

“Draft Law for the prevention of Torture”

Primary draft for discussion

And not to be circulated

in that form

**Resolution with the law no. for the
Year 2015
President of the Arab Republic of Egypt**

After reviewing the Constitution .

And the International Convention for Action Against Torture that Egypt ratified on the 6th of April 1986 and published in the Official Gazette on the 7th of January 1988.

And the International Convention for the Civil and Political Rights that Egypt Ratified on the 4th of August 1967 and published on the Official Gazette on the 15th of April 1982.

And after reviewing the Penal Code .

And after reviewing the Criminal Procedures Law .

And after reviewing The Law for Establishing Prisons no.396 for the year 1956 .

And after reviewing the Advocacy law no.17 for the year 1983 .

And after reviewing the Conventions of Handing Criminals and Sentenced Individuals signed between Egypt and other countries .

We decided the following :

Article One:

Torture is any illegitimate act or refrain that results in pain or torture either mental or physical one done on purpose for the aim of attaining from that person or another some information or penalizing him for something he did or is alleged to have done it or frightening him or compelling him or another for any action/reason that is based on any type of discrimination.

Article Two:

The following articles are to be replaced with articles 126, 129, 128, 280 from the penal code.

Article 126

Any governmental officer or anyone assigned to a public service who ordered to torture an individual, either done it by himself , permitted it, or knew about it and didn't act to stop it; despite his authority is to be penalized with rigorous imprisonment.

And if the torture was to force him to say some information in front of the control authority or the investigation one or the court is to be penalized with rigorous imprisonment no less than five years.

Nevertheless, if the torture is practiced on women or children, the penalty is to be the lifetime imprisonment.

If the victim died, the penalty stated for murder is to be applied.

And in all cases the officer or the assigned person is to be dismissed.

Article 128

Any governmental officer or anyone assigned to a public service entered with his official authority a house or fenced place in the territory of another, without his permission or acceptance in other than the cases stated by law is to be sentenced with prison.

Article 129

Any governmental officer or anyone assigned to a public service used violence with individuals or ordered to use it abusing his authority, where he mentally /psychologically hurt them is to be sentenced with prison not less than 6 months , in addition to a fine not less than ten thousand Egyptian pounds and not more than thirty thousand Egyptian pounds Or with any of the two penalties.

Article 280

Anyone who detained or imprisoned or confined someone without a legal basis is to be sentenced with prison for not less than a year or fined with not less than ten thousand Egyptian pounds and not more than twenty thousand Egyptian pounds.

This penalty is to be doubled if the crime was committed by a governmental officer or an assigned to a public service by abusing his power/authority.

Article Three

There should be a new chapter added to the third part of the Criminal Procedures Law titled " Investigations done by delegated judges for investigations" as chapter six to be titled "Investigating Torture, Compulsion and Miss-Treatment of officials to public individuals."

Article (122) Repeated

The district attorney should promptly and as soon as he is acknowledged with a torture incident give orders for starting the investigation, and allow the victim to check and review the papers of the investigation whenever requested even if it was confidential, the former could request the work region of the defendant during the investigation period to suspend him from his duties so as not to affect it.

Article (122) Bis "A"

As an exception from article (63) of the criminal procedures law , the victim or his/her successors has the right to file a criminal case directly to the competent court in crimes of torture , compulsion and Miss-treatment of officials to public individuals .

The court should order the administrative party to submit all requested documents or papers requested by the victim, his/her successors or lawyers in order to facilitate proving the incident.

Article (122) Bis "B"

The public attorney or the delegated judge for investigation should finalizethe investigation during a period not exceeding six months from the date of starting it.

Exceeding such period without deciding upon it , gives the victim the right to directly file the case to the competent, reserving the right of the victim / claimant to initially file the case to the court mentioned here above .

Article (122) Bis "C"

Taking into consideration article (64) of the criminal procedures law , each of the convicted , victim and the injured from the crimes mentioned herewith in this law can request from the judge of court of first instance to delegate a judge for investigating such crimes, and he should decide upon such request within forty eight hours.

Article (122) Bis "D"

The victim, the affected from the crimes mentioned herewith in this law and their successors have the right to appeal in front of the criminal court held at the chamber of advice against the decision of no ground for criminal prosecutions issued by the public prosecution or inquiry judge. The criminal court should dispose in the appeal during one month from filing the appeal after hearing the argument of the public prosecution and the appellant. The appeal is formed by filing a report at the clerk's department of the appeal court during ten days from the date of acknowledging the public prosecution decision or inquiry judge order to whom concerned at their domicile.

Article Four

The article hereunder is to be added to Criminal Code no. 58 for the year 1937:

Article (126) Bis

To be penalized by an imprisonment term of no less than six months, every sheriff of police station or prison or chief of any detention place who breach his supervising and surveillance duties on the detention places which led to the commitment of a torture crime as stated in the first article of this law.

Article Five

Without prejudice to the provisions of articles 163, 164, 170, 174, 221 & 222 of the civil code, the final decision on amount of compensation to be paid to the victim or his/her successors shall not be less than two hundred and fifty thousand Egyptian pounds. The government is committed to offer physical and psychological treatment to the victim and psych-socio rehabilitates the victim till cured.

Article Six

A police department named "The General Department of Anti-Torture" to be formed affiliated to the Public Attorney Office. The department to be competent of inspection and arresting affairs and carrying out enquiries and other matters related to revealing torture crimes and assist in bringing criminals to justice. A resolution for the formation of this department is to be issued by the public attorney after discussion with the minister of interior. This department is to follow the

orders of the public attorney or whom he delegates. The resolution of its formation shall determine its budget, ranks of its members and its locations.

Article Seven

To be formed by a resolution, from the public attorney, a prosecution competent to investigate torture crimes in the territorial jurisdiction of each court of first instance, with sufficient number of prosecutors to be designated. This prosecution is competent of investigating torture, compulsion and miss-treatment of officials to public individuals as well as supervising places of detention in the scope of its territorial jurisdiction.

Article Eight

State authorities shall not expel, return or extradite a citizen of another state to his/ her state or another state if there is a fear of exposure to torture. Expelling, returning or extradite shall be issued by judge of matters of special urgency.

Article Nine

A permanent board for anti-torture shall be constituted by a resolution from the prime minister consisting of eleven members with the public attorney head of the board, members as representatives from ministry of interior, and the ministries of finance, health, education, culture and endowments, and two members from the National Council For Human Rights and two experts in the field of Anti-torture.

Among its duties:

- 1- Reviewing Egyptian legislations to help combating this crime and making a national plan to eliminate it.
- 2- Develop training programs to police officers and forensic about detecting and handling this crime.

- 3- Develop educational, cultural, religion programs that reveal the brutality of the crime of torture and help to create a public opinion against the crime and its perpetrators.
- 4- Dealing with the international mechanisms for combating the torture crime and benefit from international exchange programs combating this crime.
- 5- Issuing semi-annual reports on the conditions of detainees and places of detention and making recommendations to improve these places and combating torture crime in general.
- 6- Cooperating with “Civil Society Organizations” interested in combating torture to ensure collaborating efforts in this regard.

Article Ten

The Law shall be published in the Official Gazette and shall enter into force on the day following its publication.

The Law shall bear the Seal of the State, and shall be implemented as one of its laws.

President of the Republic of Egypt