United Nations CAT/C/EGY/5

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
27 December 2021
English
Original: Arabic
Arabic, English, French and Spanish only

Committee against Torture

Fifth periodic report submitted by Egypt under article 19 of the Convention, due in 2004*

[Date received: 13 September 2021]

* The present document is being issued without formal editing.

Introduction

1. As part of its commitment to cooperate with international human rights mechanisms, and in expression of its readiness to fulfil its treaty obligations, Egypt submits the present report covering the period from the submission of its previous report through to the end of 2019, in implementation of the provisions of article 19 of the Convention.

2. The report was prepared as part of a broad-ranging consultative process that included various government agencies. The executive, the legislature and the judiciary have all participated in activities run by non-governmental organizations (NGOs) to promote the criminalization of torture and ill-treatment. Those activities have included a seminar on penal reform in Egypt (6–7 April 2019), at the invitation of the Arab Organization for Human Rights, and an international conference organized by the National Council for Human Rights and its civil society partners on legislation and mechanisms to combat torture in Arab States (8–9 October 2019). The present report reviews legislative developments in Egypt and the judicial and administrative practices whereby the Convention has been implemented since the submission of the fourth periodic report in 2001,[1] in particular during the period following the adoption of the Constitution. It thus complements previous reports on the measures taken by the Government to implement the Convention and to prevent repetition.

3. Egypt was one of the first States to ratify the Convention. In 1984, moreover, it acceded to the African Charter on Human and Peoples' Rights, article 5 of which prohibits torture of all kinds as well as cruel, inhuman or degrading treatment. In April 2019, Egypt acceded to the Arab Charter on Human Rights which, under article 8, prohibits any form of physical or mental torture as well as cruel, degrading or inhuman treatment. The Charter also obliges States parties to protect all persons under their jurisdiction from such treatment and to take effective preventive measures. Such actions, or involvement in such actions, are considered to be criminal offences that are not subject to a statute of limitations. States, moreover, must ensure that their legal systems provide redress for persons who have suffered torture and promote their right to rehabilitation and redress.

4. Since 2011, Egypt has undergone many internal developments in a highly volatile regional environment. A widescale popular uprising began on 25 January 2011 as Egyptians demanded the overthrow of the existing political system and protection for fundamental rights and freedoms, with slogans calling for liberty, dignified living conditions and social justice. However, certain covert terrorist elements sought to exploit the situation in the country by breaking into prisons, administrative offices and courts where they vandalized the premises and burned and destroyed records and documents. Political events continued to unfold and, in June 2012, a member of the Muslim Brotherhood was elected as President of the Republic with 51.7 per cent of the vote. Subsequently, however, the people were dismayed at the authoritarian drift of policies that overturned the rule of law and frustrated the goals of the revolution. In fact, those policies, placed power exclusively in the hands of the Brotherhood, which issued a constitutional declaration that served to shield all its decisions from any kind of judicial scrutiny. It also attacked the independence of the judiciary by dismissing the Prosecutor-General and it banned the enforcement of any judicial rulings that did not redound to the group's interests. Members of the Brotherhood besieged the headquarters of the Supreme Constitutional Court and prevented it from carrying out its functions. The President and his party adopted a form of political discourse that incited hatred and violence among citizens and discriminated between them on grounds of political and religious affiliation. Moreover, the President formed a committee to draft a new constitution with membership reserved exclusively to his own religiously oriented party. Despite the fact that a court had declared the formation of that committee to be invalid and undemocratic, a constitution was nonetheless issued on 25 December 2012, characterized by its exclusivity and its flagrant violations of constitutional and legislative authority. Subsequently, the President dismissed a number of judges from the Supreme Constitutional Court.

5. When the people discovered that the President had frustrated the goals of the January Revolution, which he had promised to uphold, and that he was undermining the rule of law, a movement of peaceful demonstrations began demanding early presidential elections. This

[1] CAT/C/55/Add.6.

the President refused while his supporters met the demonstrators with violence and intimidation. The result of this was that, on 30 June 2013, some 30 million citizens came out onto the streets, demanding that the President step down and that their revolution be put back on course. National forces reached a consensus on a road map for rebuilding constitutional institutions and establishing a democratic system that would address the shortcomings of the preceding phase. A 50-person committee with members from of all areas of society was formed to amend the Constitution. It drafted a Constitution that was put to a referendum where it enjoyed 98.1 per cent support.

6. That Constitution was promulgated on 18 January 2014. This was followed in mid-May 2014 by presidential elections as the second stage of the road map. The current President won with 96.91 per cent of the vote. At the end of 2015, the last stage was completed with the election of members of the House of Representatives. The presidential and parliamentary elections were monitored by civil society organizations, the African Union and a number of regional and international organizations. Observers agreed that they met all standards of transparency, neutrality and integrity, thereby fulfilling the demands put forward by the Egyptian people on 30 June 2013 for building an institutional foundation for a democratic society respectful of human rights and fundamental freedoms. The current President was re-elected in April 2018 with 97.08 of the vote.

7. The Constitution includes numerous provisions intended to preserve human dignity and prohibit torture in all its forms. It states that dignity is the right of every human being and cannot be compromised and that the State is obliged to respect and protect it (art. 51). Moreover, torture in all its forms is a crime that is not subject to a statute of limitations (art. 52). Persons who have been arrested or imprisoned, or whose liberty has been restricted, must be treated in a manner that preserves their dignity. They may not be subjected to physical or mental torture, intimidation or coercion, and they may not be imprisoned except in places that are designated for that purpose and that comply with humanitarian and health standards. Any deviation from these norms is an offence punishable by law. Accused persons have their right to remain silent and any statement they make that is shown to have been extracted with the aforementioned means, or the threat thereof, is to be disregarded and have no effect (art. 55).

8. Under article 151 of the Constitution, the legislature, the judiciary and the executive are required to comply with ratified international treaties just as they are required to comply with domestic law. This means that persons who have suffered harm due to the failure to apply an international treaty may have recourse to the courts. Indeed, the current Constitution goes further than previous ones as article 93 accords a special status to international human rights treaties which, once ratified, have force of law. This means that the fundamental rights and freedoms enshrined in those treaties enjoy constitutional protection. For its part, article 121 gives laws regulating the human rights and freedoms envisaged in the Constitution the status of laws complementary to the Constitution, meaning that the enactment of such laws requires a two-thirds majority of the House of Representatives. Thus, any interested party may have recourse to the Supreme Constitutional Court to appeal against the constitutionality of legislative provisions that are in violation.

9. During the period covered by the report, numerous pieces of legislation have been enacted that prohibit all forms of torture and that well demonstrate the State's commitment to its international human rights undertakings. The most significant of these are the National Council for Human Rights Act, the Anti-Terrorism Act and the Persons with Disabilities Act. In addition to this, amendments were made to existing legislation such as the Criminal Code, the Code of Criminal Procedure, the Prisons Act, the Emergency Regulation Act, the Military Sentencing Act, the Police Authority Act and the Children's Act, as detailed in this report.

10. Part I of the present report covers the legislative, judicial and administrative developments that are of significance to the implementation of the Convention – presented in order from article 1 to article 16. This is accompanied by information and statistics for the years post-2014, taking account of the events in the preceding period, as outlined above. Part II includes replies to the questions and recommendations contained in the Committee's

concluding observations following its consideration of the previous periodic report of Egypt,[2] with some reference to matters dealt with in part I. Due account was also taken of the Committee's guidelines regarding the form and contents of periodic reports to be submitted by States parties under article 19 (1) of the Convention, and of operative paragraph 16 of General Assembly resolution 68/268 of 9 April 2014 (A/RES/68/268).

Part I
Information concerning the implementation of the Convention

Article 1
Definition of torture

11. As regards this article, Egypt takes due account of the Committee's general comments and its recommendations to make the definition of torture in domestic legislation consistent with that contained in the Convention. It wishes to clarify the following points:

(a) Criminal legislation in Egypt is based on a well-established approach: the graduality and proportionality of crime and punishment, with offences of different kinds attracting different penalties. Multiple acts, all of which might constitute violations against a single right, are punished each with a different penalty, in such a way that those penalties are consistent with the gravity of the specific violation against the right being protected. This approach enables a just determination of criminal liability, which demands that a penalty inflicted on a wrongdoer should vary depending upon the gravity of the action committed. The same approach is followed by many other States parties to the Convention, under their various legal systems, as they apply the provisions of this article in their domestic legislative environments. Thus, all the forms of torture envisaged in article 1 of the Convention figure in different parts of the Criminal Code.

(b) What emerges clearly from the definition of torture in this article is that it has two elements. Firstly, there is the physical element, which includes the act itself and its outcome, and the causal link between them. The article mentions "any act", of whatever kind or nature, that touches the body or the mind or both, and that results in "pain or suffering" which, according to the text, must be "severe". In the contrary sense, if the pain or suffering are not severe, then the act does not constitute torture as per the definition in the Convention, although it might amount to some form of ill-treatment forbidden under article 16 (1) of the Convention.

(c) Secondly, there is the moral element which, according to the text of the article, takes the form of criminal intent; i.e., knowledge and desire as expressed in the phrase "intentionally inflicted". In addition to this general criminal intent, the text envisages a specific criminal intent, in which regard the article defines five purposes for which the crime of torture can be committed: (i) torture to obtain information or a confession; (ii) torture to punish a victim for an act he or a third person has committed or is suspected of having committed; (iii) torture to intimidate; (iv) torture to coerce; (v) torture based on discrimination.

(d) These purposes can be seen from two perspectives. Firstly, as the motives for which the crime was committed: this has no effect on the legal definition but may be taken into account at the moment of determining the penalty. Secondly, the purposes can be seen as the specific criminal intent that guided the will of the perpetrator to commit the act and, if such is the case, the matter has to be legally evaluated. Those purposes have been considered as specific intents in order to give the widest and most comprehensive degree of protection possible. In that light, it can be said that the article contemplates four forms of torture: (i) torture to obtain information or a confession; (ii) torture to intimidate; (iii) torture to punish

[2] CAT/C/CR/29/4.

a victim for an act he or a third person has committed or is suspected of having committed; (iv) torture based on discrimination.

12. Egypt wishes to affirm that its domestic legislation – articles 126, 129, 375 bis and 375 bis (a) of the Criminal Code – prohibits all practices that constitute torture in the aforementioned forms, irrespective of whether the act was perpetrated for the purposes of obtaining information or a confession, punishment for an act committed, intimidation, coercion or discrimination. In some places, moreover, the legislative system widens in scope to include practices which, though not in essence torture under article 1of the Convention, are nonetheless criminalized under Egyptian law. For example, chapter VI in book II of the Criminal Code, entitled "Coercion and ill-treatment of persons by public officials", criminalizes actions officials might commit that amount to human rights violations. The first of these is the criminalization of torture in order to obtain a confession, under article 126 of the Code, which is the first of the forms that torture can take. The physical element of the crime does not require the perpetrator to act in a certain way; any criminal act that consists in a physical assault against a victim, where there is a causal relationship between act and outcome, constitutes torture even if the act itself is of no particular gravity. It is sufficient that there should be pain or suffering, even if it is slight and leaves no physical trace on the victim. By contrast, article 1 of the Convention stipulates that the pain or suffering have to be severe.

13. Under article 126, the crime of torture committed with the intent of obtaining a confession can take the form of a positive act, such as an attack of any kind against a person's physical or mental integrity, or a negative act of omission when the offender has a duty under a law or treaty to undertake a positive action that would prevent a violation and deliberately neglects to do so. In such a case, the offender is an accomplice to the crime of torture. Egyptian domestic legislation is consistent with article 1 of the Convention in that it considers such a situation to be an intentional offence in which the physical element constitutes criminal intent. It is also consistent in terms of the requirement for specific criminal intent; i.e., the will to force the accused person to confess to a crime or a material fact, irrespective of the motives that might have caused the offender to commit the act of torture.

14. As concerns action by the courts to combat this crime, the imposition of a penalty is not conditional upon the offender actually having extracted a confession from the victim, it is sufficient that torture should have been perpetrated with the intent of causing the victim to confess.[3] Nor is the imposition of a penalty dependent upon the presence of marks of injury on the victim's body[4] or upon the offender having had a specific motive. The courts penalize any public official or person employed in public service who deliberately tortures an accused person in order to force that person to confess, whatever the motive they may have in doing so.[5] In addition to this, the application of article 126 does not require the public official who tortures a suspect to obtain a confession to be directly involved in gathering evidence or investigating the criminal act the accused person committed or is suspected of having committed, or participated in. It suffices that the public official in question should, by virtue of his office, have authority that enables him to torture the accused to force him to confess, whatever the motive he may have in doing so.[6]

15. The third and fourth forms of torture envisaged in the article – torture to intimidate or to coerce – are criminalized under articles 375 and 375 bis (a) of the Criminal Code. Those provisions penalize torture and other forms of aggression committed with the intent of terrorizing or intimidating others or causing physical or mental harm, whether against the victim or the victim's spouse, descendants or antecedents; of obtaining a benefit from the victim or influencing his will so as to gain power over him or terrorize him into undertaking or not undertaking a particular act, hindering the enforcement of the law, resisting the

[3] Court of Cassation (criminal cases), appeal No. 1314 of judicial year 36, sitting on 28 November 1966, technical office 17, part III, page 1161.

[4] Court of Cassation (criminal cases), appeal No. 3351 of judicial year 56, sitting on 5 November 1986, technical office 37, part I, page 827.

[5] Court of Cassation (criminal cases), appeal No. 5732 of judicial year 63, sitting on 8 March 1995, technical office 46, part I, page 488.

[6] See previous reference.

authorities, preventing the implementation of enforceable court sentences and rulings or disturbing public peace and security; of terrorizing the victim and disturbing his well-being and serenity, endangering his life or safety, causing damage to his property or interests or threatening his personal freedom, honour or reputation. This form of torture is penalized under the law with a term of imprisonment of up to 5 years. The penalty is increased to rigorous imprisonment if the offence entailed injury or beatings or the administration of harmful substances that cause the death of the victim. The penalty is one of life imprisonment if the act is premeditated. Moreover, the offender is placed under police surveillance for a period equivalent to the sentence and, in any case, not more than 3 years.

16. The second form of torture envisaged in the article – torture to punish a victim for an act he has committed or is suspected of having committed – and the fifth form – torture based on discrimination – are both addressed in article 129 of the Criminal Code, alongside other forms of torture a perpetrator may seek to commit. The article criminalizes public officials or persons of similar status who abuse their office to commit acts of cruelty, if such acts threaten a victim's honour or cause him physical pain. The article is broadly worded so as to cover all forms of aggression that public officials or persons of similar status might commit, in abuse of their public service and the authority invested in them, and it includes physical aggression of any kind and however perpetrated, even if it leaves no physical traces on the victim's body. It also includes verbal and gestural abuse that damages the victim's honour or reputation, irrespective of whether the perpetrator intends to punish the victim or commits the act for discriminatory motives or for another reason. The crimes envisaged under this article attract criminal penalties.

17. Under articles 24 and 25 of the Criminal Code, a conviction for torture entails the definitive dismissal of the accused person from public service and the denial of future employment in any other public service in the future. This latter penalty is applicable under the law as ancillary to the principal penalty handed down against the party concerned, even if the sentence does not specify as much. Dismissal also subsists as a possible ancillary penalty if the accused party faces disciplinary proceedings, which can lead to dismissal or to the application of some lesser administrative sanction.[7] It is also applicable in cases where the crime was attempted but not actually accomplished.[8] Even in cases where the courts exercise their power of discretion to reduce the sentence prescribed for the offence, due to the circumstances in which it took place, dismissal is still applicable as a supplementary penalty, in accordance with article 27 of the Criminal Code.

18. The stipulation in article 1 of the Convention that torture is an act that a public official or other person acting in an official capacity commits or orders another to commit is reflected in articles 126 and 129 of the Criminal Code, which state that torture is a crime ordered or committed by a public official. In addition to this, according to a general norm of Egyptian law, a person is an accomplice to a crime if he instigates it, acquiesces in its commission or assists in acts whereby it is prepared, facilitated or accomplished. Such a person is liable to the same penalty as that reserved for the principal offender.[9]

19. It should be noted that, as a general rule, the statute of limitations on criminal cases is 10 years from the date the offence was committed. However, in view of the gravity of crimes of torture and inhuman treatment, which are criminalized under articles 117, 126 and 127 of the Criminal Code, article 15 of the Code of Criminal Procedure stipulates that any criminal proceedings resulting from such crimes are not subject to a statute of limitations. This serves

[7] Court of Cassation (criminal cases), appeal No. 753 of judicial year 37, sitting on 12 June 1967, technical office 18, part II, page 792.

[8] Court of Cassation (criminal cases), appeal No. 914 of judicial year 28, sitting on 24 June 1958, technical office 9, part II, page 743.

[9] Article 40 of the Criminal Code stipulates: "An accomplice to a crime is anyone who: (i) Instigates the criminous act, if that act is then carried out on the basis of such instigation; (ii) Reaches agreement with others to commit a crime, which then takes place on the basis of such agreement; (iii) Knowingly provides the author or authors of the crime with arms, instruments or any other item that is then used in the commission of the crime or assists them in any other way in acts whereby the crime is prepared, facilitated or accomplished." Article 41 states; "A person who participates in a crime shall face the penalty for that crime."

to reinforce the provision enshrined in article 52 of the Constitution according to which torture in all its forms is a crime that is not subject to a statute of limitations.

20. Lastly, attention is drawn to the differing interpretations of article 1 of the Convention under, on the one hand, the respective legal systems (be they civil law or common law systems) of States parties and, on the other hand, the general comments of the Committee against Torture. This can give rise to legal and practical problems in the optimal implementation of the article.

Article 2
Legislative, administrative and judicial measures to prevent torture

Paragraph 1: Legislative, administrative and judicial measures to prevent torture

21. The country's legislative, judicial and executive structures include a body of laws, decrees, procedures and controls the purpose of which is to combat and prevent torture and other forms of inhuman treatment. All these dispositions seek to ensure adequate monitoring of places of detention and imprisonment and to protect the rights of detainees and inmates, including their right to appoint legal counsel, to undergo a medical examination, to receive the necessary medical care immediately and free of charge, to communicate with their family and their lawyer, to ensure that reports of torture are investigated immediately by the courts, to ensure that perpetrators are adequately punished and to provide victims with fair compensation. In this connection, the following information can be given in addition to that contained in previous reports.

Legislative measures

22. Egypt has achieved great progress on the legislative front to protect human rights and prevent violations in general and, in particular, to combat torture. In relation to pretrial detention, Act No. 145 of 2006 amending the Code of Criminal Procedure sets forth the procedures regulating such detention, including the conditions whereunder it can be applied for specific crimes. It also sets the maximum limit for pretrial detention, which varies according to the nature of the crime and cannot, either during the preliminary investigation or at any other stage of criminal proceedings, exceed a third of the maximum sentence of deprivation of liberty envisaged for the offence in question. The duration, moreover, is limited to 6 months for less serious offences, 18 months for more serious offences and 2 years for crimes that attract life imprisonment or the death penalty. Under the law, warrants for pretrial detention are to be issued only by officials of certain level. The law also regulates the procedures whereby appeals against such warrants can be filed, and it envisages other measures that can be used as alternatives to pretrial detention.[10] In addition, the State Prosecution Office is required to publish – in the Official Gazette and at State expense – sentences of acquittal and decisions that there are no grounds to pursue criminal proceedings. The purpose of this is to exonerate persons wrongly accused and to provide them with material compensation for the term of pretrial detention they have served.

23. It should be noted that the State Prosecution Office has exclusive jurisdiction to conduct investigations and to initiate and pursue criminal proceedings. The Office, moreover, as an integral part of the judiciary, enjoys the immunities accorded to the judiciary under article 189 of the Constitution. The Office launches an investigation as soon as it receives a report of a crime, as per article 25 of the Code of Criminal Procedure while, under articles 22 and 23 of the Code, law enforcement officials in the conduct of their duties are answerable to and under the supervision of prosecutors. This is confirmed in the judicial instructions regulating the work of the State Prosecution Office, article 1 of which states: "The State Prosecution Office is a division of the judiciary. As the delegate and representative of society it pursues the public interest and strives to implement the law." In fact, members of the Office are invited to show their judicial impartiality and detachment when carrying out their duties, their mission being to seek the truth and bring it to light by means of investigation and inquiries, this being the supreme function of the State Prosecution Office. According to

[10] Article 201 of the Code of Criminal Procedure, following its amendment under Act No. 145 of 2006.

article 147 of the instructions: “Investigators must believe in their mission to uncover the truth and use every means to achieve that end, just as they must remain convinced that the discovery of truth and the attainment of justice constitutes their ultimate goal and purpose.” Article 148 states: “Prosecutors must take on the role of judge when conducting investigations and remain impartial in their inquiries, pursuing the truth wherever it may lie, be it by bringing evidence against an accused person or by dropping the charges against him.” The fact that prosecutors command and oversee the activities of the judicial police provides a firm bulwark for public freedoms and constitutes one of the most important legislative measures to combat and prevent acts of torture and inhuman treatment.

24. Egypt has witnessed a number of distressing terrorist incidents, the complex nature of which has been laid bare by judicial investigations. Those investigations also led to the identification of large numbers of suspects with intertwined national and international relations. In the wake of those incidents, Act 83 of 2013 was issued to amend the Code of Criminal Procedure. Under that Act, the Court of Cassation or the Court of Referral (but not the State Prosecution Office) may – if the accused person has previously been sentenced to death or life imprisonment – order the preventive detention of that person for a period of 45 days, which may be extended without being bound by the stipulated deadlines. This is known as detention pending criminal trial. The reason for this is because, in such cases, criminal proceedings can be prolonged in order to review all the evidence against the accused, to allow the defence lawyers to present their case and to hear from witnesses for the defence and the prosecution who, in one case, numbered more than 800.

25. With regard to the right to defence, articles 124 and 125 of the Code of Criminal Procedure provide that, in cases other than flagrante delicto or urgency owing to fear of loss of evidence, suspects may be interrogated or confronted with other suspects in connection with a crime that attracts a mandatory prison sentence only after their lawyer – if they have one – has been invited to attend. If a suspect has no lawyer, or if the lawyer fails to attend after having been invited, the interrogator must provide the suspect with a lawyer and allow that lawyer access to the details of the investigation on the day prior to the interrogation. In no case may the accused person be separated from their lawyer during the questioning. No exceptions or derogations are admitted to the constitutional right of accused persons to a defence. As a general rule, any interrogation conducted by the competent authority in the absence of a defence lawyer is deemed null and void as is any evidence that might emerge from such an interrogation, which cannot be used as the basis of a conviction. This principle has been repeatedly upheld by the Court of Cassation.[11]

26. As concerns the rights of prisoners, Act No. 106 of 2015, which amends Prisons Act No. 396 of 1956, requires prison administrators to inform inmates as soon as they are admitted to prison of their rights and duties, of prohibitions and of the penalties they will face if they violate laws or regulations. State- and university-run medical facilities are required to treat all inmates referred to them from prisons, while inmates who have been sentenced to terms of imprisonment with labour have the right to request to be dispensed from such labour for health reasons. Persons in pretrial detention have the right to be held separately from convicted prisoners and they can be authorized to reside in furnished cells as long as the circumstances inside the prison so permit. In addition, convicted prisoners have the right to communicate by telephone with their relatives and to receive family visits twice a month.

27. This matter is addressed in article 54 of the Constitution, which states: “Personal freedom is a natural right that is protected and may not be violated. Apart from situations of flagrante delicto, it is not permissible to arrest, search, detain, or restrict the freedom of any person except pursuant to a substantiated judicial order necessitated by an investigation. All persons whose freedom is restricted shall be promptly informed of the grounds therefor, shall be notified in writing of their rights, shall be permitted forthwith to contact their relatives and lawyer, and shall be brought before the investigating authority within 24 hours of the time

[11] Court of Cassation (criminal cases), appeal No. 36048 of judicial year 74, sitting on 27 November 2012, technical office 63, page 790; also appeal No. 8560 of judicial year 80, sitting on 26 September 2011, technical office 62, page 251; appeal No. 5762 of judicial year 82, sitting on 1 December 2013, technical office 64, page 1009; and appeal No. 37001 of judicial year 77, sitting on 10 April 2008, technical office 59, page 267.

when their freedom was restricted. Questioning may begin only once a lawyer is present. A lawyer shall be appointed for persons who have no lawyer. Persons with disabilities shall be provided with the requisite assistance, in accordance with the procedures prescribed by law. All persons whose freedom is restricted, as well as other persons, shall be entitled to file a complaint with the judiciary. A decision on the complaint shall be rendered within one week; otherwise, the person shall be released forthwith. The law shall regulate preventive detention, its duration and grounds, and which cases are eligible for compensation. The State shall award compensation for preventive detention or for a penalty that is implemented pursuant to a sentence that has been definitively overturned. In all cases, accused persons may be tried for offences entailing imprisonment only in the presence of an authorized or appointed lawyer." Article 96 of the Constitution states: "Accused persons are innocent until proven guilty in a fair and legal trial in which they are guaranteed the right of defence", and article 98: "The right of defence either in person or by proxy is guaranteed. The independence of the legal profession and the protection of its rights constitute safeguards for the right of defence. By law, financially needy persons shall be provided with the means to seek justice and defend their rights." Lastly, article 198 covers the immunities and safeguards necessary to enable defence lawyers to carry out their activities. In cooperation with international bodies such as the United Nations Office on Drugs and Crime (UNODC), the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Siracusa International Institute for Criminal Justice and Human Rights, members of the State Prosecution Office and police officers are being provided with training on how to apply these constitutional principles and to understand their country's international obligations.

28. The rights that are safeguarded and guaranteed under the Constitution remain valid and unaltered under the Anti-Terrorism Act. In fact, the provisions whereby the Act was issued specifically state that the Code of Criminal Procedure – i.e., the general legislation regulating criminal proceedings – remains applicable in cases where persons are accused of terrorist crimes. Indeed, the Act itself reiterates some of those norms, as article 44 allows persons accused of terrorist offences to appeal – before the competent court and without fees – against pretrial detention orders or the length of pretrial detention. Under article 45 of the Act, a person accused of a terrorist crime cannot be searched except under a duly reasoned judicial warrant. For its part, article 46 prohibits the interception and recording of conversations and messages on cable or wireless networks or other modern communications platforms or the recording and filming of events in private locations or of exchanges via communications networks or websites, without a duly reasoned judicial warrant which explains the need for such a measure.

29. As a way of balancing, on the one hand, the threat posed by terrorism with, on the other, the right to freedom, law enforcement agencies have powers that are applicable only in the event of a terrorist crime being committed. They exercise those powers under rules intended to maintain procedural legitimacy while guaranteeing public rights and freedoms. The procedures for regulating such public rights and freedoms remain under the overall oversight of the judiciary while, at the same time, the State Prosecution Office is conferred with certain special powers that facilitate its work. The relevant procedural rules are set forth in articles 40, 41 and 42 of the Anti-Terrorism Act. For example, the authorities charged with gathering evidence have the right to hold suspects in terrorism cases for up to 14 days, renewable once, under the supervision of the State Prosecution Office. Such a measure requires a duly reasoned judicial warrant. This form of detention is surrounded by a number of safeguards, notably the requirement to inform the persons concerned of the reasons for their detention, to allow them to contact their families, to allow them to appoint defence counsel and to record their statements.

30. Egypt has taken action to establish an independent national mechanism to promote, develop and protect human rights and public freedoms, in accordance with its Constitution and the international treaties it has ratified. In fact, the National Council for Human Rights, which was established pursuant to Act No. 94 of 2003, examines allegations of human rights violations then makes the necessary recommendations to the State authorities. It also receives rights-related complaints, which it refers to the competent bodies. It then follows up on those complaints and informs the parties concerned of the legal measures that need to be taken, and it provides assistance with those measures or with a settlement or resolution of the issue with the other stakeholders. In addition to this, the National Council monitors compliance with

international human rights obligations, making the necessary proposals, observations and recommendations to the institutions concerned. Another of its functions is to raise citizens' awareness and to disseminate a human rights culture, in which regard it avails itself of the services of educational and media institutions. It also develops human rights training programmes and issues reports on the situation and development of human rights.

31. The Act was amended under Act No. 197 of 2017 to bring it into line with article 214 of the Constitution and the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), and in response to proposals and recommendations made by the National Council for Human Rights itself. The amendment serves to safeguard the independence of the Council vis-à-vis its formation,[12] the performance of its functions and the exercise of its mandate. It also envisages the independence of its budget and accounts. In addition to this, under the amendment, the Council has the right to visit prisons and other places of detention as well as medical and correctional facilities where it can interview detainees and inmates to verify that they are being well treated and are able to enjoy their rights. The Council can also inform the State Prosecution Office of any violation of individual freedoms or privacy or of any other public rights and freedoms guaranteed under the Constitution, the law and the international human rights treaties that Egypt has ratified.

32. During the period covered by the present report, numerous other legislative amendments were enacted for the purpose of protecting human rights in the criminal justice system in general and of preventing torture and other cruel, inhuman or degrading treatment or punishment, in particular. The most significant of these amendments are:

- Act No. 152 of 2001 to abolish flogging, which was the last corporal punishment enforced inside prisons;
- Act No. 95 of 2003 to abolish the penalty of hard labour wherever it is mentioned in the Criminal Code or in any other law or punitive provision; to be replaced by "life imprisonment" if the penalty was "hard labour for life" and with "rigorous imprisonment" if the penalty was "a term of hard labour";
- Act No. 6 of 2009 to amend certain provision of the Prisons Act, which envisages medical treatment for female inmates who are pregnant. Such inmates, once their condition has been verified in a doctor's report and until 40 days after giving birth, receive special treatment in terms of nourishment, work and sleep;
- Act No. 71 of 2009 on the care of psychiatric patients, which regulates criminal proceedings involving accused persons suffering from mental and psychiatric disorders; the Act includes provision to prevent any form of torture;
- Act No. 74 of 2007 to amend the Code of Criminal Procedure, which envisages the issuance of court orders as alternatives to a criminal trial which could end with a custodial sentence. The alternative entails a system of restorative justice wherein

[12] Article 2 of the Act states: "The Council is to be composed of a President, a Vice President and twenty-five members to be selected from amongst public figures who are known for their experience in and concern for human rights-related issues or who have made outstanding contributions in the field of human rights, one of whom must be a professor of constitutional law at an Egyptian university. They are to serve a term of four years and none may be appointed to the Council for more than two consecutive terms." According to article 2 bis: "The President, Vice President and members of the Council must: (i) Be Egyptian and enjoy all their civil and political rights; (ii) Have completed their military service or have been legally exempted therefrom; (iii) Not have been definitively convicted by a court for a breach of honour or trust, unless they have been rehabilitated, or have been dismissed for disciplinary reasons unless that penalty has been overturned; (iv) Not be a member of the executive or the legislature or of any judicial body." Article 2 bis (a) stipulates: "The House of Representatives is to begin the procedures for the formation of the Council at least 60 days before the expiry of its term, in the context of candidatures to the National Councils, to the Supreme Council for Universities, the Supreme Council for Culture, trade unions and other bodies. The General Committee of the House of Representatives nominates candidates for membership of the Council, taking due care to ensure the representation of different sectors of society. The House of Representatives then selects, by majority, the President, Vice President and members of the Council, after which the President of the Republic issues the decree to form the Council, which is then published in the Official Gazette."

conciliation for the offence is achieved via the payment of a sum of money by the offender. In addition, the State undertakes to disburse the fees of lawyers appointed by investigators for defendants who do not have a lawyer of their own;

- Act No. 94 of 2014 amending the Prisons Act, which gives convicted persons who have been sentenced to terms of imprisonment of up to 6 months the right to request an alternative to their custodial sentence in the form of work outside the prison, under the restrictions envisaged in the Code of Criminal Procedure, unless the sentence explicitly excludes that possibility;
- Act No. 6 of 2018 amending the Prisons Act, which allows the conditional release of persons who have been definitely sentenced to a term of deprivation of liberty, if they have served half their sentence and their conduct inside prison has been such as to enable confidence to be placed in them.

Judicial measures

33. Previous reports explained the nature of the work of the courts, the subdivisions of the judiciary and the safeguards and immunities granted to court personnel to facilitate their work and enable them to exercise their functions without fear, pressure or interference. Previous reports also delved into the workings of the State Prosecution Office, which is an integral part of the judiciary, and its function to oversee and inspect prisons and to address any violations uncovered during inspections. The Office can also take complaints from prisoners and examine all documents and registers held in the prison. Between 2011 and 2019, the State Prosecution Office conducted a total of 266 prison inspections.

Administrative measures

34. Previous reports explained how human rights units have been set up in all government ministries and institutions. The units are staffed by qualified and trained personnel who receive and respond to complaints, which they seek to resolve effectively and promptly. The units also prepare and deliver training courses to build capacity among staff, to disseminate values of equality and non-discrimination and to promote principles of integrity and transparency.

35. A high-level standing committee on human rights was formed under Prime Ministerial Decree No. 2396 of 2018. The committee is headed by the Minister for Foreign Affairs and its members include representatives from ministries and other competent bodies as well as from the National Council for Women, the National Council for Childhood and Motherhood, and the National Council for Persons with Disabilities. The committee is responsible for developing a national human rights strategy and action plans for its implementation. It also monitors the compliance of Egypt with the obligations arising from its status as a party to relevant international treaties, in which regard it also makes proposals regarding legislation. In addition to this, the committee examines ways to address human rights-related problems in Egypt and it drafts the replies to communications from special procedures mandate holders of the Human Rights Council and from other similar mechanisms in regional frameworks of which Egypt is part. A further function of the committee is to develop policies and programmes to train, raise awareness and develop capacity among law enforcement personnel in the application of international treaties. Lastly, the committee cooperates with United Nations agencies and other international governmental organizations in the exchange of knowledge and experience with a view to supporting the Government's efforts to build the institutional capacity of its national human rights system.

36. A number of independent bodies conduct prison visits to ensure that the rights of prisoners are being respected and that they are not being subjected to torture or ill-treatment. The visits, which take place unannounced, are conducted by the Human Rights Committee of the House of Representatives, the National Council for Human Rights, the National Council for Women and the National Council for Childhood and Motherhood, as well as by representatives of NGOs. Sixty such visits were made between 2010 and 2019.

37. In relation to social care homes for children under the age of 18, the enforcement of internal regulations in juvenile correction institutions is duly scrutinized thanks to the round-the-clock presence of a social worker who monitors the condition of the children and informs

the authorities of any violations to their rights. In addition to this, a system of surveillance cameras is in place to dissuade any acts of violence and to ensure that any perpetrators do not go unpunished.

Paragraph 2: Exceptional circumstances and public emergencies

38. Emergency circumstances that pose a threat to public order, public safety or national security can be a reason for declaring a state of emergency. Such a declaration serves to accelerate steps to guard against the danger by giving law enforcement agencies specific powers to take measures to maintain security and neutralize threats. It also serves to help them safeguard public and private property and to protect civilian lives.

39. Terrorism in Egypt, and the challenges it poses by undermining national stability and endangering the security and safety of citizens, has constituted a reason for the declaration of a state of emergency. Since 2011, Egypt has had to face a number of very serious incidents that have threatened its security and safety and that have targeted civilians as well as public and private facilities, as stated in the introduction of the present report. Despite the fact that terrorist incidents have increased across the country since the end of 2013, a public state of emergency was declared only in the wake of the 2017 terrorist attacks against churches and mosques in which more than 200 people were killed or injured. The state of emergency has been imposed, moreover, in specific areas in northern Sinai, in accordance with constitutional rules and under comprehensive judicial oversight. All criminal proceedings under the Emergency Regulation Act are subject to the general rules set forth in the Constitution and the Code of Criminal Procedure, and the real impact of the state of emergency remains limited to the imposition of curfews at specific times within those areas.

40. Article 4 of the International Covenant on Civil and Political Rights recognizes the right of States, in time of a public emergency which threatens the life of the nation, to take measures derogating from their obligations to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

41. The rules and procedures for declaring a state of emergency are set forth in the Constitution and are surrounded by safeguards to guarantee that circumstances justifying such a declaration actually subsist. Under those safeguards, the President of the Republic cannot declare a state of emergency before canvassing the views of the Council of Ministers and submitting the proposal to the House of Representatives. If a majority of members of the House approve, a state of emergency is declared for a period of not more than three months, which may be extended for one equivalent period with the approval of two thirds of members of the House of Representatives.

42. The Supreme Constitutional Court has affirmed that the Emergency Regulation Act is a special regulation intended to support the executive branch by providing it with certain mechanisms to restrict public rights and freedoms in order to address emergency circumstances that menace the country's public safety or national security, such as war, foreign threats, disturbances that threaten internal security, pandemics and similar situations that have an intimate bearing on public safety and national security. In that respect, it is an entirely exceptional measure designed to achieve a specific goal; it may not be more enforced broadly and a narrow interpretation of its provisions must be adhered to.[13] Sitting in case No. 17 of year 15 on 2 June 2013, the Supreme Constitutional Court ruled article 1 (1) of Emergency Regulation Act No. 162 of 1958 to be unconstitutional. That provision had allowed the President of the Republic, during a state of emergency, to order the arrest and detention of suspects and of any person responsible for endangering security and public order, and the search of persons and places, without complying with the provisions of the Code of Criminal Procedure. In its reasons for the ruling, the Court came down against a broad interpretation of the Emergency Regulation Act, arguing that it should be implemented only

[13] Supreme Constitutional Court, case No. 74 of judicial year 23, sitting on 15 January 2006, technical office 11, part II, page 2158; on the same subject, appeal No. 146 of judicial year 25, sitting on 4 January 2009, technical office 12, part II, page 1250.

within the narrowest limits and strictly in compliance with established legislative rules, the most important of which is non-violation of other provisions of the Constitution. The Court stressed that the fact that the Emergency Regulation Act had been enacted under the Constitution did not mean that the Act could violate other provisions of the Constitution. On the basis of that ruling, administrative detention orders are no longer allowed and persons can be imprisoned only under a judicial warrant.

43. The provisions of Emergency Regulation Act No. 162 of 1958 have already been discussed in previous reports and Egypt is of the view that the Act does not in any way subvert the criminalization of torture and other forms of inhuman treatment envisaged in the Criminal Code. The prohibition and criminalization of such acts remains extant even in circumstances that warrant the declaration of a state of emergency.

Paragraph 3: Prohibition on invoking superior orders as a justification for torture

44. The issue of justification has been reviewed in previous reports in the light of the provisions of article 63 of the Criminal Code, which reads: "Officials must not undertake any action until they have verified and considered it and are convinced that it is legitimate, and that such conviction is founded on legitimate motives." Moreover, there is a fixed rule that ignorance of the law, and particularly of criminal laws, can be no excuse. Therefore, in no case can superior orders be invoked as a pretext for torture, cruelty or other illegal acts.

45. According to article 52 of the Constitution, torture in all its forms is a crime that is not subject to a statute of limitations. And there are no laws that legitimize the use of torture for any reason or motive. Thus, torture is a crime wherein no exception may be invoked in order to escape prosecution.

46. This principle is upheld in article 126 of the Criminal Code, which explicitly criminalizes acts of torture committed by an official or under orders from an official. In this way, any kind of criminal activity that superiors might commit and that could lead to their subordinates perpetrating acts of torture are outlawed. The party issuing an order to commit torture – "the superior" – is thus the principal offender on an equal footing with the person who actually perpetrates the act – "the subordinate". It is incumbent upon the latter to oppose the order and to inform the competent authorities, in accordance with articles 25 and 26 of the Code of Criminal Procedure. This is an important safeguard for victims, whose circumstances or those of their families might prevent them from filing a report for fear of repercussions. The obligation subordinates have in this regard is a way of ensuring that the offence can be uncovered and perpetrators held to account. In addition, if subordinates receive such an order and fail to report it, or if they fail to report torture they have witnessed or of which they are aware, they could – under certain circumstances – be accomplices to that crime.

47. Court rulings have confirmed that the invocation of superior orders does not constitute a justification for torture. Obedience to hierarchical superiors does not extend to committing crimes and invoking such subordination can by no means serve as a justification or as a way of evading criminal liability or punishment. The Court of Cassation has ruled that "obedience to a superior can in no way extend to committing crimes and a subordinate is not to obey an order from a superior to commit an act that he, the subordinate, knows to be penalized under the law".[14]

Article 3
Prohibition of expulsion, return or extradition of foreigners where they risk being subjected to torture

48. The constitutional and legal system does not permit the expulsion, return or extradition of foreigners to another State if to do so would imperil the persons concerned or there are substantial grounds for believing that they would be in danger of being subjected to

[14] Court of Cassation (criminal cases), appeal No. 5732 of judicial year 63, sitting on 8 March 1995, technical office 46, part I.

torture, particularly if the State concerned shows a consistent pattern of gross, flagrant or mass violations of human rights. This prohibition applies to citizens and foreigners alike.

49. In its regulation of extradition procedures, Egyptian law envisions the direct application of international extradition treaties – be they bilateral or multilateral – that have been signed by Egypt and that have become part of national law in accordance with article 151 of the Constitution. This has been upheld by the jurisprudence of the Court of Cassation.[15] Extradition procedures for offences of human trafficking, unlawful migration and the smuggling of migrants are regulated by national legislation while, in the absence of any treaty, extradition is regulated by customary international law and the principle of reciprocity.

50. Following accession and ratification, the Convention acquired force of law in Egypt, pursuant to articles 93 and 151 of the Constitution. Since article 3 of the Convention is directly enforceable provision in its own right and has no need for separate legislation, under article 3 (1), the State cannot expel, return or extradite a person to another State where there are substantial grounds for believing that that person would be in danger of being subjected to torture. According to article 3 (2), for the purpose of determining whether there are such grounds, the State is to take into account all relevant considerations including the existence of a consistent pattern of gross, flagrant or mass violations of human rights in the State concerned.

51. The Public Prosecutor is responsible for deciding on extradition requests, be it before a criminal case is launched, during the investigation or the trial or after a definitive sentence has been handed down. Under articles 184 and 189 of the Constitution, the State Prosecution Office is part of the judiciary, which is an independent body. For its part, the Office for International Cooperation, Judgement Enforcement and Prisoners' Welfare examines requests for extradition then submits them to the Public Prosecutor.

52. Staff of that Office study extradition requests submitted by other States and conduct the necessary investigations. During those investigations, the person whose extradition is being sought is informed of the charges and the evidence against him; his statement is recorded and documents submitted by the person concerned and the requesting State are attached thereto. The purpose of this is to verify the substantive reasons and legal grounds for extradition. If, having taken due account of all considerations – including the existence of a consistent pattern of gross, flagrant or mass violations of human rights in the State concerned – there are substantial grounds for believing that the person in question will be subjected to torture in the requesting State, the Public Prosecutor can reject the extradition request. The Prosecutor's decision in that regard is binding upon all authorities of the State.

53. As concerns decrees of deportation outside national territory, as a matter of principle it is prohibited to expel citizens from their country or to prevent them for returning or to extradite them to another country, even if they hold another nationality, as per article 62 of the Constitution.

54. As concerns the deportation of foreigners, Act No. 89 of 1960 concerning the entry, residence and departure of foreigners regulates conditions and procedures for residency, whether special, regular or temporary. The Act grants the Minister of the Interior general authority to issue orders for the deportation of foreigners.

55. Under the Act, foreigners who hold special residency cannot be deported unless their presence constitutes a threat to the internal or external security and safety of the State, the national economy, public health, public morals or public tranquillity. Deportation decisions are taken only after each case is considered on its own merits and in the light of the substantive and legal reasons for deportation. The person concerned is then summoned, questioned and asked to provide the necessary clarifications in the presence of a lawyer, an embassy representative and an interpreter. Deportation orders are issued by the Minister of the Interior having first been approved by a committee made up of representatives from the competent bodies.

[15] Court of Cassation (criminal cases), appeal No. 10664 of judicial year 79, sitting on 4 March 2010, technical office 61, page 215.

56. In all cases, deportation orders issued by the Minister of the Interior may be challenged, or an appeal against them may be lodged before the Council of State. The party against whom an order of deportation has been issued has the right to invoke the Convention and to claim that his return to his country would expose him to the risk of torture. In such a case, it is up to the courts to evaluate the reasons presented to justify such a claim. The courts take due account of all relevant considerations before issuing a ruling, also on the basis of the Convention which is part of national law. If there are bona fide reasons that support the veracity of the claim then the courts can overturn the deportation order until the matter has been resolved. Plaintiffs have the right to ask the courts to issue an urgent ruling to suspend the enforcement of an order.

57. In addition to the foregoing and in accordance with the prohibition on the expulsion, return or extradition of persons at risk of being tortured, enshrined in the 1951 Convention relating to the Status of Refugees, article 91 of the Constitution allows Egypt to grant political asylum to foreigners who are persecuted for defending the interests of peoples, human rights, peace or justice. Egypt respects that prohibition and its obligations under the Convention.

58. Under an agreement signed with the Office of the United Nations High Commissioner for Refugees (UNHCR), the Government cooperates with the UNHCR country office in Egypt, which registers refugees and asylum seekers. Currently, more than 250,000 refugees and asylum seekers of 55 different nationalities are registered with the office, in addition to around 5 million people who have fled armed conflict in neighbouring States and who have not applied for refugee status because of the ease with which they can integrate into society. In fact, they are not isolated in camps but enjoy all the basic services available to Egyptian citizens free of charge, including housing, health care and education. One aspect of the cooperation with UNHCR involves the provision of social workers who look after unaccompanied minors and ensure that they are able to access all basic services.

59. It should be noted that no piece of national legislation – including legislation on terrorism, states of emergency, national security etc. – contains provisions that might affect compliance with this article. Moreover, no expulsion, return or extradition has taken place during the reporting period in violation of the provisions of the Convention.

Article 4
Criminalization of acts of torture

60. The comments on article 1 of the Convention, above, include a review of the status of the crime of torture under the law. In fact, all forms of torture are criminalized, and more fully and comprehensively than in the Convention, particularly as the Constitution stipulates that the offence does not fall under the statute of limitations.

61. As regards the incrimination of torture under Act No. 25 of 1966, as amended, the applicable procedures and penalties are those envisaged in ordinary law unless there is a specific provision contained in the Code of Military Justice. Thus, military courts apply the same legal rules on the criminalization of torture and give no account to confessions extracted under torture.

62. There have been a number of occasions in which the courts have applied criminal laws in cases involving torture, including the following:

- Torture committed by police officers to make a suspect confess to a crime of robbery, which caused injuries that led to the suspect’s death. They were referred to the courts, which sentenced them to rigorous imprisonment and, as an ancillary penalty, banned them from exercising public functions;
- Torture committed by police officers to make a suspect being held in pretrial detention in a State prison confess to the acts detailed in a complaint against him, which caused injuries that led to the suspect’s death. They were referred to the courts, which

sentenced them to a term of imprisonment of 10 years with hard labour and dismissed them from their posts;[16]

- Torture committed by a police officer to make a suspect confess to offences in a number of cases, which caused injuries that led to the suspect's death, as was shown by the investigation. The officer was referred to the courts, which sentenced him to imprisonment and, as an ancillary penalty, banned him from exercising public functions;[17]
- Torture committed by two police officers and a number of other police officials to force a suspect being held in pretrial detention to confess to the possession and use of narcotics, which caused serious injuries that led to the suspect's death. They were referred to the criminal courts which sentenced the two officers to a term of imprisonment of 1 year and to suspension from duty for 2 years, and the other officials to 10 years' hard labour and dismissal from their posts. The terms of the judgment also required the Minister of the Interior to provide compensation to the victim's heirs for the damages they suffered as a consequence of his death;[18]
- Torture committed by a police officer to force a suspect to confess to a crime of robbery, which caused serious injuries that led to the suspect's death. The criminal court sentenced the officer to a term of imprisonment of 5 years and required him to pay compensation to the victim's heirs.[19]

63. Lastly, apart from the criminal liability torture and other inhuman acts entail, such acts can also result in disciplinary liability, as the administrative authorities can decree that the accused official be suspended from duty until the investigations are complete. Such suspension from duty is obligatory if the accused person is being held in pretrial detention under articles 53 and 54 of Police Authority Act No. 109 of 1971, and optional if the person is not in detention but the interests of the investigation call for a suspension from duty. The length of the suspension is dependent upon the outcome of the criminal investigation. If it concludes with a referral for criminal trial and the court returns a guilty verdict, that automatically entails a dismissal from public service as an ancillary penalty accompanying the main penalty. If the investigation does not conclude with a referral for criminal trial, the investigating authority nonetheless retains the right to refer the case to the body to which the accused person belongs for an administrative penalty to be imposed or for the party concerned to be referred to a disciplinary tribunal, which may rule for dismissal.

Article 5
Jurisdiction of courts in cases of torture

Paragraph 1

64. The geographical jurisdiction within which national law is applicable has already been addressed in previous reports. Reference must be made, nonetheless, to the Office for International Cooperation, Judgement Enforcement and Prisoners' Welfare, which was created as part of the State Prosecution Office. It works to reinforce the international response to crime in general and to human rights violations in particular – first among them torture. The Office receives and implements requests for judicial cooperation from abroad. This was explained under the comments on article 3, above.

Paragraph 2

65. This matter is dealt with in previous reports, in the comments on article 3, above, and in the section dealing with articles 8 and 9 and the extradition of wanted persons, below.

[16] Court of Cassation (criminal cases), appeal No. 36562 of judicial year 73, sitting on 17 February 2004, technical office 55, page 164.

[17] Court of Cassation (criminal cases), appeal No. 15220 of judicial year 75, sitting on 28 December 2005, technical office 56, page 844.

[18]

[19]

Article 6
Custodial measures for persons implicated in cases of torture

66. Under the legal system of Egypt, the same rules of criminal procedure apply to Egyptians as to foreigners, in addition to which supplementary rights are envisaged for the latter, due to their status as foreigners, such as the right to an interpreter, if required, and the right to contact the embassy of his country or, if stateless, of the country in which he normally resides.

67. Immediately following an arrest, the law enforcement official is required to ask the accused person for his identity, to record any statements the latter makes and to ask him about the charges against him, but not to interrogate him. The accused person – who has the right to remain silent, as per article 54 of the Constitution – is to be brought within 24 hours before the investigating authorities – either the State Prosecution Office or an investigating judge – for questioning and for a decision to be taken on how to proceed.

68. In order to ensure that accused persons can be brought before the investigating authorities promptly, the judicial instructions regulating the work of the State Prosecution Office require prosecutors to be on hand every day, including evenings, as well as in the mornings and evenings of weekends and official holidays. This means that accused persons can be brought in without delay and within the legally prescribed deadlines.

69. The Ministry of Foreign Affairs is obliged to notify the embassy of an accused foreigner during the evidence-gathering stage. For its part, the State Prosecution Office, via the Office for International Cooperation, Judgement Enforcement and Prisoners' Welfare, contacts the embassy when the questioning of the accused person begins to request the presence of an embassy representative.

70. Lastly, the freedom of accused persons can be restricted only for one of two reasons: extradition or trial. In neither case may the period of restriction of liberty exceed that legally prescribed, irrespective of whether the accused is an Egyptian or a foreigner. The terms and procedures of pretrial detention have already been addressed in comments on article 2, above.

Article 7
Fair trial guarantees for persons implicated in cases of torture

71. In enactment of the Convention, which is part of Egyptian law, if an accused person is not extradited to another country and if one criteria of jurisdictional competence is fulfilled, the competent authorities can proceed with the evidence-gathering, investigation and trial. Accused persons – whether Egyptians or foreigners – are subject to the same procedural and substantive rules, which are no different from established general rules.

72. For persons suspected of torture and other forms of inhuman treatment, the Egyptian legal system envisions the following safeguards at the evidence-gathering and preliminary investigation stages:

- Arrests, searches and deprivation of liberty are admissible in only two circumstances: where a crime is discovered in flagrante delicto and where a reasoned judicial warrant has been issued in the context of an investigation. The warrant is to be in written form and signed by the party that issued it, as set forth in the Code of Criminal Procedure and article 54 of the Constitution. Furthermore, arrested persons are to be informed of their rights in writing, of the reasons for their arrest and of their right to contact their family and to engage the services of a lawyer;[20]

[20] Article 54 of the Constitution reads: "Personal freedom is a natural right that is protected and may not be violated. Apart from situations of flagrante delicto, it is not permissible to arrest, search, detain, or restrict the freedom of any person except pursuant to a substantiated judicial order necessitated by an investigation. All persons whose freedom is restricted shall be promptly informed of the grounds therefor, shall be notified in writing of their rights, shall be permitted forthwith to contact their relatives and lawyer, and shall be brought before the investigating authority within 24 hours of the time when their freedom was restricted. Questioning may begin only once a lawyer is present. A

- In order to provide further safeguards for suspected persons, the same article dictates that they are to enjoy the same rights during the evidence-gathering stage, and that arrested persons are to be brought before the investigating authorities within a reasonable time frame. Under article 36 of the Code of Criminal Procedure, in fact, law enforcement officials are to bring accused persons before the investigating authorities within 24 hours of their arrest, otherwise they must be released immediately. Article 26 of the Code requires that the statement of arrested persons be heard and, if nothing emerges to exonerate them, they are to be brought before the State Prosecution Office;
- For its part, article 55 of the Constitution stipulates that all persons in detention have the right to be treated humanely in designated locations that comply with humanitarian and health standards; it prohibits any form of torture, intimidation, coercion or physical or mental abuse and envisages the right to remain silent. The article also stipulates the right of persons with disabilities to appropriate support, equipment and assistive devices.[21] This right is regulated by the Persons with Disabilities Act, under which such persons – be they accused, victims or witnesses – are provided with protection and with health, social and technical assistance, according to need, at all stages of arrest, investigation, trial or enforcement of sentence. They also have the right to protection and to health, social and technical assistance, according to need.[22]
- Under the Prisons Act, persons who have been arrested and are being held in detention have the right to see a doctor and to receive the medical care they require;
- All evidence-gathering activities conducted by law enforcement officials are subject to judicial oversight, as per article 22 of the Code of Criminal Procedure.[23] It also falls to the competent court to evaluate the legality of such activities and the admissibility of the evidence gathered.

73. For persons suspected of torture and other forms of inhuman treatment, the Egyptian legal system envisions the following safeguards at the trial stage:

lawyer shall be appointed for persons who have no lawyer. Persons with disabilities shall be provided with the requisite assistance, in accordance with the procedures prescribed by law. All persons whose freedom is restricted, as well as other persons, shall be entitled to file a complaint with the judiciary. A decision on the complaint shall be rendered within one week; otherwise, the person shall be released forthwith. The law shall regulate preventive detention, its duration and grounds, and which cases are eligible for compensation. The State shall award compensation for preventive detention or for a penalty that is implemented pursuant to a sentence that has been definitively overturned. In all cases, accused persons may be tried for offences entailing imprisonment only in the presence of an authorized or appointed lawyer."

[21] Article 55 of the Constitution states: "All persons who are arrested or detained or whose freedom is restricted shall be treated in a manner that preserves their dignity. They may not be tortured, intimidated or coerced. They may not be physically or mentally harmed, and they may not be detained or confined save in designated locations that comply with humanitarian and health standards. The State shall provide appropriate facilities for persons with disabilities. Any violation of the aforementioned provisions shall constitute an offence and the perpetrator shall be prosecuted. Accused persons shall have the right to remain silent. Any statement that is proven to have been made by a detainee under pressure of the kind described above, or the threat of such pressure, shall be deemed null and void."

[22] Article 35 of Act No. 10 of 2018 states: "At all stages of arrest, investigation, trial or enforcement of sentence, persons with disabilities – be they accused, victims or witnesses – have the right to be treated in a humane manner that is appropriate to their situation and their needs. They have the right to protection and to health, social and technical assistance, according to need. They are to be provided with a defence lawyer during the investigation and the trial, and the law shall guarantee all means and facilities to enable them to make their defence, as regulated by the implementing regulations of the present Act."

[23] Article 22 of the Code of Criminal Procedure states: "In carrying out their duties, law enforcement officials are under the supervision of the Public Prosecutor. The Prosecutor may request the competent body to examine the case of anyone who has committed a violation or shortcoming in the course of duty. In addition, the Prosecutor may request that disciplinary action be taken against the person in question, without prejudice to any possible criminal proceedings."

- The independence of the judiciary is enshrined in article 184 of the Constitution[24] and the security of tenure of judges in article 186.[25] Moreover, article 302 (1) of the Criminal Code – in book II, chapter II, part IV – allows judges complete freedom to form their beliefs on the basis of conclusions they can confidently reach, because criminal cases rest on the principle of judicial decision-making. The same provisions also establish the neutrality of judges and their impartiality in making their judgments, and regulate procedures whereby that neutrality can be challenged by appeal, if there are legal grounds to do so, as well as the procedures for ruling on such an appeal;
- The public nature of court proceedings is enshrined in article 187 of the Constitution[26] and upheld in article 18 of the Judiciary Act and article 268 of the Code of Criminal Procedure. In that regard, the Constitutional Court has ruled that "public trial proceedings are the norm and secrecy renders them legally invalid".[27]
- The presumption of innocence is enshrined in article 96 of the Constitution and reaffirmed in article 304 (1) of the Code of Criminal Procedure.[28] It is applied by the Egyptian courts and underpins the rule that criminal verdicts need to be based on certainty and that any doubt is to be interpreted in favour of the accused.[29] Another important fair-trial guarantee is that of the non-retroactive nature of criminal laws,[30] a principle that has been upheld by the Court of Cassation on a number of occasions.[31] Moreover, as stated in article 455 of the Code of Criminal Procedure, persons may not be tried twice for the same offence,[32] and this too has been endorsed by the Court;[33]

[24] The article states: "The judiciary is independent. Judicial authority is vested in courts of various types and degrees, which issue their judgments in accordance with the law. The powers of the judiciary are defined by law and interference in the administration of justice is an offence not subject to the statute of limitations."

[25] The article states: "Judges are independent and may not be dismissed. They are subject to no authority other than that of the law and are equal in rights and duties. The conditions and procedures for their appointment, secondment and retirement are governed by law, which also regulates their disciplinary accountability. They may not be assigned, fully or in part, to other bodies or functions except as specified by law and in such a way as to avoid conflicts of interest and maintain the independence and impartiality of the judiciary and of judges. The rights, duties and guarantees granted to them are specified by law."

[26] The article states: "Court sessions are held in public unless the court decides that they should be held in camera in order to safeguard public order or public morals. In all cases, the judgment is announced at a public hearing."

[27] Court of Cassation (criminal cases), appeal No. 257 of judicial year 47, sitting on 9 January 1930, technical office 1 (Omar collection) part I, page 417.

[28] Article 96 (1) of the Constitution states: "Accused persons are innocent until proven guilty in a fair and legal trial in which they are guaranteed the right of defence. Appeals against criminal sentences shall be regulated by law." Article 304 (1) of the Code of Criminal Procedure reads: "If the case cannot be proven or is not punishable by law, the court shall acquit the accused person and, in respect of that case alone, order his release if he is in detention."

[29] Court of Cassation (criminal cases), appeal No. 1619 of judicial year 60, sitting on 23 December 1998, technical office 49, part I, page 1516.

[30] Article 95 of the Constitution states: "Penalties are imposed on individuals. There may be no offence and no penalty save as prescribed by law, and no penalty may be imposed save by a court ruling. Penalties may only be imposed for actions perpetrated subsequent to the date on which a law enters into force."

[31] In fact, the Court of Cassation has ruled that "the principle of the non-retroactive nature of the substantive provisions of criminal law arises from the legal principle of crime and punishment, which requires that penalties for offences be circumscribed by the law that was in force at the time they were committed". See Court of Cassation (criminal cases), appeal No. 11551 of judicial year 63, sitting on 28 February 1999, technical office 50, part I, page 147.

[32] Article 455 of the Code of Criminal Procedure states: "A criminal case in which a definitive verdict has been issued may not be reconsidered on the basis of new evidence, new circumstances or a change in the legal description of the offence."

[33] Court of Cassation (criminal cases), appeal No. 6752 of judicial year 80, sitting on 12 February 2012, technical office 63, page 205. It states: "A person may not be tried twice for the same offence because double criminal jeopardy for a single offence is banned by law and would be an affront to justice."

- The right to defence and to engage the services of a lawyer is enshrined in articles 54 and 98 of the Constitution.[34] If an accused person does not have a lawyer, the court is to appoint one on his behalf.[35] An accused person or his lawyer can ask for any investigative measure to be taken to establish his innocence, including calling witnesses and experts, undertaking examinations and submitting oral and written pleadings. The Court of Cassation has established that any violation of the right to defence renders a judgment null and void.[36] The right to an interpreter is envisaged in article 19 of the Judiciary Act,[37] while several articles of the Code of Criminal Procedure stipulate that it is the courts' duty to conduct the final investigation into a case, to enact the relevant procedures and to hear submissions from the prosecution and the defence. The accused person is to attend the trial and to be faced with all the evidence against him so that he can refute it or confess to the charges, if he so wishes. No evidence may be used that has not been presented before the court, and the Court of Appeal has established that any judgment reached that is at variance with that principle is null and void;[38]
- Lastly, there is the right of appeal. In cases involving serious offences, the Code of Criminal Procedure admits the possibility of contesting judgments in appeal and in cassation; moreover, judgments issued in absentia may be challenged either before the court of first instance or the Court of Appeal. In cases involving major offences, the law envisages consideration at one level. Judgments issued in absentia are extinguished in the presence of the accused, and any judgment then handed down may be appealed in cassation. A new stage of legal proceedings in cases involving major offences was introduced by article 96 of the Constitution, which envisages that such cases be examined over two stages, while article 240 of the Constitution states that this matter is to be duly regulated within 10 years of the Constitution coming into force.[39]

Article 8
Extradition of persons implicated in cases of torture

74. Since, in accordance with articles 93 and 151 of the Constitution, the Convention is applicable as national law, the offences referred to in article 4 are deemed to be extraditable, with the single exception of political refugees who, under article 91 of the Constitution, cannot be extradited. Apart from that, all other forms of extradition are admissible, in

[34] Article 98 of the Constitution reads: "The right of defence either in person or by proxy is guaranteed. The independence of the legal profession and the protection of its rights constitute safeguards for the right of defence. By law, financially needy persons shall be provided with the means to seek justice and defend their rights."

[35] Article 54 of the Constitution states: "In no case may an accused person be tried for a crime that attracts a custodial penalty save in the presence of an authorized or appointed lawyer."

[36] Court of Cassation (criminal cases), appeal No. 8322 of judicial year 75, sitting on 16 May 2006, technical office 57, page 628.

[37] The article in question reads: "The language used in courts is Arabic and the courts must hear the statements of parties and witnesses who do not know Arabic through a sworn interpreter."

[38] The Court of Cassation has ruled: "Criminal trials are, in principle, based on oral proceedings, which are conducted by the court in the presence of the accused. During such proceedings, the court hears from the witnesses, if that is possible, and may in no way derogate from that practice except with the consent – clear or implicit – of the accused or the defence counsel. Thus, if the accused insists that witnesses be heard over the two stages of justice and the court fails to act in that regard, then it has violated the principle of the oral nature of proceedings and its judgments are flawed and constitute a violation of the right of defence." See Court of Cassation (criminal cases), appeal No. 80 of judicial year 35, sitting on 24 May 1965, technical office 16, part II, page 501.

[39] Article 240 of the Constitution states: "Within 10 years from the date the present Constitution comes into effect, the State shall provide the financial and human resources necessary to handle appeals against rulings issued in court proceedings involving major offences. This is to be regulated by law." In enactment of that constitutional obligation, the Government has presented a bill to amend the Code of Criminal Procedure, which includes provisions to regulate appeals against judgements issued in cases involving major offences.

accordance with the treaties to which Egypt has acceded and with customary international law.

75. The Convention is used as the legal grounds for extradition, in cases involving the offences envisaged therein and when there is no bilateral or multilateral extradition agreement with the State concerned. Under every extradition treaty it has concluded, Egypt continues to honour its pledge to make the offences referred to in article 4 extraditable offences, and none of the bilateral or multilateral extradition treaties it has signed treat torture as a non-extraditable offence.

76. If no agreement exists with the State seeking extradition, article 1716 of the judicial instructions regulating the work of the State Prosecution Office states that extradition is to be regulated by customary international law. Thus, extradition does not depend upon the existence of an international agreement between Egypt and the requesting State, if such extradition is admissible under international custom and the principle of reciprocity.

77. In general terms, extradition is subject to certain controls, including that of dual criminality in both the States concerned. Moreover, the criminal proceedings for which extradition is being sought cannot have lapsed and the penalty must not have expired. This does not apply in cases of torture, which are not subject to a statute of limitations in Egypt, as stated previously. In addition, any request for extradition must be accompanied by the necessary documentation for consideration by the State Prosecution Office.

78. Lastly, it should be noted that, during the period covered by the report, Egypt did not receive any extradition requests for torture offences under the provisions of the Convention.

Article 9
International legal assistance and cooperation in connection with cases of torture

79. In order to ensure that perpetrators and their accomplices do not go unpunished, Egypt assists States parties to the Convention with legal and judicial measures concerning the offences referred to in article 4. This includes the provision of all the evidence the authorities possess that might prove necessary for judicial proceedings.

80. Requests for judicial assistance are simply one manifestation of international cooperation, and Egypt has bilateral and multilateral judicial cooperation agreements with many other countries. Article 1709 of the judicial instructions regulating the work of the State Prosecution Office enjoins the implementation of requests for judicial assistance from other States, as a matter of international courtesy and even in the absence of agreements with those States. Indeed, international judicial cooperation is regulated by international treaties and established international customary norms, without prejudice to the Constitution and the law.

81. Article 1709 of the judicial instructions regulating the work of the State Prosecution Office cites certain examples of procedures that can be taken under requests for judicial assistance. They are: questioning witnesses, interrogating accused persons, conducting confrontations, designating experts and seizing goods. The requesting State is informed of the measures taken under the request and, once those measures have been implemented, is sent the relevant documentation.

82. It should be noted that, during the period covered by the report, Egypt did not receive or send any requests for judicial assistance concerning torture offences under the provisions of the Convention.

Article 10
Education and training to prevent torture

Paragraph 1

83. Egypt provides training on the prevention of torture and other cruel, inhuman or degrading treatment or punishment to law enforcement personnel, judges and other officials

involved in detention, interrogation and other dealings with detained persons or asylum-seekers. Regular training courses are held for doctors and forensic experts to improve their ability to detect and document torture. On the basis of the conviction that education in the culture of human rights is an essential way to ensure continuing dissemination, promotion and respect, human rights have continued to be taught as part of basic and secondary education curricula throughout the reporting period.

84. Acting under article 24 of the Constitution, the Supreme Council for Universities issued a decision in 2018 in which it decreed that a human rights module should be taught at all higher institutes and colleges at university level. Under the decree, the module is compulsory and is to be taken once during the years of study, and students cannot graduate without having passed it. Police Academy graduates, moreover, have to obtain a diploma in law alongside their diploma in policework, and they too have to study and pass a human rights module – which also covers the provisions of the Convention – in order to obtain a diploma. The Academy has also a criminal justice and human rights section which works to instil human rights values in police officers, both during their period of study and via advanced courses of study and on-the-job training. The Academy's graduate institute has introduced a "diploma on human rights and community relations", which covers seven subjects: international humanitarian law; the media, psychological and social dimensions of human rights protection; human rights and evidence-gathering; basic human rights concepts and the role of the police in protecting them; human rights and enforcement of sentences; international and regional framework for the protection of human rights; and human rights protection safeguards.

85. An in-depth human rights module has become a compulsory part of all the diploma courses offered by the Academy's graduate institute. Student officers are assigned individual and collective research projects, and graduate student officers are also urged to study these areas. The Academy has awarded 41 doctorates on human rights-related subjects while a further 14, as well as 104 research papers, are still being drafted. The Academy's training programmes include psychological preparation, a scientifically based discipline the focus of which is to develop the ability of police officers to withstand pressures and so ensure that their security work remains consistent with human rights principles. Moreover, qualified officers are sent out to security directorates in the governorates to run workshops and training programmes for their colleagues. Booklets and manuals have been printed and distributed among the police, and human rights-related topics have been introduced into the Academy's competitive exams, while the Academy library has been stocked with local and international books and reference materials. The translation section of the Police Research Department has translated a number of academic publications and made them available to police officers. Seminars and meetings are organized at which Academy students can meet intellectual and literary figures and experts in various disciplines in order to consolidate their rejection of any form of behaviour that violates human rights.

86. Between January 2010 and the completion of the present report, 70 training courses on human rights and torture prevention were held, attended by 1,392 police officers.

87. Between 2015 and 2018, the Ministry of the Interior organized 139 specialized sessions for officers in various fields of human rights as well as 2,796 courses for civilian staff at the Ministry to develop their skills in the humanities, the social sciences and the law and to inculcate them with professional and compartmental values. Several human rights lectures were also held during the same period. For its part, the Police Research Department held 462 lectures and seminars on human rights-related topics, with the involvement of writers, thinkers and public and media figures as well as representatives of the National Council for Women, the National Council for Childhood and Motherhood, and the National Council for Persons with Disabilities.

88. In parallel with the foregoing, courses on how to deal with detainees and with children and women in custody have been held for staff in prisons and social care homes. One hundred training courses were held for prison staff between 2016 and 2019 while, between 2017 and the time the present report was drafted, training was offered to 4 officers, 58 police officials and 13 civilian staff in social care homes. In March 2017, a protocol of understanding was concluded between the human rights section of the Ministry of the Interior and the National Council for Human Rights. Under that protocol, at the time of writing the present report, a

total of 10 training courses on human rights in security work have been held for more than 300 officers in police stations and departments. The courses focus on the provisions of the Constitution, the law and international human rights treaties, including the Convention.

89. The Ministry of the Interior provides police officers with copies of the Universal Declaration of Human Rights, a code of conduct and ethics for policework and other publications, with titles such as "No to violence against women" and "Police at the service of the people", as well as a booklet dealing with the role and functions of the Ministry's own human rights section. The manuals and instructions issued to the police include detailed instructions and information intended to prevent acts of torture and other cruel, inhuman or degrading treatment.

90. On a separate front, the Criminal Research and Training Institute of the State Prosecution Office was established in 2015. It provides training to members of the Office in the form of basic and specialized courses on rules and safeguards for investigating various types of crimes. From 2017 to the present, some 1,180 persons have attended. The courses provide training on the Convention and on crimes of torture in general, and on how to investigate and deal with such crimes. Real cases are held up for scrutiny and field visits are made to places of deprivation of liberty to explain prisoners' rights and the role of the State Prosecution Office in conducting inspections, receiving complaints and investigating any criminal acts that might take place inside prisons.

Paragraph 2

91. Torture and other cruel, inhuman or degrading treatment or punishment are prohibited under the Constitution. That prohibition, moreover, is clearly set forth in the laws and instructions that govern the work of law enforcement officers, doctors and court officials.

92. Article 160 of the judicial instructions regulating the work of the State Prosecution Office reads: "Investigators are to be at pains to treat accused persons with respect, dignity and humanity and to avoid any form of behaviour or expression that is demeaning to human dignity. Moreover, it is forbidden to use torture in order to obtain a confession to the offence being investigated."

93. Article 41 of the Police Authority Act expressly requires officers and personnel of the police, in the conduct of their duties, to respect the Constitution, the law and human rights standards when using force; to abide by rules of integrity, transparency and procedural legitimacy; to protect rights and freedoms, preserve human dignity and respect the democratic values of society in accordance with the Constitution and the law; and to guarantee constitutional and legal rights and human rights standards when dealing with accused persons and suspects.

94. In 2011, the Ministry of the Interior issued a code of conduct and ethics for policework, which contained a set of principles and values intended to govern professional conduct in accordance with international standards. The aim was to consolidate a security mindset rooted in the need to abide by human rights values as the main and principal aim of security work. Thus, the first entry in the code of conduct enjoins respect for the Constitution, the law and human rights standards, while the fifth entry warns against any negative conduct or inhuman practices; it states: "Police officers are prohibited from carrying out, instigating or condoning any act of physical or mental abuse or other cruel, inhuman or degrading treatment, or any other act that might constitute physical or mental abuse. Police officers may not invoke superior orders or any exceptional circumstance to justify such practices, which are against the law and contrary to human rights." The code places an obligation upon all police personnel to respect the provisions it contains, prohibits any violations to those provisions which, should they occur, are met with the utmost rigour, and it requires that any infractions be reported to superiors for appropriate preventive action to be taken.

95. Article 35 of the code of ethics and charter of honour of the medical profession, issued by the Minister of Health and Population under Decree No. 234 of 1974 states: "Doctors charged with the medical care of persons deprived of their liberty must provide such persons with the same quality and level of health care as is available to persons who are at liberty. Doctors may not, either by action or neglect, undertake any act that constitutes involvement, incitement or complicity in torture or any other form of cruel or inhuman treatment. Moreover,

they may not use their professional knowledge and skills to participate in the interrogation of persons deprived of liberty in such a way as to damage their health or their physical or mental state, or participate in any procedure that would restrict the movement of persons deprived of liberty, unless this is done for medical reasons and to protect the physical or mental health of the person concerned."

Article 11
Measures to prevent torture in detention facilities

96. In addition to the information provided under the comments on articles 1, 2, 6, 7 and 10, above, previous reports have also explained rules, requirements and methods of interrogation; rules governing detention and the treatment of pretrial detainees and convicted prisoners; detainees' right to health care; and doctors' responsibility to prevent torture. Previous reports also focused on the role of the State Prosecution Office and of other parties such as investigating judges and judges at courts of first instance, appeal and cassation, who can enter and visit prisons and places of detention, record any violations and take the appropriate steps. During such visits, they also verify that regulations are being duly applied and examine prison registers and documents to ensure the law is being respected and to hold to account persons who fail to do so. Such measures constitute one of the main safeguards protecting rights and freedoms.

97. All of this goes to reinforce the guarantees envisaged in article 55 of the Constitution according to which persons deprived of their liberty may not be tortured and must be treated in a manner that preserves their dignity; moreover, they may not be detained or confined save in designated locations that comply with humanitarian and health standards. According to article 56, prisons and places of detention remain under judicial supervision and all practices that are harmful to human dignity or damaging to human health are prohibited.

98. Articles 1747 to 1750 of the judicial instructions regulating the work of the State Prosecution Office require solicitors-general of the main State prosecution offices, or their deputies, to inspect the ordinary prisons located within their respective areas of jurisdiction. Moreover, the heads or directors of regional State prosecution offices must conduct unannounced inspections of the regional prisons under their jurisdiction, at least once every month. The inspectors may examine registers, arrest warrants and incarceration orders to ensure that they conform with legally prescribed models and they may listen to prisoners' complaints, while the superintendent and other prison officials must provide all information requested. The members of the State Prosecution Office must also verify that inmates are being held in the prison in accordance with court orders, and they must ascertain that each category of prisoner is separated from other categories and that each category is being treated in the manner duly prescribed. Lastly, they must launch an investigation into any violations or offences discovered during the course of the inspection, and inform the Deputy Public Prosecutor thereof.

99. In addition to the comments that will be made below regarding article 16 (1) of the Convention, the following rules and regulations – which together constitute a broad translation of the Basic Principles for the Treatment of Prisoners and of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment – govern the treatment of persons deprived of their liberty under the law:

- Article 5 of the Prisons Act states: "No one may be imprisoned save by a written order signed by the legally competent authority and no one may remain in prison after the period stipulated in the order has expired." Article 6 of the Act reads: "Before admitting anyone to prison, the prison superintendent or other competent official must be given a copy of the incarceration order and must sign the original of that order in acknowledgement of receipt and return it to the person who delivered the prisoner. A copy of the order signed by the person who issued it must be kept in the prison." Article 7 states: "When a prisoner is transferred from one prison to another, a copy of the incarceration order mentioned in the previous article and all other records, including the findings of social and health examinations, shall be transferred with him." Article 8 of the Act reads: "When a prisoner enters prison, a summary of his

incarceration order shall be registered in the public register of detainees. The registration shall take place in the presence of the person who brought the prisoner, and that person shall then sign the register." All the registers remain under the supervision of the judicial authorities competent to inspect and oversee prisons and places of detention, in accordance with the judicial instructions regulating the work of the State Prosecution Office.

- Article 33 of the Act states: "Every penitentiary or non-regional prison must have one or more doctors, one of whom must be resident, delegated to provide health-care services, as per internal regulations. Regional prisons shall have one doctor and, if one has not been appointed, a government doctor shall be assigned to carry out the duties of prison doctor." Article 33 bis stipulates: "State-run and university medical facilities are required to treat patients referred to them from prisons." Article 36 of the Act states: "The case of any inmate whom the prison doctor finds to be suffering from a life-threatening or debilitating illness is to be drawn to the attention of the director of the prison medical service so that the inmate in question can be examined, with the collaboration of a forensic doctor, with a view to his release. A release order is to be implemented once it has been endorsed by the Deputy Minister for Prisons and approved by the Public Prosecutor, with the competent administrative division and the competent prosecutor being duly informed. It is incumbent upon the administrative division in which the released inmate requests to take up residence to ensure that the individual in question is examined by a doctor every six months so that a report can be sent to the Prisons Department outlining his state of health and enabling the release order to be revoked if the situation so requires. The Deputy Minister for Prisons may, as he sees fit, delegate the director of the prison medical service and a forensic doctor to conduct an examination to determine the state of health of the released inmate. If the examination reveals that the medical grounds necessitating the release no longer subsist, the released inmate is to be returned to prison, by order of the Public Prosecutor, to complete his sentence. The Public Prosecutor may also order the inmate's return to prison if the latter changes his place of residence without authorization from the competent administrative division. The period the inmate spends on release outside prison is to be deducted from the duration of his sentence." The implementing regulations of the Act include various provisions regulating inmates' right to health care. Article 24 of the regulations states: "The prison doctor is responsible for health-care procedures to ensure the well-being of inmates, in particular by preventing infectious diseases; supervising healthy nourishment, correct attire and proper furnishing; and overseeing the cleanliness of work areas, living quarters and all other locations within prisons." Article 25 states: "If the prison doctor is absent, the prison superintendent shall notify the Prisons Department so that it can appoint a doctor from the Ministry of Health to undertake those activities. In situations of urgency, the superintendent may summon a Ministry of Health doctor directly then notify the Prisons Department." Article 26 states: "The prison doctor is to carry out an inspection at least once a day. The doctor is not required to be present in the prison on public holidays except in situations of emergency or urgency." Article 27 states: "The doctor must examine each inmate as soon as he is admitted to prison, and in no case later than the morning following admittance, in order to determine the inmate's state of health and to identify what work he is capable of doing. The doctor must also treat sick inmates on a daily basis as well as inmates who complain of an illness, and he may order transfers to the prison hospital. He must also make daily visits to inmates being held in solitary confinement and must examine all other inmates at least once a week in order to determine their state of health and hygiene." Article 31 states: "If the doctor finds that the health of an inmate has been harmed by the time spent in solitary confinement or by the work or the type of work being done, he must give written notification to the prison superintendent, indicating the means to rectify that harm. The director or superintendent must implement the doctor's indications in that regard." Article 37 states: "If treatment is not available in the prison hospital and the prison doctor believes it is necessary to treat the inmate in an external hospital, he must submit a report to the Prisons Department's prison medical service. In situations of emergency or urgency, the prison doctor may act as he considers necessary to protect the health

of the inmate, then send an urgent report in that regard to the Prisons Department. If the doctor is of the view that the inmate's state of health is such as to require the opinion of a specialist, he must request the relevant authorization from the Prisons Department. In urgent cases, such authorization may be communicated by telephone. The prison doctor may order that medicines sent for the inmate from outside the prison be admitted, if he believes that to be necessary."

- Article 38 of the Prisons Act reads: "Taking due account of the provisions of the Code of Criminal Procedure, all inmates have the right to correspond, to make telephone calls for a fee and to be visited by relatives twice a month, subject to the oversight and supervision of the prison administration and in accordance with rules and procedures set forth in internal regulations. Persons in preventive detention enjoy the same rights unless the competent prosecutor or investigating judge decides otherwise, in accordance with procedures set forth in internal regulations. The prison administration shall work to ensure that visitors are treated humanely and shall provide them with suitable areas in which to wait and to hold their visit." Article 40 of the Act states: "The Public Prosecutor, the Solicitor-General or the Deputy Minister for Prisons, or the latter's deputy, may allow the family of an inmate to visit their relative outside normal working hours, if necessary." The implementing regulations of the Act set out those rights, in detail. Article 60 states: "Inmates serving terms of ordinary imprisonment or of preventive detention have the right to correspond at any time, and their relatives can visit them once a week on any day they choose, except Fridays or official holidays. Inmates in preventive detention may be forbidden from exercising these rights by order of the State Prosecution Office or an investigating judge, in accordance with article 141 of the Code of Criminal Procedure." Article 64 states: "Any convicted person who has been sentenced to a term of deprivation of liberty has the right to send four letters a month, beginning on the day the sentence starts, and to receive all correspondence sent to him, in accordance with the rules set forth in article 61 of the internal regulations. The inmate's relatives are allowed to visit him every fifteen days, beginning one month into his sentence, on condition that his behaviour inside the prison is good" Article 64 bis states: "Inmates are allowed to make telephone calls of up to three minutes twice a month, as from the date they are entitled to begin receiving visits and rotating weekly with the visit appointments, in accordance with rules and operating guidelines determined by decree of the Deputy Minister for Prisons and endorsed by the Minister of the Interior. This is conditional upon there being no danger to general security and upon the good behaviour of the inmate in question. At certain times and depending upon circumstances, telephone calls may be forbidden for security reasons. In case of need, an inmate may exceptionally be allowed to make telephone calls, with the approval of the Minister of the Interior. Inmates in preventive detention may make telephone calls under the same conditions, unless forbidden from doing so by order of the State Prosecution Office or an investigating judge, in accordance with article 141 of the Code of Criminal Procedure."
- Article 38 bis of the same Act stipulates: "The Deputy Minister for Prisons can grant authorization to representatives from embassies and consulates to visit prisoners holding the nationality of the country the embassy represents or of the country whose interests the embassy protects. The representatives are provided with all necessary facilities, on the basis of the principle of reciprocity."
- Article 39 of the Act reads: "An inmate's lawyer is entitled to meet with his client in private, having first obtained authorization from the State Prosecution Office and the investigating judge (concerning the cases they been delegated to investigate), irrespective of whether the meeting is at the invitation of the inmate or at the request of the lawyer."

Article 12
Investigations of torture

100. As has been explained in previous reports, the competent authorities launch an immediate and impartial investigation when they have reason to believe that an act of torture or of cruel, inhuman or degrading treatment or punishment has been committed in any location that is under the jurisdiction of the courts. The principle of rule of law as the basis of governance has been upheld in successive Constitutions, which clearly state that the primacy of law and the independence and immunity of the judiciary are the two essential safeguards protecting rights and freedoms. The implementation of this principle is set forth in chapter IV of the Constitution.

101. Under article 189 of the Constitution and article 199 of the Code of Criminal Procedure, the State Prosecution Office – being part of the judiciary – has exclusive jurisdiction to conduct investigations and to initiate and pursue criminal proceedings. The integrity and impartiality of investigations is reaffirmed in article 123 (1) of the Code of Criminal Procedure, which states: "When suspects first appear for questioning, the investigator must initially establish their identity then inform them of the charges and record their statements." Article 160 of the judicial instructions regulating the work of the State Prosecution Office reads: "Investigators are to be at pains to treat accused persons with respect, dignity and humanity and to avoid any form of behaviour or expression that is demeaning to human dignity." According to article 226 of the instructions: "Members of the State Prosecution Office are to avoid the presence of police officers during questioning so as not to affect the parties' will to make their statements. Nonetheless, the mere presence of a police officer during the questioning does not per se mean that the party concerned has been coerced into making a confession, unless it can be shown that fear of the police actually affected that person's will and caused him to make the statement he made." Article 227 of the instructions stipulates: "The prosecutor must be highly vigilant to the behaviour of accused persons and witnesses and, if he realizes that they are being influenced by the presence of an officer or of another party to the proceedings, he must ask that person to leave the interrogation room temporarily and assure the person being interrogated or questioned that the information they give will not be released from the case file." Under article 64 of the Code of Criminal Procedure, investigating judges appointed by the competent court of first instance also have, at the request of the State Prosecution Office, the jurisdiction to conduct investigations and to initiate criminal proceedings, within the framework of the guarantees of judicial independence and impartiality envisaged in the Constitution and the law.

102. Under the Police Authority Act, the directorate-general for inspections of the Ministry of the Interior is responsible for investigating disciplinary violations imputed to officers, while the directorate-general for police personnel is responsible for investigating disciplinary violations imputed to personnel.

103. Also under the Code of Criminal Procedure, the State Prosecution Office is responsible for investigating disciplinary violations commuted by law enforcement officials and for bringing a disciplinary case against them. Article 22 of the Code of Criminal Procedure states: "In carrying out their duties, law enforcement officials are under the supervision of the Public Prosecutor. The Prosecutor may request the competent body to examine the case of anyone who has committed a violation or shortcoming in the course of duty. In addition, the Prosecutor may request that disciplinary action be taken against the person in question, without prejudice to any possible criminal proceedings."

104. Under articles 53 and 54 of Police Authority Act, an officer who is being held in pretrial detention during the course of an investigation, or against whom a sentence is being enforced, is legally suspended from duty for the period of detention. Officers can also be provisionally suspended from duty in other circumstances, if the interests of the investigation so warrant. In general, officers suspected of having committed torture in any form are suspended from duty and are not reinstated until their innocence has been proved, even if they are not held in pretrial detention.

105. Between 1 January 2010 and 10 April 2019, 485 criminal investigations and trials were conducted against police personnel, of which 41 involved torture, 117 cruel treatment

and 327 ill-treatment and unwarranted detention. These led to 120 convictions, while 302 cases were archived and 63 are still ongoing. During the same period, 1,788 disciplinary hearings were held against police personnel, either for acts that did not amount to torture or ill-treatment or for other criminal offences. These led to 1,069 convictions, while 622 cases were archived and 97 are still ongoing.

Article 13
Right of torture victims to complain to the competent authorities

106. Egypt guarantees the right of any individual who alleges he has been subjected to torture or to other cruel, degrading or inhuman treatment or punishment to lodge a complaint, which will then be investigated promptly and impartially, while the complainant and witnesses are protected from ill-treatment and intimidation. Under article 25 of the Code of Criminal Procedure, anyone with knowledge of an offence can report it to the State Prosecution Office or to a law enforcement officer. Article 43 of the Code provides for the right of anyone who is aware of a prisoner being held illegally or in a non-designated location to submit a complaint to a member of the State Prosecution Office. Article 26 makes it obligatory for public officials or anyone charged with public service to report any crimes they become aware of during the course of their duties. At the same time, article 24 places an obligation upon law enforcement officials to accept any complaints of crimes they might receive, which they must send to the State Prosecution Office without delay while also seeking further clarifications, conducting the necessary inquiries and taking all steps to preserve criminal evidence. All the measures they take are to be duly placed on record, signed and sent to the State Prosecution Office.

107. Under article 42 of the Code of Criminal Procedure, members of the State Prosecution Office, investigating judges and presidents of courts of first instance and of appeal, when visiting central and district prisons within their jurisdictions, may communicate with inmates and listen to their complaints. Article 43 provides that every prisoner has the right to file a written or verbal complaint with the prison governor and to request that it be reported to the State Prosecution Office or the investigating judge. The governor is required to accept the complaint and, having first recorded it in the prison register, transmit it to the judicial and administrative authorities. Under article 73 of the Prisons Act, the Deputy Minister for Prisons also has the right to receive complaints from prison inmates and transmit them to the competent prosecutor.

108. Articles 11 and 12 of the Code of Criminal Procedure allow the criminal courts and the Court of Cassation, when examining criminal cases, if they consider – be it of their own accord or acting on a complaint from one of the parties – that a crime of some kind, including those envisaged under the Convention, has taken place and is linked to the case being examined, to bring criminal proceedings against the accused persons and refer them to the State Prosecution Office for questioning, or the courts themselves can question the accused persons then refer them to another court.

109. Under article 99 of the Constitution, the National Council for Human Rights is authorized to report any human rights violation to the State Prosecution Office. The Council can also participate in the civil proceedings on the side of the injured party, at the latter's request. This is echoed in article 3 of the National Council for Human Rights Act, as amended by Act No. 197 of 2017, and in article 73 of the Prisons Act, as amended by Act No. 106 of 2015. The two articles not only reiterate the constitutional provisions but also envisage the right of the National Council for Human Rights to visit prisons and receive inmates' complaints.

110. Under the Code of Criminal Procedure, investigators are required to investigate any action that constitutes a serious offence under the law. For lesser actions that constitute misdemeanours or infractions, investigation is not obligatory by law, although articles 122 to 145 of the judicial instructions regulating the work of the State Prosecution Office stipulate that they must be investigated – like serious offences – if they concern actions by police officers, whether or not committed during the course of their duties, or if they concern incidents inside prison, unless such incidents are minor. An exception to this is if a complaint

has been made against a prison official, in which case the instructions regulating the work of the State Prosecution Office dictate that a prosecutor must proceed to the prison and conduct an investigation without delay.

111. If the State Prosecution Office orders that a report be archived without an investigation or decides, following an investigation, that there are no grounds to bring criminal charges, the Code of Criminal Procedure envisages the possibility of challenging that decision, either before the prosecutors themselves or before a higher authority, and requesting that it be overturned and the investigation reinstated. Under article 44 of the Code, the investigating authority – be it the State Prosecution Office or investigating judges – must notify the victim of the outcome of the investigation, even if the victim does not bring a civil case. The purpose of this is to ensure the effectiveness of the investigation and to enable victims to exercise their right to appeal.

112. An independent and accessible human rights complaints mechanism has been set up, with the power to receive and investigate complaints and take appropriate action. This mechanism is the human rights department in the Office of the Public Prosecutor, which was established pursuant to Decree No. 2034 of 2017. The department receives complaints and reports related to human rights and violations thereof, which it examines, investigates and acts upon. The remaining complaints, having first been submitted to the Public Prosecutor, are then referred to the competent State prosecution offices for them to take the appropriate action under the law. The department also follows up on human rights-related cases being examined and investigated by prosecutors. From the date it was created until September 2019, the department received 2,249 reports, including 662 from government agencies, 765 from individuals via social media, 174 from the National Council for Human Rights, 515 from the National Council for Childhood and Motherhood, 61 that it received directly and 72 from State prosecution offices. A total of 1,986 cases were investigated and 263 are still being examined.

113. The human rights section of the Ministry of the Interior works to ensure that police officers and personnel always respect the Constitution, the law and international human rights treaties during the conduct of their duties. In addition, the Ministry receives complaints from individuals – either directly or via email or social media – regarding alleged human rights violations. Human rights offices has been set up inside all police stations, which monitor policework and the treatment accorded to individuals, receive complaints and take the necessary action.

114. Under article 214 of the Constitution, the National Council for Women, the National Council for Childhood and Motherhood and the National Council for Persons with Disabilities have the right to report any violations related to their field of activities. Procedures for receiving complaints are set forth in the laws that regulate those Councils. Under article 85 of the Constitution, moreover, any individual has the right to submit a signed and written complaint to the public authorities while, under article 138, any citizen can address a complaint to the House of Representatives for referral to the competent ministers. The latter are required to provide the appropriate clarifications if so requested by the House while the party concerned is to be informed of the outcome of the complaint as detailed in the rules of procedure of the House of Representatives.

115. Lastly, article 96 (2) of the Constitution stipulates: “The State is to provide protection to victims, witnesses, accused persons and informants, as necessary and in accordance with the law.” Rules for the protection of witnesses are contained in the Code of Criminal Procedure, as previously explained in the fourth periodic report. As mentioned earlier in the present report, the Government has presented a bill to amend the Code of Criminal Procedure, introducing provisions that envisage greater protection for witnesses, informants and victims. This would allow witnesses – with the authorization of the State Prosecution Office or of the investigating judge – to give the address of their local police station or of their place of work as their home address if, due to the testimony they have given, their lives or safety or that of their relatives might be in danger. The trial court, the prosecutor or the investigating judge can – at the request of the party concerned or of a law enforcement official – order that a statement be taken without disclosing the party’s personal information, which instead is recorded in a subdossier in the casefile. In cases where the disclosure of the party’s identity is indispensable to the right of defence, the bill grants the accused person or his counsel 10

days in which to appeal to the criminal court against the non-disclosure order issued by the prosecutor or the investigating judge. Having heard from all concerned parties, the court issues a definitive and reasoned ruling on the appeal, without prejudice to the right of the trial court to overturn the order or to summon the party concerned to give a statement. In addition to this, during the trial the accused person can ask that the party who was the subject of a non-disclosure order be called and cross-examined, using technological means whereby the party's statement can be heard remotely and without disclosure of identity. The bill envisages terms of imprisonment and/or fines of not less than 50,000 Egyptian pounds (LE) for persons who disclose the personal information of persons who are the subject of non-disclosure orders. The penalty becomes one of rigorous imprisonment if the offence is committed for terrorist purposes and death if it leads to the death of the party concerned.

Article 14
Right of torture victims to demand compensation for torture

116. Furthermore, according to article 99 of the Constitution, any assault on personal rights and freedoms guaranteed under the Constitution is an offence not subject to any statute of limitations for either criminal or civil proceedings. Injured parties may launch criminal proceedings directly and the State is to guarantee just compensation. This rule constitutes an important guarantee that is applicable to torture offences, which are an affront to the rights and freedoms guaranteed under the Constitution. This is reaffirmed in articles 15 and 259 of the Code of Criminal Procedure as amended by Act No. 16 of 2015.

117. As a general rule, the law allows victims and any parties injured by an offence to pursue their civil rights before the courts. Such proceedings may also be instituted against the persons bearing civil liability for the acts of the accused. Compensation is at the discretion of the courts which, in making their assessment, take account of all the effects of the torture, including the costs of any rehabilitation that might be required. In the event of a victim's death, the right to pursue a civil claim and to seek compensation devolves to the heirs. If death was the result of torture, the heirs can seek two kinds of compensation: compensation for material or moral damages they suffered, whether foreseeable or not, and compensation for the material harm suffered by their testator.

118. Rulings of the Court of Cassation have used the provisions of the Convention, which has the same standing as national law, as the legal basis for granting compensation to victims of torture. In fact, the Court has established that victims of torture have the right to receive compensation on the basis of the accession by Egypt to the Convention, and it has underscored the extreme gravity of torture, irrespective of the circumstances in which it takes place or the authority that ordered it to be committed.[40]

[40] The Court found: "According to article 57 of the Constitution, any assault on citizens' personal liberty or privacy or on the other public rights and freedoms guaranteed by the Constitution and the law is an offence not subject to any statute of limitations for either criminal or civil proceedings, and the State guarantees fair compensation for any person who has suffered such an assault. Moreover, according to article 2 of the 1986 Convention, each State is to take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction, while no exceptional circumstances whatsoever, whether a state of war or threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture. Neither may an order from a superior officer or a public authority be invoked as a justification of torture. Under article 4, each State is to ensure that all acts of torture are offences under its criminal law and that those offences are punishable by appropriate penalties which take into account their grave nature. Under article 14, each State is to ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation. As a consequence of this, legislators have considered torture committed by the authorities against individuals to be a grave criminal act, irrespective of the circumstances in which it takes place or the authority involved. Furthermore, since it can prove impossible to arrive at the truth behind such acts as long as the political circumstances in which the acts took place persist, legislators made an exception to the general rule and dictated that such cases should not fall under a statute of limitations and that responsibility should lie, not just with the perpetrators of the torture and the agencies to which they belong, but should extend to the State as a whole." On the same subject, see appeal No. 3619 of judicial year 63, sitting on 7 March 2002,

119. Eager to uphold the principle of rule of law and to meet the international commitments of Egypt to combat torture and compensate victims, the Court of Cassation has decreed that the executive and the State as a whole bear responsibility for compensating victims of torture.[41]

Article 15
Invalidity of confessions extracted by torture

120. The inadmissibility of statements proven to have been extracted as a result of torture is a constitutional and legal norm. According to article 55 of the Constitution, any statement that is shown to have been made by a detainee as a consequence of torture, intimidation or coercion, or of physical or mental abuse, or the threat thereof, is to be deemed null and void. For its part, article 302 of the Code of Criminal Procedure also stipulates that any statement given by an accused person or witness that is shown to have been extracted using coercion or threats is inadmissible; the article also envisages criminal accountability for the persons responsible for committing such acts. This principle constitutes a fundamental safeguard that courts of all kinds are required to apply, and it is applicable in all circumstances including when the Emergency Regulation Act is in force. Criminal legislation in Egypt does not specify the degree or extent of suffering that a victim has to undergo in order for the offence of torture to subsist. It merely establishes the principle of the inadmissibility of statements taken under any degree of coercion, under physical or mental abuse or during incarceration in non-designated locations and that are not subject to the Prisons Act, or even under the threat of such actions.

121. This principle has been repeatedly upheld by the Court of Cassation, which has quashed evidence of any kind, whether oral evidence or physical evidence deriving from oral evidence, when not given freely, and irrespective of whether that was a consequence of torture or inhumane treatment or the threat thereof, or of direct or indirect pressure on the party making the statement. A court's failure to apply this principle and to respond to the defence in that regard, is considered to be legal grounds for challenging the judgement.[42] Numerous judicial rulings have overturned confessions that were extracted under coercion, which were deemed inadmissible for the purpose of securing a conviction even when the reasoning made on the basis of those confessions was sound and consistent with other legitimate evidence. Thus, procedural legitimacy prevails even if it leads to impunity, because of supremely important considerations dictated by the Constitution and the law.[43]

122. Given below are certain instances where the Court of Cassation quashed evidence in criminal trials in cases where verified episodes of torture and coercion rendered the evidence inadmissible:

- The State Prosecution Office charged a person with premeditated murder. The accused lured his victim to a remote location via a third party who acted in good faith. Once there, he overpowered him and strangled him to death, causing the fatal injuries described in the autopsy report. The State Prosecution Office referred the accused person to the criminal court, which found him guilty and sentenced him to hard labour for life. An appeal against the sentence was filed before the Court of Cassation, which found that the confession made by the accused had been the result of police coercion

technical office 53, part I, page 369, and No. 7979 of judicial year 64, sitting on 5 January 1995, technical office 46, part I, page 94.

[41] Court of Cassation (civil cases), appeal No. 3619 of judicial year 63, sitting on 7 March 2002, technical office 53, part I, page 369.

[42] Court of Cassation (criminal cases), appeal No. 18753, judicial year 65, sitting on 15 December 1998, technical office 49, part I, page 1456; appeal No. 30639 of judicial year 72, sitting on 23 April 2003, technical office 54, page 583; appeal No. 23449 of judicial year 71, sitting on 5 February 2002, technical office 53, page 224; appeal No. 4923 of judicial year 78, sitting on 7 April 2009, technical office 60, page 201.

[43] Court of Cassation (criminal cases), appeal No. 18753, judicial year 65, sitting on 15 December 1998, technical office 49, part I, page 1456.

and that no account was to be taken of the other evidence. Accordingly, it overturned the sentence and ordered a retrial without the evidence deriving from the confession.[44]

- The State Prosecution Office charged a man and a woman with the murder of the latter's husband. Questioned, the two accused confessed to the crime while other physical evidence was found that supported that confession. The criminal court found them guilty and sentenced them both to death. In accordance with the law, an appeal against the sentence was filed by the State Prosecution Office before the Court of Cassation which, having conducted its inquiries, found numerous indications that coercion had been brought to bear on the accused persons. The Court therefore overturned the conviction and acquitted them, noting that procedural legitimacy – be it vis-à-vis the impartiality of investigators, guarantees of personal freedom, the human dignity of accused persons or the rights of the defence – are legal tenets upheld and exalted by the Constitution and the law, and protected by the courts. This serves the interests, not only of accused persons but, above all, of the general public, in terms of presumption of innocence and confidence in the process of justice.[45]

123. It should be noted that the Egyptian legal and judicial system does admit, and frequently relies upon, indirect and circumstantial evidence. Such evidence can take various forms: from that which has probative force in law from the moment it is uncovered to that which, under the law, judges must evaluate in the light of the facts of the particular case. Nonetheless, evidence based on statements taken through torture or other forms of inhuman treatment cannot be considered as circumstantial or indirect evidence, as all evidence must come from a legitimate source.

Article 16
Preventing cruel, inhuman or degrading treatment or punishment

124. All forms of inhuman or degrading treatment perpetrated by officials are criminalized under articles 117, 127, 129 and 280 of the Criminal Code. This covers inhuman practices other than torture that public officials might commit, including physical attacks against individuals in whatever form, material violations of any kind, or verbal or psychological abuse that might affront dignity or cause physical pain. The penalties for such acts are graded and, depending upon their severity, they may constitute more or less serious offences, as detailed below:

- Article 117 makes it an offence for public officials or others of similar status to abuse their public functions to force individuals to work for a government body, or to unjustifiably detain all or part of their wages. Such acts are considered to be a form of inhuman treatment that is akin to torture and, as a serious offence, attract a sentence of rigorous imprisonment;
- Article 127 makes it an offence for public officials, either directly or by ordering others, to submit a convicted person to a penalty more severe than that handed down

[44] Court of Cassation (criminal cases), appeal No. 23758 of judicial year 59, sitting on 8 March 1990, technical office 41, part I, page 504.

[45] Court of Cassation (criminal cases), appeal No. 18753 of judicial year 65, sitting on 15 December 1998, technical office 49, part I, page 1456. The Court found that the two accused were detained without a judicial warrant for a period of more than 10 days before they confessed to committing the crime, and before they were interrogated by the State Prosecution Office. Moreover, the Court found that the questioning of the female accused had taken place as she and the other accused were in a state of prostration and in the absence of any defence lawyer, and that their confession was dictated to them. The Court also examined the wording of the confession and found that the expressions used were inconsistent with the low cultural level of the two accused and with the nature of the work they did. In their statements, moreover, they went beyond the matter in hand and volunteered information that served to support the charges against them, while the confessions of the accused persons, though given separately, seemed to follow the same pattern, which caused the Court to doubt that the responses had actually been given by the persons to whom they were attributed. The Court also quashed other physical evidence emerging from the investigations as it was closely linked to confessions that had been extracted under torture.

by the courts. This is also considered to be a serious offence that attracts a term of imprisonment, even if it leaves no traces of injury on the victim;

- Article 129 makes it an offence for public officials or others of similar status to use cruelty in the course of their duties when that affronts the dignity of others or causes them physical pain. Such an act is considered to be misdemeanour. The wording used in the article is deliberately broad so as to cover all forms of aggression that might be committed in abuse of a public authority or a public function. It includes physical aggression irrespective of its form or how it was inflicted, even if it leaves no mark on the victim, as well as verbal or psychological abuse that affronts the honour and standing of persons, irrespective of whether the perpetrator intended to punish the victim or acted out of discriminatory motives or for any other reason;
- Article 280 makes it an offence to arrest, imprison or detain persons without a reasoned judicial warrant issued by the competent authority. To do so is considered to be to perpetrate an offence that facilitates and opens the way to torture. This serves to supplement the system of protection for individuals against torture and other inhuman practices. The offence is punishable with a term of imprisonment of up to 3 years or a fine and, in the presence of aggravating circumstances, with rigorous imprisonment.

125. The question of living conditions inside prisons and places of detention has been addressed in comments on articles 2 and 11 of the Convention, above, as well as in previous reports.

126. Article 112 of the Children's Act, as amended by Act No. 126 of 2008, prohibits the detention or imprisonment of children in the same location as adults and stipulates that, during their detention, children must be separated into categories according to age, sex and type of offence committed. The same article states that any public official or person assigned to perform a public service who detains or imprisons a child in the same location with one or more adults shall be liable to a term of imprisonment of between 3 months and 2 years and/or payment of a fine of between LE 1,000 and LE 5,000. Article 13 of the Prisons Act, as amended by Act No. 106 of 2015, requires inmates to be divided into at least three categories, while the Minister of the Interior – acting on a proposal made by the Deputy Minister for Prisons and approved by the Public Prosecutor – is to issue a decree regarding the treatment and detention conditions for each category. The criteria for placing prisoners in each category or transferring them from one category to another are detailed in internal prison regulations. Article 82 bis of the internal prison regulations provides for the formation of a committee inside each prison to be chaired by the warden or his representative and made up of officials responsible for investigations, discipline and living quarters, in addition to a doctor and a social worker. It is the responsibility of the committee to classify prisoners on the basis of offence committed, length of sentence and criminal record, as well as age, health and social and cultural status.

127. The authorities responsible for running detention facilities run a number of programmes and services for the rehabilitation of children who are being held in correctional institutions and social welfare homes. This includes daily health-care services provided by doctors at clinics located inside those homes and institutions, who are assisted by nurses assigned by the Ministry of Health. In addition to this, the children are able to visit specialist doctors and mobile clinics for periodic tests and treatment, while isolation rooms are available for cases of infectious disease. Furthermore, the inmates of correctional institutions and social welfare homes are able to enrol in education at different levels, depending upon their age, with the State meeting the costs of schooling and of educational materials. The children are periodically monitored to determine their school level and degree of attendance, while those who have reached the legal age are given vocational training in skills required by the labour market, the intention being to provide them with employment opportunities after they have completed their sentence and so enable them to earn an income and not return to crime. Qualified social workers and psychologists run psychosocial rehabilitation programmes for children to help them reintegrate into society; these are in addition to other social, religious, sports, cultural and recreational services. Competitions, parties and visits to archaeological sites and leisure venues are organized for the children, who are also able to attend lessons, lectures and seminars on cultural and religious topics (depending upon the child's own religion). The children also get to practise sports and hobbies and they are

provided with newspapers, magazines and books, depending upon their age and interests. The Ministry of the Interior provides released children with aftercare to help further their reintegration into society, in the form of cash assistance and efforts to find them suitable and gainful employment.

128. There are women-only prisons, which are guarded by female officers and staff and which offer appropriate care and services to inmates. Amendments have been made to the Prisons Act and to other relevant laws to ensure that incarcerated mothers and pregnant women receive the care they require.[46] Infants are allowed to remain with their mothers until the age of 2,[47] and the Children's Act stipulates that properly equipped nurseries are to be set up inside prisons where inmates can tend to and care for their offspring. Inmates may not be deprived of this right, even by way of a punishment.[48] Article 4 of the implementing regulations of the Prisons Act states: "Female convicts may work only inside the prison and on tasks that are consistent with their condition as women", while article 65 of the Prisons Act, as amended by Act No. 106 of 2015, states that a death sentence against a pregnant woman is to be suspended until two years after she has given birth.

129. In the context of efforts to prevent cruel or inhuman treatment and to provide inmates with adequate and humane living conditions, within available means, Egypt has enacted the following measures:

- The President of the Republic has been using the right enshrined in article 155 of the Constitution to remit certain custodial sentences on the occasion of national feast days and holidays; a total of 56,000 prisoners received a presidential pardon between 2015 and February 2019;
- Under Act No. 6 of 2018, the rules for release in the Prisons Act (art. 52) were amended to allow inmates, if they have served at least 6 months, to be conditionally released after serving half – rather than three quarters – of their sentence. Prisoners sentenced to life imprisonment may not be conditionally released until they have served at least 20 years. Two months beforehand, the Ministry of Social Solidarity is given the names of the persons due to be released so as to facilitate their rehabilitation and prepare them for life outside prison;
- Prisoners can be released on health grounds under the provisions of article 36 of the Prisons Act. According to that article, if the prison doctor finds an inmate to be suffering from a life-threatening or debilitating illness, he is to draw the matter to the attention of the director of the prison medical service so that the inmate in question can be examined, with the collaboration of a forensic doctor, with a view to his release. A total of 60,876 inmates were released for health reasons between 2015 and February 2019;
- Article 201 of the Code of Criminal Procedure, as amended by Act No. 145 of 2006, envisages alternatives to preventive detention by allowing the investigating authorities to order one of the following substitute measures: (a) requiring the accused person to

[46] Article 19 of the Prisons Act, as amended by Act No. 6 of 2009, states: "Pregnant inmates receive special treatment in terms of nourishment, work and sleep. The woman and her child must receive the medical attention they require as well as sufficient nourishment, appropriate clothing and rest. Under no circumstances is it permissible to withhold food from inmates who are pregnant or have small children."

[47] Article 20 of the Prisons Act, as amended by Act No. 106 of 2015, states: "Children stay in prison with their incarcerated mothers until reaching the age of 2. If the woman does not wish the child to remain with her or if the child reaches that age, it is to be handed over to the father or to a relative of the mother's choosing. If the child has no father or relatives to care for it, the prison superintendent must inform the governor so that the child can be cared for in a facility outside the prison. The incarcerated mother is to be informed of the child's whereabouts and is to be permitted to see her offspring periodically, as set forth in internal regulations."

[48] Article 31 bis of the Children's Act states: "In all women's prisons, a nursery is to be established, which must comply with the required standards. The children of inmates may be placed in that structure until they reach the age of 4, with the mothers accompanying their children for the first year. ... The mother ... may not be prevented from seeing or caring for her infant as punishment for any violation she might commit."

remain in his own home or domicile; (b) requiring the accused person to report to a police station at fixed times; (c) prohibiting the accused person from frequenting certain locations. These provisions are governed by the same rules as those that apply to preventive detention vis-à-vis applicable cases, duration and procedures for enforcement and extension;

- The "prisons without debtors" initiative has been launched thanks to cooperation between the Ministry of the Interior and civil society organizations in order to pay fines due by persons of limited income who have been imprisoned for minor crimes, and thus enable them to be released. The payments are made from the Tahya Misr Fund which is funded via donations from Egyptian citizens. Thanks to this initiative, a total of 15,820 inmates were released between 2015 and March 2019;
- In addition to the foregoing, plans to build new prisons and to develop existing ones have been rolled out in response to recommendations from the State Prosecution Office and the Human Rights Committee of the House of Representatives. This includes the construction of Al-Qantara East prison in Al-Isma'iliyah, the completion of phase four of the Al-Minya prison complex, the improvement of security at Wadi al-Natrun prison complex, the reconstruction of B and C blocks at Alexandria central prison, the construction of buildings at Damanhur central prison, the renovation of desert prison No. 2 at Wadi al-Natrun, the construction of a Prisons Department office at Tora B prison complex, the construction of the new Qena central prison and the completion of phase two of high-security prison No. 2 at Tora. Apart from extensions to existing prisons, the following new prisons are being brought into operation: central prison No. 1 at Wadi al-Natrun, a high-security prison at Gamasa prison complex, a high-security prison at Al-Minya prison complex and high-security prison No. 2 at Tora. Moreover, prisons have been equipped with water coolers and with extractors and fans to improve ventilation, which has led to a 32.95 per cent improvement in healthy prison capacity.

130. Flogging – the last corporal punishment that constituted a form of cruel, inhuman or degrading treatment or punishment – was abolished under Act No. 152 of 2001. Act No. 6 of 2009 introduces certain amendments to the Prisons Act, notably to article 43 whereby the punishments that can be imposed on inmates are reduced.[49] Article 44 of the Act now identifies who is competent to hand down such punishments, be it the prison superintendent or the Deputy Minister for Prisons,[50] while the rules to observe when enforcing a punishment are set forth in article 45.[51] Article 46 of the Act reads: "The prison superintendent must immediately inform the Deputy Minister for Prisons, the Director of Security and the State

[49] Following amendment, the article reads: "The penalties that can be imposed on inmates are as follows: (a) A warning; (b) Deprivation of all or some of the privileges envisaged for the rank or category of the prisoner concerned, for a period of not more than 30 days; (c) Postponement of the promotion of the prisoner from his current rank to a higher rank, for a period of not more than 6 months if the sentence is one of ordinary imprisonment and for a period of not more than 1 year if the sentence is life imprisonment or rigorous imprisonment; (d) Demotion of the prisoner from his current rank to a lower rank, for a period of not more than 6 months if the sentence is one of ordinary imprisonment and for a period of not more than 1 year if the sentence is life imprisonment or rigorous imprisonment; (e) Placement of the prisoner in solitary confinement, if he is under 18 or over 60. A consequence of the foregoing is that the prisoner concerned is deprived of all or some of privileges envisaged under the Act or its implementing regulations."

[50] The article stipulates: "The prison superintendent can impose the following penalties: (a) A warning; (b) Deprivation of some of the privileges envisaged for the category of the prisoner concerned; (c) Postponement of the promotion of the prisoner to a higher rank, for a period of not more than 3 months if the sentence is life imprisonment or rigorous imprisonment and for a period of not more than 1 month if the sentence is one of ordinary imprisonment; (d) Placement of the prisoner in solitary confinement, for a period of not more than 15 days. The penalties are to be imposed after informing the prisoner of the actions imputed to him, listening to what he has to say and examining his defence. The prison superintendent's decision to impose the penalty is final. All other penalties can be imposed only by the Deputy Minister for Prisons acting on a request from the prison superintendent. The superintendent must first draw up a record including the prisoner's own statements, steps taken to examine the prisoner's defence and the testimony of witnesses."

[51] The article requires "all penalties imposed on inmates to be recorded in a special register".

Prosecution Office about any prison riots, disturbances or hunger strikes and the measures taken in that regard by the prison administration." Article 47 stipulates: "No disciplinary penalty applied in accordance with the provisions of the present Act shall prevent the prisoner being released on the date specified in the sentence." Article 48 states: "The disciplinary regime applied to persons being held in preventive detention shall be the same as that applied to inmates convicted to terms of ordinary imprisonment, except that they shall not be transferred to a high-security facility."

131. Solitary confinement is a fixed-term disciplinary penalty which is applied only in limited cases and for the purpose of deterrence, particularly to the most serious offenders. As it is considered to be the most severe disciplinary penalty that can be imposed on prisoners, its use is surrounded by a number of legal safeguards. Thus, it is used only if inmates commit serious violations of the Prisons Act or its implementing regulations and only after having informed them of the actions imputed to them, listened to what they have to say and examined their defence. Solitary confinement is imposed by decree of the prison superintendent for a period of not more than 15 days, while the total period of solitary confinement may not exceed 30 days. The imposition of solitary confinement must be recorded in a special register, which is to be placed at the disposal of judges and of the State Prosecution Office during prison visits. According to article 31 of internal prison regulations, the implementation of the penalty must be suspended if the doctor believes that the time being spent in solitary confinement is harming the prisoner's health. In such a case, the doctor must give written notification to the prison superintendent, indicating the means to rectify the harm, and the director or superintendent must implement the doctor's indications in that regard. In no circumstances must solitary confinement prevent a prisoner from meeting with his lawyer. Moreover, a prisoner being held in solitary confinement has the right to file a complaint regarding any violation of his rights, to lodge a grievance against the solitary confinement itself and to appeal against the decision before the administrative judiciary, in line with normal procedures.

Part II
Efforts made to implement the recommendations of the Committee following its consideration of the fourth periodic report

132. Egypt has replied to paragraph 6 (a) of the concluding observations (CAT/C/CR/29/4) concerning a reconsideration of the maintenance of the state of emergency. In fact, the application of the state of emergency is limited, as explained in comments on article 2 of the Convention, above.

133. Paragraph 6 (b) regarding the adoption of a definition of torture which fully corresponds to the definition in article 1 (1) of the Convention was addressed in comments on article 1 of the Convention, above.

134. Egypt has also replied to the recommendation contained in paragraph 6 (c) concerning guarantees that all complaints of torture or ill-treatment, including those relating to death in custody, be investigated promptly, impartially and independently. In fact, it has set up a mechanism to conduct prompt, impartial and independent investigations into complaints, in the form of the human rights department in the Office of the Public Prosecutor, as explained in paragraph 112, above. Moreover, the State Prosecution Office, being part of the judiciary, is itself independent and impartial, as per articles 184 and 189 of the Constitution.

135. Paragraph 6 (d) regarding regular and mandatory inspection of all places of detention by prosecutors, judges or another independent body was addressed in comments on articles 2 and 11 of the Convention, above.

136. Paragraph 6 (e) regarding guarantees that all detained persons have immediate access to a doctor and a lawyer, as well as contact with their families, was addressed in comments on article 11 of the Convention, above.

137. Paragraph 6 (f) concerns the elimination of all forms of administrative detention, the mandatory inspection of premises controlled by the State Security Investigations Service and

the investigation of reports of torture or ill-treatment committed there. Egypt has responded to the first part of this recommendation by abolishing the administrative detention envisaged in article 1 (1) of the Emergency Regulation Act, as explained in comments on article 2 (2) of the Convention, above. In fact, article 54 of the Constitution makes the prohibition of administrative detention under all circumstances a constitutional norm. As regards the second part of the recommendation, there are no places of detention in premises controlled by the State Security Investigations Service. Moreover, article 91 bis of the Prisons Act envisages terms of imprisonment for any public official or person assigned to perform a public service who places or orders the placement of a detainee in facilities other than those designated for use as places of detention. The third part of the recommendation was addressed in comments on articles 2 and 13 of the Convention, above.

138. Paragraph 6 (g) concerns action to ensure that legislation gives full effect to the rights recognized in the Convention and to institute effective remedies for the exercise of such rights; to ensure in particular that proceedings take place within a reasonable time after the submission of complaints, and that any court decision to release a detainee is actually enforced. These matters were addressed in comments on article 13 of the Convention, above. Moreover, by virtue of articles 93 and 151 of the Constitution, the Convention has force of law and, hence, it can be invoked by interested parties and its provisions can be applied directly. The establishment of the human rights department in the Office of the Public Prosecutor has helped to ensure that complaints are investigated within a reasonable deadline. As stated earlier, the State Prosecution Office – which is part of the judiciary and is independent and impartial under the Constitution – oversees the enforcement of sentences and rulings in criminal proceedings, in accordance with the Code of Criminal Procedure. The judicial instructions governing the work of the State Prosecution Office also include provisions regulating the enforcement of sentences and rulings handed down by the courts. Police enforcement offices are monitored by the State Prosecution Office and can be inspected by administrative inspectors from the Office, thereby ensuring that any judicial warrant to release a detainee is duly implemented.

139. Paragraph 6 (h) concerning the abolition of incommunicado detention was addressed in paragraph 131, above.

140. Paragraph 6 (i) concerns action to ensure that all persons convicted by decisions of military courts in terrorism cases have the right to have their conviction and sentence reviewed by a higher tribunal according to law. In response to this recommendation, Egypt enacted Act No. 12 of 2014 amending the Code of Military Justice. Under the amendment, military misdemeanours are now examined over two levels of justice, firstly before the Military Misdemeanours Court and secondly before the Military Misdemeanours Court of Appeal. The latter has jurisdiction to consider both the procedural aspects and the merits of the case in hand, and the judgments it renders can be challenged before the Supreme Military Court of Appeals. The Supreme Military Court of Appeals examines appeals filed by military prosecutors or by convicted persons – be they military personnel or civilians – against definitive sentences handed down by military courts for crimes under ordinary law. The applicable rules are those contained in Act No. 57 of 1959 on the circumstances and procedures for lodging appeals before the Court of Cassation. The Supreme Military Court of Appeals also has jurisdiction to consider requests for review of rulings handed down by military courts for crimes under ordinary law. Lastly, article 96 of the Constitution envisages regulations to govern appeals against rulings handed down under either ordinary law or military law, while article 240 states that such regulations must be introduced within 10 years of the Constitution coming into force. In compliance with that constitutional obligation, the Government has drafted a bill to amend the Code of Criminal Procedure, which includes provision for a system regulating appeals in criminal cases, including those that come before the military courts, and the possibility of recourse to the Supreme Military Court of Appeals.

141. Between 2015 and the drafting of the present report, there have been 71 cases in which judgements rendered by military courts have been overturned and retrials have been ordered before different bodies. For example, in case No. 318 of 2014, one of the accused persons appealed against a 15-year prison sentence handed down against him on 11 February 2015. The appeal was accepted and, on 27 October 2016, the sentence was reduced to 3 years. In case No. 288 of 2015, one of the accused persons appealed against a death sentence handed

down against him on 17 January 2018. The appeal was accepted and, on 19 August 2018, the sentence was reduced to life imprisonment. In case No. 54 of 2015, an accused person appealed against a sentence of life imprisonment handed down against him on 30 September 2015. The appeal was accepted and, on 29 November 2016, the sentence was reduced to a term of rigorous imprisonment for 15 years. In case No. 60 of 2016, an accused person appealed against a sentence of rigorous imprisonment for 10 years handed down against him on 13 December 2016. The appeal was accepted and, on 11 March 2019, the sentence was reduced to 5 years.

142. Paragraph 6 (j) concerns efforts to halt all practices involving abuse of minors in places of detention, to punish the perpetrators and to ban the holding of under-age detainees with adult detainees. Egypt has responded to that recommendation in its comments on articles 11 and 16 of the Convention, above, which focused on the supervision of places of detention by the judiciary, the right of the judiciary to make periodic visits to detention facilities, the separation of different categories of inmates and their proper treatment under the law. Moreover, the law penalizes anyone responsible for the mistreatment of minors, as explained in the present report, with minimum applicable penalties being increased when the victim is a child, as envisaged in article 116 bis of the Children's Act.

143. Paragraph 6 (k) concerns the removal of all ambiguity in legislation which might underpin the persecution of individuals because of their sexual orientation, and measures to prevent all degrading treatment during body searches. In line with article 53 of the Constitution, Egyptian legislation contains, in fact, no provisions that are discriminatory or that might underpin persecution, for any reason. Moreover, when searches might impinge upon a person's private life they are surrounded by strict legal rules, in line with article 51 of the Constitution, which prohibits any violation of human dignity, and with article 54, which states that, apart from situations of flagrante delicto, it is not permissible to arrest, search, detain, or restrict the freedom of any person except pursuant to a substantiated judicial order necessitated by an investigation. Searches are invalid unless conducted in one of those two circumstances. Thus, the Court of Cassation has declared as invalid the procedures for taking and analysing urine samples from motorists suspected of driving under the influence of drugs or alcohol, if those samples are taken without consent. The Court found that such procedures were incorrect, unjustified and unsubstantiated in law and that they amounted to abusive and arbitrary use of power. The Court based its findings on article 12 of the Universal Declaration of Human Rights and on article 41 of the then Constitution, which stated: "Personal freedom is a natural right that is protected and may not be violated."[52] The Court of Cassation – followed by the criminal courts – has established that searches must be conducted in a way that does not infringe upon human dignity and they must not extend to the intimate areas of the body. To do so would implicate a form of indecent assault and the search would therefore be invalid for having violated public morals, which are one component of public order. Article 46 (2) of the Code of Criminal Procedure imposes the requirement that a search of a woman be conducted by another woman, delegated to perform that task by a law enforcement official. Furthermore, several rulings of the Court of Cassation have stated that the legal condition whereby searches on women are to be conducted by women also extends to the physical location where the search is carried out, which must not be accessible or visible to male law enforcement officers.

144. Paragraph 6 (l) on establishing State 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, was addressed in comments on articles 5 to 8 of the Convention, above.

145. Paragraph 6 (m) concerns action to ensure that NGOs engaged in human rights work can pursue their activities unhindered, and in particular that they have access to all places of detention and prisons so as to guarantee greater compliance with the ban on torture and ill-treatment. Under the law NGOs can visit places of detention and prisons in cooperation with the National Council for Human Rights. In fact, article 3 (16) of the National Council for Human Rights Act grants the Council a mandate to visit prisons and other places of detention

[52] Court of Cassation (criminal cases), appeal No. 30508 of judicial year 72, sitting on 12 November 2003, technical office 54, page 1078.

as well as medical and correctional facilities where it can interview detainees and inmates to verify that they are being well treated and are able to enjoy their rights. After each visit, the Council drafts a report containing its observations and recommendations for the improvements of inmates' conditions, which is submitted to the Public Prosecutor and the House of Representatives. Visits by NGO representatives have recently been organized in a number of prisons.

146. Paragraph 6 (n) concerns the establishment of precise rules and standards to enable the victims of torture and ill-treatment to obtain full redress, while avoiding any insufficiently justified disparities in the compensation which is granted. In addition to comments on article 14 of the Convention, above, it should be noted that, under Egyptian law, the amount of compensation is left to the discretion of judges who, in that regard, are able to follow the clear standards set forth in articles 221 and 222 of the Civil Code. Those standards take account of the material, physical or financial harm the injured party has suffered as well as any moral damages to honour or reputation. The law embraces the principle of full reparation for damages, reparation which must not be more or less than the damage done. Thus, variations in the amount of compensation are justified by variations in the damage. The Code also admits compensation for spouses and for relatives up to the second degree for the suffering they undergo as a consequence of the death of the injured party. Under article 172 (2), moreover, compensation claims are discontinued only if the criminal case itself is discontinued and, since article 52 of the Constitution states that torture in all its forms is a crime that is not subject to a statute of limitations, compensation claims related to torture offences do not lapse, no matter how long a period has passed. This is reaffirmed in articles 15 and 259 of the Code of Criminal Procedure, as amended by Act No. 16 of 2015.

147. Paragraph 6 (o) – which concerns the continuation of the process of training law enforcement personnel, in particular as regards the obligations set out in the Convention and the right of every detainee to medical and legal assistance and to have contact with his or her family – was addressed in comments on article 10 of the Convention, above.

148. Paragraph 6 (p) concerns the adoption of the declarations referred to in articles 21 and 22 of the Convention. In fact, the Government is constantly examining the possibility of acceding to international human rights treaties, and it periodically reviews its reservations to the treaties to which it has already acceded.

149. Paragraph 6 (q) concerns the broad dissemination of the Committee's conclusions and recommendations in the State party, in all appropriate languages. Egypt has responded to the recommendation by disseminating the Committee's conclusions and recommendations in Arabic to the competent governmental bodies. What is more, human rights and the relevant international obligations of Egypt are taught at the Police Academy, the training and research centre of the State Prosecution Office and the National Centre for Judicial Studies. In addition to this, human rights have become part of the school curriculum at various levels and a human rights module is taught in universities. These efforts were described earlier in the present report.

150. In paragraph 7 the Committee reiterates the recommendations addressed to Egypt in May 1996 on the basis of the conclusions the Committee reached under the procedure provided for in article 20 of the Convention. The response of Egypt to that recommendation is to be found in the legislative and judicial developments mentioned in the comments on articles 2, 6, 11, 12 and 16 of the Convention, above.

151. Lastly, paragraph 8 concerns approval for a visit by the Special Rapporteur on torture of the Commission on Human Rights. Egypt is eager to cooperate and engage with the special procedures mandate holders, to which end the Government has extended invitations to visit the country to six mandate holders. It is still waiting for the precise dates of those visits to be fixed, and it will consider any other similar requests with a view to ensuring optimal preparations for each visit.

Conclusion

152. The information provided above describes the serious concrete measures that Egypt has taken to meet its obligations under the Convention. Although it still has some progress to make, it strives to eradicate individual actions that are inconsistent with the anti-torture provisions enshrined in the Constitution and the law. Egypt desires to continue cooperating with international and regional treaty bodies in order to improve the situation of human rights, in the country and around the world. It looks forward to engaging in constructive interactive dialogue with the Committee and benefiting from its expertise, which helps all States to fulfil their obligations under the Convention.