Fayoum
58	Ahmed Bora'eey Shamroukh	Father	Atef Ahmed Bora'eey	3289/54	18/04/00	Fayoum
59	Safa'a Abdel-Rahman Mansour	Mother	Waleed Ahmed Rashed	2982/54	18/04/00	Fayoum
60	Atiyat Ahmed Alhanafy	Mother	Zaki Zaki Alsayed Soliman	2983/54	27/06/00	Fayoum
61	Sabriya Ali Sweelam	Mother	Esm'a'el Garheey Tohamy	2976/54	27/06/00	Fayoum
62	Sa'ad Ahmed Aldisoukhy	Step M.	Gamal Mohamed Ebrahim	2977/54	27/06/00	Fayoum
63	Maher Shams-Eldin Abdel-Wahab	Brother	Amr Shams-Eldin Abdel-Wahab	4704/54	27/06/00	Fayoum

64	Sonya Gamal	Wife	Esam Hasam Hassan	4717/54	27/06/00	High Security
65	Nagla'a Hasan Heseen	Wife	Ali Abu-Zeid Hasan	4703/54	27/06/00	High Security
66	A-Azeem Sh'aban Esm'a'el	Brother	Sh'aban A-Azeem Sh'aban	4705/54	27/06/00	High Security
67	Farouk Sayed Ali	Father	Yasser Farouk Sayed	4713/54	27/06/00	High Security
68	Zeinab A-Magid Negm	Wife	Mohamed AAziz A-Salam	4716/54	27/06/00	High Security
69	Alsayed Mohamed Yaseen	Father	Abu-Bakr Alsayed Mohamed	4710/54	27/06/00	High Security
70	Lateefa Abu-Zeid Hasan	Wife	A-Khader Khamis A-Khader	4706/54	27/06/00	High Security

71	Khalifa Hasan Ali	Father	Ehab Khalifa Hasan	4715/54	27/06/00	Istiqbal Tora
72	Abdel-Hakeem Mursy	Brother	Abdullah Mursy Mahmoud Mohamed	4707/54	27/06/00	High Security
73	Haleema Abdel-Khader	Mother	Nabeel Sa'ad Mohamed Mohamed Khaleefa	11426/54	27/06/00	Istiqbal Tora
74	Hamed Abdel-Fatah Fatma Mohamed Sayed Ehab Hamed A-Fatah	Father Mother Brother	Waleed Hamed A- Fatah Ali	22/54	07/11/00	Abu-Zaabal
75	Mohamed A-Men'em Mohamed	Father	Amr Mohamed A- Men'em	123/54	30/01/00	High Security
76	Hana'a Salama Mustafa	Sister	Shawky Salama Mustafa	11423/54	30/01/00	High Security
77	Samiha Alsayed Mohamed	Mother	Hamdy S'ad Abdel-Azeem	69/55	30/01/00	High Security
78	Noura Ahmed Albesheer	Mother	Mohamed A- Karim Mohd	13053/54	30/01/00	High Security
79	Marzouka Eid A- Hameed	Mother	Adel A-Hamid Mohamed	11424/54	27/11/00	Abu-Zaabal
80	Karima Mohamed Abd- Rabou	Mother	Hany Amin Mahmoud	11422/54	09/01/00 09/01/01	High Security
81	Magda Mohamed Mohamed	Mother	Mahmoud Mohamed Ramzy	11417/54	09/01/01	High Security

82	Salim Abdel-Sater Ahmed	Brother	Mansour A-Sater Ahmed	11420/54	09/01/01	Abu-Zaabal
83	Taha Alamin Mahmoud	Father	Esam Taha Alamin	11416/54	16/01/01	Abu-Zaabal
84	Taha Alamin Mahmoud	Father	Mamdouh Taha Alamin	11415/54	16/01/01	Abu-Zaabal
85	Sanya Mohamed Ali Wahba	Mother	Hisham Mohamed Abdullah	1437/55	06/02/01	Istiqbal Tora
86	Abdel-Tawab Omar Edrees	Father	Hamada Abdel- Tawab	70/55	06/02/01	Istiqbal Tora
87	Saniya Mohamed Ali Wahba	Mother	Ahmed Mohamed Abdullah	1439/55	06/02/01	Istiqbal Tora

88	Esma'eel Ahmed Ali	Father	Tarek Esma'eel Ahmed	122/55	06/02/01	High Security
89	Yamna Hasan Hasan Heseen	Mother	Mohamed Sayed Mohamed Abdel-Gawad	13059/54	06/02/01	High Security
90	Mahrousa Eid Mohamed	Mother	Mahmoud A-Fatah Mo'awad	2063/55	27/02/01	High Security
91	Hikmat Esma'eel	Wife	Mohamed Mohamed Esmail	11425/55	27/02/01	High Security
92	Rokaya Mohamed Als'ady	Sister	Sobhy Mohamed Als'ady	2365/55	20/03/01	Istiqbal Tora
93	Mohamed Alhady Zaki	Father	Sa'eed Mohamed Alhady	1302/55	20/03/01	Istiqbal Tora
94	Nagwa Mohamed Abdullah	Wife	Mahmoud Yousif Mahmoud	1301/55	20/03/01	High Security
95	Mohamed Abdullah ziz	Brother	Ahmed Abdullah A-Aziz	1303/55	20/03/01	Istiqbal Tora
96	Entisar Ramdan	Wife	Ahmed Mahmoud Elsyed	2358/55	24/4/01	Istiqbal Tora
97	Entisar Mohamed	Wife	Ibrahim Ali Mahmoud	2359/55	24/4/01	Istiqbal Tora
98	Ragab Syed Mohamed	Father	Ahmed Rgab syed	2361/55	10/4/01	Istiqbal Tora
99	Redah Abdul Mohsin	Sister	Mohamed A.Mohsin	2367/55	24/4/01	Istiqbal Tora
100	Redah Abdul Mohsin	Wife	Hamed A.Karim Ahemd	2366/55	5/6/01	Istiqbal Tora
101	Roqayah Mohamed	Sister	Sobhi Mohd El Syadi	2365/55	10/4/01	Istiqbal Tora
102	Mahmoud Ahmed Mohd	Fatehr	Mustafa Mahmoud	2363/55	24/4/01	Istiqbal Tora
103	Hanan Syed Kamel	Sister	Mohd Syed Kamel	4254/55	26/6/01	Istiqbal Tora
104	Hanan Syed Kamel	wife	Khamis A.Maqsoud	4253/55	24/4/01	Istiqbal Tora
105	Nadia Mohd Ibrahim	Mother	Salah Hussian A. Maqsoud	5923/55	10/7/01	Istiqbal Tora
106	Maha Fathi Ibrahim	wife	Saeed Mohd Al Hadi	6383/55	28/8/01	Istiqbal Tora

Concluding Observations : Egypt. 20/11/2002.

1. 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

2. 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 the latter. 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

3. The Committee welcomes the following:

- (a) The enactment of legislation banning flogging as disciplinary penalty for prisoners;
- (b) The 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 held illegally at a police station or other place of detention;
- (c) Decisions taken by the Egyptian courts to refuse any confession extracted 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 to ensure 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 with the purpose of assuming responsibility for the fulfillment of the legal aspects of international obligations arising from human rights instruments, and also to prepare replies to international bodies, and to promote greater public awareness and provide training on these matters for members of the judiciary and the Department of the 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

4. 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

5. 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 ensuring 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 are kept in places of detention in contact with adult detainees;
- (e) The reports received concerning ill-treatment inflicted on men because of their real or alleged homosexual inclinations, apparently encouraged by the lack of adequate clarity in 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 for the release of detainees are not enforced in practice;
- (i) The legal and practical restrictions on the activities of non-governmental organizations engaged in upholding human rights;
- (j) The significant disparities in compensation granted to the victims of torture and ill-treatment.

E. Recommendations

6. 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 exercise of such rights. Ensure in particular that proceedings take place within a reasonable time after the submission of complaints, and that any court decision for the release of 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 their conviction and sentence being reviewed by a higher tribunal according to law;
- (j) Halt and punish all practices involving abuse of minors in places of detention, 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 on the occasion of 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) 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;
- (n) 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 it agree to a visit by the Special Rapporteur on torture of the Commission of Human Rights;
- (o) Ensure that non-governmental organizations engaged in upholding human rights 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;
- (p) Establish precise rules and standards which enable the victims of torture and ill-treatment to obtain full redress, while avoiding any insufficiently justified disparities in the compensation which is granted;
- (q) Continue the process of training law enforcement personnel, in particular as regards the obligations set out in the Convention and respect for the right of every detainee to medical and legal assistance and to contact with his or her family;
- (r) Consider adopting the declarations referred to in articles 21 and 22 of the Convention;
- (s) Widely disseminate the Committee's conclusions and recommendations in the State party in all appropriate languages.