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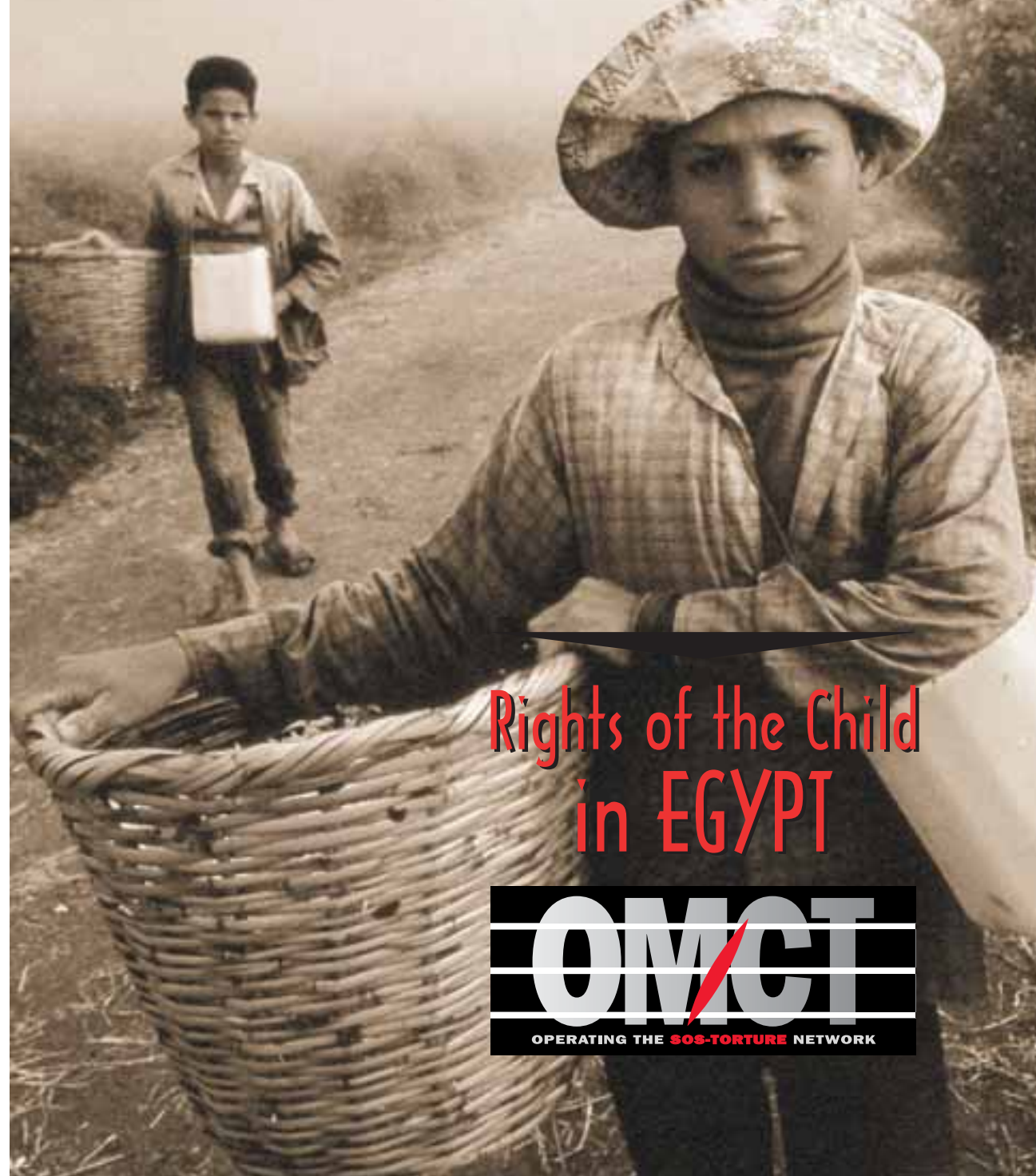
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OMCT
OPERATING THE **SOS-TORTURE** NETWORK

P.O. Box 21 - 8, rue du Vieux-Billard
CH 1211 Geneva 8
Tel. +4122-809 49 39 - Fax +4122-809 49 29
[http:// www.omct.org](http://www.omct.org) - Electronic Mail: omct@omct.org

Imprimerie Abraz - photos : ILO : M. Dirigny - P. Lissac - J. Maillard



Rights of the Child
in EGYPT

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Rights of the Child in EGYPT

**The aim of OMCT country reports
are to prevent torture**

In its reports on children’s rights, OMCT aims to analyse national law in terms of the international commitments that a government has made. For example, in some countries families are not informed when their child is detained and this removes a precious safeguard against abuse. The absence of such safeguards facilitates situations where the torture of children can and does occur.

In other words, the reports aim to point out where, often unknowingly, legislation facilitates grave abuses against children.

The legal analysis is supported, where possible, by urgent appeals on the torture of children documented by OMCT. These urgent appeals (OMCT intervenes almost daily on such cases) are the foundation of all our work.

The reports are not legal semantics for their own sake, but represent, in addition to the urgent actions, another side of our strategy to end torture. The reports include meaningful and feasible recommendations for legal reform aimed at reducing the incidence of child torture.

The reports are presented to the United Nations Committee on the Rights of the Child who use them to analyse how well a country is fulfilling its international commitments with regards to children. Their recommendations on the issue of torture, drawing from OMCT’s reports, send a strong message from the international community on the need for action to end the torture of children.

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COMMITTEE ON THE RIGHTS OF THE CHILD
29th Session - Geneva, 8-26 January 2001

Report Concerning the Application
of the Convention
on the Rights of the Child
by Egypt

Researched and written by Olivier Cosandey
Co-ordinated and edited by Roberta Cecchetti
Director of the Publication: Eric Sottas

Preliminary Observations

Egypt ratified the Convention on the Rights of the Child on July 6th 1990 and the Convention came into force on September 2nd 1990.

Egypt is also party to other international instruments relating to human rights condemning the practice of torture and ill-treatment of children, in particular the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

OMCT welcomes legislative and institutional efforts made by Egypt since the submission of its initial report in order to carry out its obligations under the Convention on the Rights of the Child (hereafter the Convention). In particular, OMCT welcomes the adoption the Children's Code of 1996.

However it notes that certain legislative and institutional measures, which seem in ac-

cordance with the Convention, are insufficient or represent an obstacle to effective protection of the rights of the child, as provided for in the Convention.

OMCT also regrets that the authorities have omitted to mention in their report important information regarding the rights and welfare of the child, notably the effects of the State of Emergency on children's rights, consequences of terrorism, the rights of appeal granted to child victims of torture, the means available to ensure their rehabilitation, the penalties applied to officials or agents of the State responsible for grave violations perpetrated against children.

Since its institution in October 1981, the State of Emergency has been extended every time it has come up for consideration by the People's Assembly. The State of Emergency has now been extended nine times over a period of 19 years and was extended for another three years in February 2000. According to the Egyptian

Organisation for Human Rights (hereafter EOHR), member of the SOS-Torture network, the institution of the State of Emergency has been associated with an undemocratic climate that is antagonistic to human rights, as a result of the wide and exceptional powers it grants to the executive authority. Experience and practice have shown that these powers have been used to undermine several basic rights and freedoms of citizens which are guaranteed by both the constitution and the international human rights conventions which Egypt has ratified. The most important of these rights are the right to life and personal safety, the right to freedom of opinion, the right to freedom of expression, the right to peaceful assembly, and the right to fair trial.¹

As the Committee against Torture said in its concluding observations, the ongoing state of emergency “seems to have created a cul-

ture of violence among certain elements of the police and security forces.”² OMCT fears the consequences this culture of violence may have on children.

Because of the Islamic opposition the Government has been facing, in 1992-1993, it reacted with a very repressive policy of arrests and executions. In recent years, attacks against tourists by Islamic opposition groups in Egypt have intensified. The authorities are now targeting even moderate Islamics. As a result, many leaders of Islamic groups have been arrested and/or executed. This repressive policy has led to more and more young people participating in terrorist activities without any control. A “teenage boy” was among 30 males brought to trial for membership of the al-Gama’a al-Islamiya armed group in November 1997.³

1 - EOHR Press release January 27th, 2000.

2 - Concluding observations of the Committee against Torture, A/54/44 para. 206.

3 - Brett, R. and McCallin, M., “Children : The Invisible Soldiers”, second edition, Rädda Barnen, Stockholm, 1998, p. 236 in www.child-soldiers.org

II. General Observations

2.1 Non-discrimination

OMCT recalls that the Convention is applicable to any child under the jurisdiction of the State, whether national or foreigner. This includes visitors, refugees and any other child within the borders of the State, even illegally. The application of the Convention can by no means be limited to Egyptian children only as the report suggests by saying that : “The provisions of the Children’s Code apply to all **Egyptian children** under 18.”⁴

Egyptian law stipulates that the legal age for marriage is 16 for girls and 18 for boys. The age differences encountered in this law encourages the completion of school for boys at the age of 18, whereas girls’ education can be curtailed earlier, implying that it is of secondary importance. This point was already made during discussions prior to Egypt’s initial report and OMCT regrets that the provision has not been changed yet.⁵

Furthermore, despite the fact that the law stipulates that the legal age for marriage is 16 for girls and 18 for boys, early marriages

for girls remain widespread. A study conducted by the Minister of Health of Upper Egypt revealed that 44% of rural women who got married between 1989 and 1993 were under 16 years old at the time of their marriage.⁶

Moreover, OMCT is concerned about discrimination against children in vulnerable situations such as disabled children, street children, refugee children and children in conflict with the law.

4 - CRC/65/Add.9 par. 52.

5 - The Committee in its recommendations, emphasises that the principle of non-discrimination as provided for under article 2 of the Convention, must be vigorously applied. A more active approach should be taken to eliminating discrimination against certain groups of children, in particular girl children and children in rural areas. With regard to the gap in literacy and school enrolment mentioned in the report, obstacles facing girls should be adequately addressed so that they can enjoy their right to go to school; further measures might be taken to increase the awareness of parents in this regard.

6 - Laila Shukry Al-Hamamsy, “Early Marriage and Reproduction in Two Egyptian Villages”, quoted in: OMCT “Violence against Women: a report”, p. 129.

“The Convention implicitly accepts a difference in roles between women and men in society. Problems arise when a difference in roles also marked the entry-point for discrimination. One thing was clear : girls must have the same educational possibilities as boys. Invoking their future roles as wives and mother was insufficient in that regard.” Mr. Hammarberg, Summary record of the 66th meeting : Egypt, 28/01/93. CRC/C/SR.66.

Disabled children

In respect of disabled children, concern arises from the wording of article 99 of the Children's Code. An unofficial translation of this article states that a child is exposed to delinquency if he has a mental or psychological illness and it can be proved, according to the procedures and situations stipulated by law, that he has lost partly or completely the capacity to comprehend or choose in a way that constitutes a threat to his safety and the safety of others. In such a case he shall be placed in a specialized hospital according to the legal procedures. OMCT is concerned by the fact that the special needs of disabled children are treated under the section on Juvenile Justice of the Children's Code and that foreseen measures contemplate deprivation of liberty rather than special protection. OMCT recommends the Egyptian authorities to repeal such provision in order to exclude the status of disability as a potential crime.

Street children

OMCT is concerned about the fact that according to article 96 of the Children's Code, a child can be exposed to delinquency if he

lives in the streets or in other places not adequate for living and/or if he collects cigarettes or any other garbage.

OMCT is deeply concerned about discrimination in the law against socially and economically disadvantaged groups such as children living and/or working in the streets, which increases the chances of arbitrary arrest and abuse. OMCT recommends that the Committee urge the State to review its legislation on that issue and promote measures like creating shelters which are more suitable than judicial measures for the integration of street children and programmes tackling the causes of the problem.

Refugee children

Even if the State report asserts in para. 186 that the situation of refugee children and their physical and psychological rehabilitation and social reintegration does not seem to be of primary relevance, OMCT would like to point out that, according to UNCHR data, about 2000 refugee children are under the jurisdiction of the Egyptian State⁷. In this regard, OMCT would welcome information regarding the situation of asylum-seekers and refugee children in particular.

Another possible source of discrimination arises from restrictions to birth registration. According to article 22 of the Children's Code, the registrar shall not mention the name of the father or of the mother or both, even if he is requested to, in the following cases :

- a) If the parents are from the *maharem*,⁸
- b) If the mother is married and the child is not from her husband, her name shall not be mentioned.

An administrative order determines the information to be mentioned on the birth certificate in the above-mentioned cases.

OMCT recommends that the Committee demand that the Egyptian Government produce more information on the reasons of such restrictions considering the discriminatory consequences they may have on the child.

2.2 Female Genital Mutilation (FGM)

The practice of genital mutilation has a terrible effect on a child or young girl's state of

health, both at the time of the mutilation and thereafter. Apart from potentially fatal haemorrhages, there is a risk of tetanus or septicaemia from the very basic instruments used and neighbouring organs are often damaged due to the girl's distress. The practice of female genital mutilation violates the right of the child to the "enjoyment of the highest attainable standard of health", as stated in article 24(1) and ignores paragraph (3) which obliges States Parties to abolish all traditional practices that are prejudicial to the health of a child.

On December 28th 1998 the State Council, the highest administrative court in Egypt, upheld the Ministry of Health ban on FGM, throwing out a lower court which overturned the ban of the Ministry of Health on the practice. The court found that "circumcision of girls is not an individual right under Islamic law because there is nothing in the Koran which authorises it and nothing in the Sunna [...] henceforth, it is illegal for anyone to carry out circumcision operations, even if the girl or her parents agree to it".⁹

7 - Refugees and Others of Concern to UNHCR, 1999 Statistical Overview, Table III.1.

8 - Kindred prohibited from marrying each other

9 - Human Rights Watch World Report 1999, Human Rights Developments in Egypt, HRW website.

However the reality is different. A national survey conducted in 1996 showed that 97% of married Egyptian women between the ages of 15-49 had undergone genital mutilation.¹⁰ Furthermore, according to the World Health Organisation, 80% of the female population are victims of FGM¹¹.

III. Definition of the Child

According to article 2 of the Children's Code, a child is a person who has not attained 18 full years of age according to the Gregorian calendar. While OMCT welcomes compliance of the definition concerning child with that foreseen in the Convention, it notices however that some differences remain, in particular concerning the minimum age for marriage (see above).

OMCT recommends effectively enforcing the existing provisions and ensuring that those responsible for such acts are sanctioned according to the law and that preventive measures, like education and raising awareness campaigns, are set up.

Full penal responsibility starts at 18 years old. However, for children of seven years of age and older, the Code foresees a classification by age which makes the relation between penal responsibility, punishment and the child's age proportional (see para 5.1).

A contradiction seems to appear in the State report regarding parental authority. Para. 47 states that a child under 18 is subjected to the provisions of Act n° 118 concerning parental authority but Para. 73 defines a child as a person who has not reached majority (age 21). OMCT would welcome information regarding the effective age of majority regarding parental authority.

10 - "Rights Now" Newsletter of the National Children's and Youth Law Center, March 1997, vol. 5, n° 1, p. 12.

11 - World Health Organisation, "Female Genital Mutilation: Information Pack", WHO website.

IV. Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

4.1 Prohibition of torture

The Committee has on several occasions pointed out that State parties must consider in their legislation implications of article 37(a) of the Convention in connection with the definition of torture as given by article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹² Furthermore, the Committee, in its examination of States Parties' reports and in other comments, has indicated that it regards the United Nations rules and guidelines relating to juvenile justice as providing relevant detailed standards for implementation of article 37.¹³ These rules and guidelines are namely : the Beijing Rules¹⁴, the Riyadh Guidelines¹⁵ and the Rules for the Protection of Juveniles Deprived of their Liberty¹⁶.

Both article 42 of the Egyptian Constitution and article 40 of the Egyptian Criminal Procedure Code prohibit acts which may cause harm to somebody and, as noted in the initial report of Egypt,

provisions regarding acts which may cause harm "apply to all citizens, including children."¹⁷

As far as children are concerned, art. 75 of the Children's Code states that the State provides the protection of the child from any act which may cause harm to his health, or to his physical, mental, spiritual or social development.

OMCT would like to point out that the emergency law gives the security forces exceptional powers, which enable them to disregard many basic freedoms and rights, including the right of physical safety.

12 - Art. 1 of the Convention against Torture defines torture as: "[...] any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."

13 - See for example Report on the tenth session, October-November 1995, CRC/C/46, para. 214 or report on the ninth session, May-June 1995, CRC/C/43, annex VIII, p. 64.

14 - General Assembly resolution 40/33.

15 - General Assembly resolution 45/112.

16 - General Assembly resolution 45/113.

17 - CRC/C/3/Add.6 para. 144.

4.2 Sanctions applicable to people responsible for torture

With respect to the provision of criminal protection for the right to physical safety, articles 126, 127, 129 and 282 of the Egyptian Penal Code set forth the punishments for civil servants or public employees who commit the crime of torture or use cruelty.

According to article 126, the use of torture for the purpose of obtaining a confession is considered as a crime. The article states that “any civil servant or public employee who ordered or committed torture to force an accused to make a confession shall be imprisoned from three to ten years. In case of death of the victim, he will face the same sentence stated for premeditated murder.”

Nevertheless, as pointed out by several NGO’s, including EOHR, this same article: “does not state any punishment for psychological torture, as it assumes that torture can only be physical.”¹⁸ This concept contradicts article 1 of the Convention against

Torture. OMCT deplores that this article fails to provide effective criminal protection for the rights to physical and mental safety. This loophole has allegedly been overcome by jurisprudence, as stated in the Egyptian State Report to the Committee against Torture: “any act or action which results in physical, psychological or moral torture is a punishable act in accordance with the provision of article 126 [of the penal code]”¹⁹.

Furthermore, according to article 126 of the Penal Code, the crime of torture only occurs under some conditions, i.e. that the victim must be “an accused”. Therefore it fails to recognise the torture of a non-accused person to force the accused to make a confession or for any other reason.²⁰

Likewise, OMCT notes that article 126 of the Egyptian Penal Code deals only with the case of a public official who commits torture with the aim of extracting confessions. According to EOHR, practical experience has proven that policemen use torture for many reasons other than obtaining confessions and in such cases, the law does not provide any protection for victims. Also, this article imposes a punishment in case the public officer carries out the torture personally or orders it, but not when his role is

confined to instigating, consenting or acquiescing to it.²¹

Moreover, it must be noticed that article 126 penalises torture when committed by a public officer or employee, thus it does not apply to police informers and conscripts who practice torture on orders from their superiors.

Article 282 of the Penal Code states that “[...] in all cases, whoever arrests someone without justification and threatens him with death or tortures him physically shall be punished with temporary forced labour”. OMCT acknowledges the fact that the article raises the punishment for illegal arrest accompanied with death threats or physical torture to the level of those stipulated for criminal acts. Nevertheless, it deplores that the article does not make a distinction between the perpetrators of these acts as both individuals and public officials are liable to the same penalties. OMCT demands that the Committee recommends that the Egyptian government take all necessary measures to increase the severity of the punishment when the perpetrators are public officials on the basis that they act relying on the power afforded them by their position and status.

4.3 Impunity

Even in cases when torture is used to extract confessions, the law also provides ways to grant impunity to the perpetrators. Article 129 provides lenient punishment in this regard: “A civil employee who, while making use of his job, uses hardness with people in a way that blesses their honour or hurts them physically shall be punished with imprisonment for a period of no more than a year or a fine of no more than 200 pounds.” According to EOHR, “cruelty” means light harm, i.e. a material action, as the Court of Cassation considered. It is not extended to any verbal or other signs of aggression (such as moral aggression.)²²

OMCT does not consider under any circumstances that the imposition of a fine for the practice of torture or ill-treatment is acceptable.

Article 63 of the Penal Code states that there is no crime when the act of torture has been committed by a public employee in execution of an order given by a superior, or in the event of him having acted in good faith within what he believed to be his jurisdiction. In all cases, the civil servant must prove that he did not execute the act before

18 - “Torture in Egypt - Police excesses the difficulty of obtaining evidence”, EOHR, February 1999, p. 6.

19 - CAT/C/34/Add.11, par 47(b).

20 - “Torture in Egypt is a judicial reality”, report of the Human Rights Center for the Assistance of Prisoners, January 1999, p. 5.

21 - “Torture in Egypt - Police excesses the difficulty of obtaining evidence”, EOHR, February 1999, p. 6.

21 - “Torture in Egypt - Police excesses the difficulty of obtaining evidence”, EOHR, February 1999, p. 6.

22 - *ibid*, p. 6

verifying the circumstances, and prove that he believed that his act was justified legally and that his belief was based on reasonable basis. According to the EOHR, this provision allows law enforcement officers to use good faith as an excuse for their unlawful acts.²³ Moreover, this article contradicts article 2 (3) of the Convention against Torture which clearly states that an order from a superior officer or public authority may not be invoked as a justification for torture.

Art 232 of the Code of Criminal Procedure prevents civil plaintiffs from bringing a direct suit against a civil servant, public official or law enforcement officer for an offence that took place during the performance of his duty or because of it.²⁴ OMCT is gravely concerned about these provisions which could grant impunity to officers accused of using cruel treatment and torture against citizens.

OMCT regrets that the report fails to mention the opportunities to appeal available to children who are victims of torture or cruel, inhuman or degrading treatments from an official or agent of the State.

OMCT recommends the amendment of articles 63 and 232 of the Code of Criminal Procedure respectively to prevent public officials from using good faith as an excuse for their unlawful acts and to allow individual victims to bring direct civil legal actions against their torturers.

4.4 Exclusion of confession made under torture

The exclusion of any confession made under torture or threat of torture constitutes a procedural principle stated by the Egyptian judiciary on the basis of articles 42 of the Constitution and 302 of the Code of Criminal Procedure.

Nevertheless, the rulings of the criminal and civil judiciary reveal the widespread occurrence of torture. The number of confessions refused due to the fact that they have been obtained under torture, constitutes irrefutable evidence of torture, contrary to claims stating that torture is not widely practised by security forces.

4.5 Prescription delay for acts of torture

OMCT welcomes the fact that there is no prescription delay for matters of torture as there is for all violations of freedom and liberties granted by the Egyptian Constitution (Art. 57).

4.6 Practice

According to many NGOs²⁵, the torture of a non-accused to force the accused to make a confession or to give himself up to the police is a common practice called “hostage-taking policy”, whereby relatives of the accused are subjected to illegal detention and tortured in order to force the accused to confess or give himself up.

According to some sources, torture is still one of the main methods used by the security forces to obtain confessions during the initial stages of investigations. This is mainly due to the existence of what may be called a “negative popular tradition” on the part of citizens. This tradition tolerates the use of torture and ill-treatment during interrogations by the security forces, who, in turn, believe this to be a necessary means of dis-

covering the truth and ensuring security and stability.²⁶

This was the case in the Al-Kosheh village in August 1998 where several families were arbitrarily arrested and tortured to force the father to confess or give himself up.

As fully described in the fact-finding mission of the EOHR of September 1998 “Collective punishment in Al-Kosheh village”²⁷, after the murder of two young people, the police arrested more than 1200 people with no sufficient evidence of their involvement in the crime.²⁸

In the initial stage of their search for the perpetrators, police detained all the members of the family of Boctor Abu Al-Yamen, among them a 15 year old girl, her sister (13) and her brother (11). The police subsequently brutally tortured them to make them say that their father was the killer.²⁹

23 - *ibid*, p. 7.

24 - *ibid*, p. 7.

25 - Collective punishment in Al-Kosheh village (Random arrest, torture and degrading treatment of citizens), a report of the EOHR (Egyptian Organisation for Human Rights), September 1998; “Torture in Egypt is a judicial reality”, report by the Human Rights Center for the Assistance of Prisoners, January 1999, p. 3.

26 - “Torture in Egypt is a judicial reality”, report by the Human Rights Center for the Assistance of Prisoners, January 1999, p. 4.

27 - Collective punishment on Al-Kosheh village [Random arrest, torture and degrading treatment of citizens], EOHR Report, September 1998.

28 - *ibid*, p. 3.

29 - *ibid*, p. 4.

The oldest girl reported to the EOHR representative that she was tied, hanged, given electric shocks and beaten.³⁰ The same story was repeated by her younger sister who was tortured in the Dar Al-Salaam police station for four days to force her to confess that her father was the killer.³¹ Other relatives of the victims were also illegally arrested and tortured to make them confess that Boctor Abdu Al-Yamenn and his son were the killers.³²

In another case, police “interviewed” Michael Mileik Michael and three of his

children. The children were all subjected to severe torture by police officers with the aim of obtaining a confession from the father.³³

Another example of this practice known as “hostage-taking” is the arrest of 12 persons from the same family by officers of the Kasr El-Nil police station on September 6th 1998. They were detained and tortured to force them to confess that one of them had stolen some items from the house of a woman who had strong connections with police officers.³⁴

V. Children in conflict with the law

5.1 Age of penal responsibility

According to art. 94 of the Children’s Code, the age of penal responsibility starts at seven years old. For children between seven and 18 years old, the Code foresees a classifi-

cation by age, which makes penal responsibility, punishment and the child’s age proportional to each other. A child between seven and 15 years old has limited penal responsibility. He or she is not subjected to penalties and only social measures can be applied to him or her. Children of 15 but not yet 16 as well as children over 16 have limited penal responsibility and can be subject to penal sanctions. Full penal responsibility starts at 18.

30 - *ibid*, p. 5.

31 - *ibid*, p. 5.

32 - *ibid*, p. 6.

33 - *ibid*, pp. 7-8.

34 - *ibid*, p. 10.

Besides the fact that the age of penal responsibility is too low, even if the penal responsibility in itself is limited, it is important to point out that children could legally be deprived of liberty from seven years old.

OMCT demands that the authorities give information concerning the adoption of these different age groups in the Children’s Code, and the justification behind the distinction between children aged 15 but under 16 and children over 16. OMCT stresses its concern with respect to measures that could be taken against children between seven and 15 years old. These measures could include probation, being committed to a social institution and being committed to a specialised institution.³⁵

OMCT is concerned about the fact that there is no mention in the State Report about the minimum age required to bring legal action before the law and recommends the Committee ask for information on this issue.

5.2 Deprivation of liberty

5.2.1 Police custody

It is a fact that most cases of torture occur

during police custody. Detainees are especially vulnerable during this period. Often, they are not able or allowed to inform anybody of their detention. According to art. 37(c) of the Convention, every child must be able to remain in contact with his or her parents or friends when in detention.

No information is given by the report regarding the length of custody. The report does not mention how long police custody usually is and in how many cases, if any, the arrested person had to stay in police custody longer than foreseen by law.

5.2.2 Pre-trial detention

According to art. 119 of the Children’s Code, a child under 15 years old may not be placed in detention pending trial; the public prosecutor may place him in a supervisory institution for a period not exceeding one week and present him when requested if the circumstances of the case so demand. The placement period of the child shall not exceed one week unless the tribunal orders an extension thereof according to the regulations of detention pending trial stipulated in the code of penal procedures. Instead of placement in a supervisory institution, the

child can also be consigned to either of his parents or guardian who will then present him when requested.

Unfortunately the State report does not provide any information regarding the regulation of detention pending trial as stipulated in the Code of Penal Procedure. Furthermore, no information is provided concerning children over 15 years old.

OMCT would like to recall that the Human Rights Committee has indicated that it disapproves of pre-trial detention for juveniles. According to the “ Beijing Rules “, whenever possible, detention pending trial shall be replaced by alternative measures, such as close supervision, intensive care or placement within a family or in an educational setting or home.³⁶ Pre-trial detention should be an exception and as short as possible.³⁷

OMCT has expressed concern about the fact that no information is given regarding the extension of the pre-trial detention period and that, because the tribunal has to refer to the Code of Penal Procedure to extend the pre-trial detention, it might not take into account specificities of children in pre-trial detention.

OMCT also regrets that the recommendation made by the Committee against Torture regarding this point has not been taken into account by the State.³⁸

5.2.3 Arbitrary detention

As stated in the International Covenant on Civil and Political Rights, no one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as established by law. The Convention includes this provision in art. 37(b).

Despite the fact that arbitrary or illegal arrest and detention seem to be a recurrent practice,³⁹ the State report makes no mention of these issues, nor does it give statistics about the number of children who are

victims of such acts, the sanctions applied to those responsible and the number of agents guilty of such acts.

5.2.4 Alternatives to detention

Detention must be understood as any form of detention or imprisonment or the placement of a person in another public or private custodial setting from which this person is not permitted to leave at will by other of any judicial, administrative or other public authority.⁴⁰ As the Committee pointed out, provisions limiting restriction of liberty under art. 37 apply to all instances of restriction of liberty, including for example, in health and welfare institutions and in relation to asylum-seekers and refugee children. Furthermore, deprivation of liberty for children must only be considered as a measure of last resort and in case of necessity. It must be ordered only for the shortest appropriate time.

According to art. 101 of the Children’s Code, a child under 15 years old who commits a crime is sentenced to one of the following measures :

- Reprimand: a rebuke from the juvenile

tribunal to the child concerning his behaviour

- Consignment
- Vocational training
- Probation: Probation consists of keeping the child in his natural environment under supervision and guidance while respecting the obligation determined by the juvenile tribunal. The probation period shall not exceed three years. If the child fails the probation, the matter is brought in front of the juvenile tribunal
- Being committed to a social care institution
- Being committed to a specialised hospital.

As far being committed to a social care institution is concerned, the period of confinement is not determined by the tribunal. However, according to art. 107 of the Children’s Code, the period of committal shall not exceed ten years in the event of a serious offence, five years in the case of a lesser offence, or three years in the event of exposure to delinquency.

36 - Rule n° 13.

37 - Human Rights Committee, General comment 8, HRI/GEN/1/Rev.2, p. 8.

38 - “The Committee is also concerned about shortcomings in suitable preventive measures to combat torture, including the length and conditions of police custody and administrative detention and the slow pace of trials of persons responsible for acts of torture or ill-treatment.” Summary record of the first part of the 170th meeting: Egypt. 23/11/93. CAT/C/SR.170. par. 14.

39 - In August 14, 1998 in the village of al-Kosheh in Sohag the police arbitrarily arrested 1200 residents, including children, and, as reported in the fact finding mission of the EOHR, tortured them in detention as part of the process of investigating the crime of two men. (see above)

OMCT is concerned by the fact that the tribunal does not seem to be in charge of the decision on the length of committal. The institution where the child is placed shall provide the tribunal with a report concerning him and his behaviour every six months maximum so that the tribunal can determine what is suitable for his particular situation.

According to art. 107 of the Children's Code, a child of seven could be subjected to a detention period of up to ten years, which seems too long for a child who cannot be deemed to be fully responsible for his acts, even if the committal is served in a social care institution or a specialised hospital. OMCT suggests the Committee ask the State for more information regarding the determination and the length of committal periods.

5.2.5 Detention outside the juvenile justice system

According to art. 141 of the Children's Code, "sentences entailing deprivation of liberty handed down against minors are not enforced in ordinary prisons but in special

penal institutions under arrangements established by decision of the Minister of Social Affairs in agreement with the Minister of Interior."⁴¹ As no information is provided by the report, OMCT would welcome information regarding the effective distinction between penal and social measures and risks of substitution from one to the other. The State report does not mention what distinguishes criminal institutions from social care or specialised institutions.

5.2.6 Detention with adults

Art. 37 (c) of the Convention states that children deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so.

Even if separation between adults and children is provided for by Egyptian law, it seems not to be applied. According to the *Observatoire International des Prisons*, children have been detained in adult prisons such as Al Fayyoun, Zifazag, Isteqbal Tora, El Gadeed, Wadi Naum et Assyut and in State Security Investigation Jails.⁴²

Moreover, according to EOHR information, 38 minors have been detained with adults by

the Egyptian Security authorities between 1994 and 1996, some having come of age while in detention.⁴³

5.3 Procedure

5.3.1 Penal sanctions

The death penalty does not apply to children under 18. As mentioned above, a child between 7 and 15 years old is criminally responsible but cannot be condemned penally.

In accordance with art. 111 of the Children's Code, if a child of 15 years but not yet 16 commits a crime with capital punishment, life forced labour in perpetuity or temporary forced labour as the sentence, he is sentenced to imprisonment instead. If the applicable penalty is imprisonment, the tribunal may sentence him to detention for a period of no less than three months. Instead of imprisonment, the tribunal may decide to place the child in social care for a period of no less than a year according to the rules of law. If a child commits an offence which has imprisonment as a possible penalty, the tribunal may instead choose to pass a sentence according to

either the 5th or 6th measure stipulated in art. 101 of this Code.

According to the State report, children between 16 and 18 years old cannot be sentenced to death or life forced labour. Those sentences are replaced by detention. As for the length of detention for children from 16 to 18 years old, art. 112 of the Children's Code states that if the applicable penalty is capital punishment, the child shall be sentenced to imprisonment for a period that is no less than ten years; if, however, the applicable penalty is forced labour for life, he shall be sentenced to imprisonment for a period that is no less than seven years; and if the applicable penalty is temporary forced labour, he shall be sentenced to imprisonment.

OMCT believes that a minimum length sentence of not less than ten years is long and is not in conformity with art. 37 (b) of the Convention, according to which imprisonment should be used as a measure of last resort and for the shortest appropriate period of time. Furthermore OMCT wishes to emphasise its concern that no maximum length of penalty be specified in the Children's Code.

41 - CRC/65/Add.9 para. 201.

42 - "Enfants en prison" Report of the *Observatoire international des prisons*, 1995, p. 141.

43 - OMCT urgent appeal cases EGY 150396.CC and EGY 12094.CC.

5.3.2 Access to a lawyer and possibilities of appeal

Any child deprived of his or her liberty should have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority.

Art. 125 of the Children's Code states that in criminal cases, the child must be defended by a lawyer. If the child has not chosen one, the public prosecutor or the court shall assign one in accordance with the rules laid down in the Code on Penal Procedure. If a child is 15 years or older, the court can appoint one for him if he is charged with misdemeanours.

In cases other than criminal ones, the appointment of a lawyer seems not to be automatic. Unfortunately, the State report does not provide any information regarding access to a lawyer. OMCT suggests the Committee demands that the Egyptian authorities provide more information about the conditions upon which a lawyer is assigned to a child over 15 years and whether these conditions differ in cases other than

criminal ones. OMCT also feels that the Egyptian Government should provide information on the practice of assigning a lawyer to children under 15 when allegedly involved both in criminal and non-criminal cases.

5.3.3 Children's court and procedures

According to para. 194 (ii) of the State report and art. 122 of the Children's Code, juvenile tribunals have exclusive jurisdiction over any offence committed by a child, or when a child is exposed to delinquency.

The Criminal Court and the Higher Court of State Security have jurisdiction over crimes committed by a child over 15 at the time of the crime if there were an adult accomplice with the child and the situation necessitates that the case against both of them be brought to court. In such cases, the Courts shall make an inquiry into all aspects of the child's situation before a judgement is passed. In order to do that, the Court may be assisted by whoever it finds suitable.

OMCT is concerned by the fact that children over 15 may not be tried by a juvenile tribunal if the case involves adults. This means

that there is a risk that their special need of protection will not be taken into account by a judge specially trained in children's rights. Furthermore, OMCT would welcome more information about mandatory social surveillance, which is required as safeguard in cases of offences committed by a child over 15 with an adult accomplice, as no detail is given in the State report, para 194 (ii).

5.3.4 Obligation to inform parents

According to different sources, the police have no obligation to inform the family of arrested minors. This provision is not in conformity with art. 40 (b) (ii) of the Convention and OMCT calls on the Government to enact a law foreseeing the prohibition of incommunicado detention.

5.3.5 Medical examination

Unfortunately, the State report does not provide any information regarding medical examination. OMCT suggests the Committee ask the State if medical examination is a systematic practice and if so, under which conditions it takes place.

The authorities must guarantee that any child placed in police custody undergoes a medical examination upon arrival at the place of detention and that this examination be entered into the appropriate register.

5.4 The practice

Practice shows that a lot of work still needs to be done for proper implementation of the provision of the Convention concerning the juvenile justice system. In March 1996, OMCT issued an urgent appeal regarding juveniles who were detained for having been involved in militant Islamic groups.⁴⁴ No specific charges were brought against them nor was their case referred to a court. All have apparently been detained under administrative detention orders issued by the Ministry of Interior. While all detained juveniles were supposed to be released under the State Security Court's order, new detention orders were issued by the security authorities. As a consequence, the juveniles remained in detention for periods from three months to two years. One minor was detained for seven years.

Once again, OMCT expresses its concern about the consequences of the State of

Emergency on juveniles and the absence of effective safeguards to prevent their ill-treatment. OMCT would like to have more information regarding juvenile offenders under and over 15 years old convicted of terrorism.

OMCT also recommends that the Committee ask the Egyptian authorities whether the Emergency Act encompasses a special procedure for juveniles charged with terrorism to be brought to trial.

VI. Conclusions and Recommendations

OMCT deplores the absence of information on various subjects, especially the protection of children against torture, the right of appeal available to a child victim of abuses including torture; the means used to ensure the rehabilitation and reintegration of child victims of torture; the penal responsibility and penalties applied to officials or agents of the State responsible for the torture of children and for other grave violations, penal consequences for child victims of violence and terrorism and the effects of emergency legislation.

As far as the definition of the child is concerned, the Egyptian authorities should :

- provide information regarding the effective age of majority regarding parental authority.

In terms of non-discrimination, the authorities should:

- review the country's legislation in order to ensure that beggar or homeless children do not suffer penal sanctions and guarantee that they are not considered as potential delinquents or deprived of liberty because of their social or economic status;
- give information on the reasons for restrictions on children's birth registration and be aware of discriminatory consequences it may have for the child;
- provide information regarding the situation of asylum-seekers and refugee children.

Where torture is concerned, the authorities should :

- provide information concerning the prohibition of corporal punishment;
- adopt further appropriate measures in order to prevent or, if needed, to severely sanction all forms of abuse against children including acts such as torture and cruel, inhuman or degrading treatment or punishment, arbitrary or illegal arrest and detention, committed by State agents or public officers including those acting on the authority of extended powers granted by an Emergency State. The authorities should in particular amend articles 63 and 232 of the Code of Criminal Procedure in order to allow individual victims to bring direct legal action against their torturers;
- make sure that appropriate training is given to policemen, magistrates, and generally to professionals dealing with child matters or with implementations of the Convention;
- provide information regarding programmes for child victims of torture or other inhuman or degrading treatment or punishment.

As for the age of criminal responsibility, the authorities should commit to :

- raising the age of criminal responsibility to conform with the constantly referred to prescription by the Committee of the desirability of setting the highest possible minimum age;
- provide information concerning the reasons which led to the adoption of different age groups for penal responsibility in the Children's Code and in particular what justified the distinction between children aged 15 but under 16 and children over 16.

As for children in conflict with law, the authorities should:

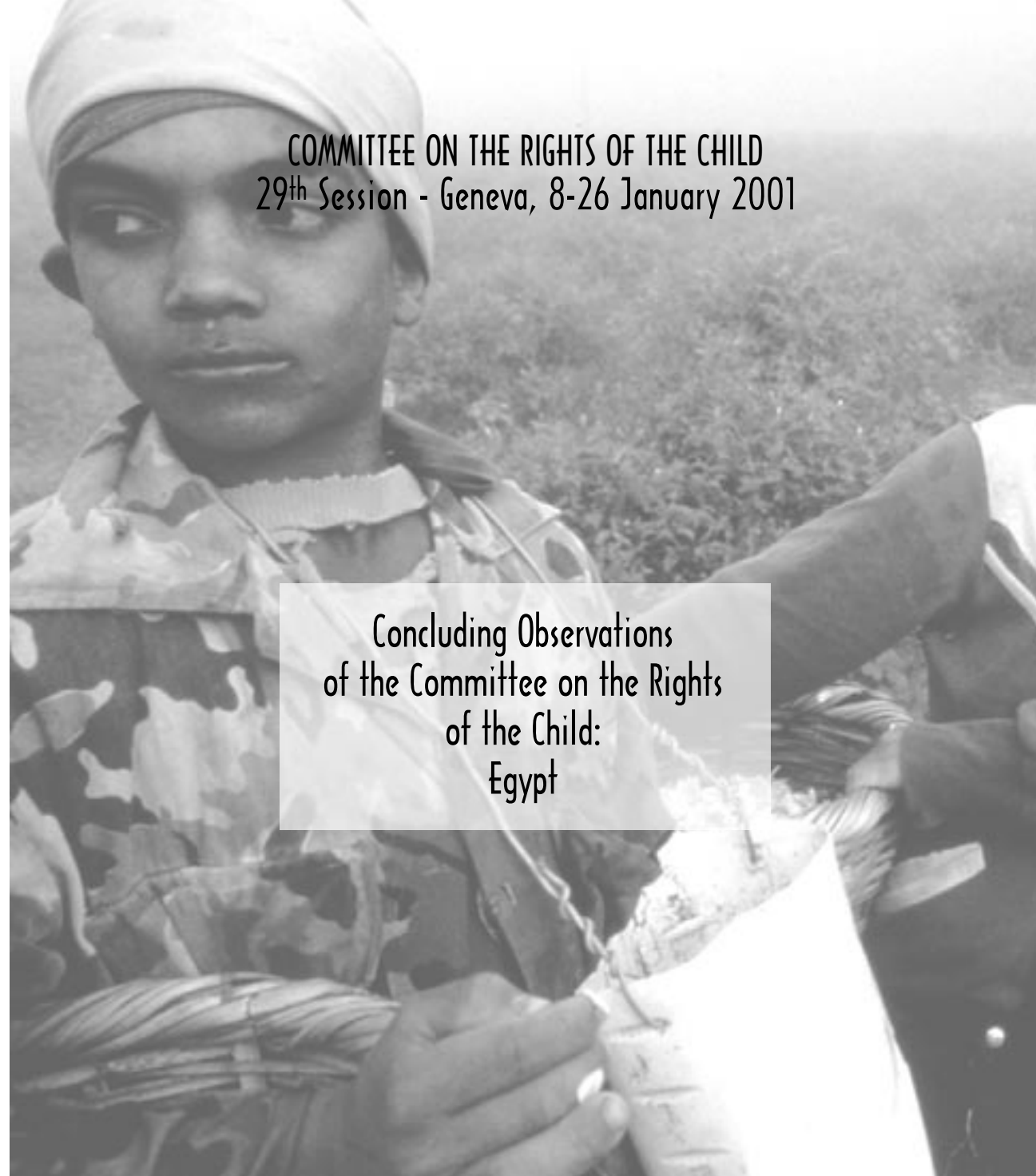
- make sure that each child suspected, accused of or having committed an infraction of the law has full access to procedural rights including the right to a lawyer during police custody, and that the assistance of an advocate be freely available whenever necessary;
- provide information on the length of police custody of children and ensure that it is reduced to a minimum while

prohibiting incommunicado detention for whatever motives and guarantee that all children in police custody are given a medical evaluation at the beginning and the end of their incarceration;

- give information on consequences of the Emergency Act on the juvenile judicial system trying children accused of participating in terrorist activities, particularly in terms of guarantees of fair and independent trials.

COMMITTEE ON THE RIGHTS OF THE CHILD
29th Session - Geneva, 8-26 January 2001

Concluding Observations
of the Committee on the Rights
of the Child:
Egypt



CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

1. At its 679th and 680th meetings (see CRC/C/SR. 679-680), held on 15 January 2001, the Committee on the Rights of the Child considered the 2nd periodic report of Egypt (CRC/C/65/Add.9), which was received on 18 September 1998, and adopted at the 697th meeting, held on 26 January 2001, the following concluding observations.

A. INTRODUCTION

2. The Committee notes that the 2nd periodic report was prepared according to the Committee's guidelines for reporting. The Committee regrets, however, that the report is essentially legalistic and does not provide a self-critical evaluation of the prevailing situation of the exercise of children's rights in the country. The Committee appreciates the detailed written replies to the list of issues, and the provision of additional documentation. It further notes with appreciation the presence of a high-level delegation, which contributed to an open and frank dialogue.

B. FOLLOW-UP MEASURES UNDERTAKEN AND PROGRESS ACHIEVED BY THE STATE PARTY

3. The Committee welcomes the adoption of the 1996 Children's Code, and the declaration of the Second Decade for the Protection and Welfare of the Egyptian Child (2000-2010), which continues to demonstrate the commitment of the State party towards realizing its obligations under Convention.
4. The Committee welcomes ratification by the State party in 1999 of ILO Convention no. 138 on the minimum-age for admission to employment.
5. The Committee welcomes the timely submission of the National Report on the Follow-up to the 1990 World Summit for Children, which indicates significant achievements, particularly in infant/child mortality rates and immunization, as well as acknowledging shortcomings in other areas.

**C. FACTORS AND DIFFICULTIES
IMPEDING THE IMPLEMENTATION
OF THE CONVENTION**

6. Noting the universal values of equality and tolerance inherent in Islam, the Committee observes that narrow interpretations of Islamic texts by authorities, particularly in areas relating to family law, are impeding the enjoyment of some human rights protected under the Convention.

**D. PRINCIPAL SUBJECTS
OF CONCERN AND COMMITTEE
RECOMMENDATIONS**

**D.1. General Measures
of Implementation**

Previous concluding observations

7. The Committee is concerned that many of the concerns and recommendations (CRC/C/15/Add.5) it made upon consideration of the State party's initial report (CRC/C/3/Add.6) have been insufficiently addressed. The Committee notes that many of the same concerns and recommendations are made in the present document.

8. The Committee urges the State party to make every effort to address those recommendations from the concluding observations of the initial report that have not yet been implemented and to address the list of concerns contained in the present concluding observations to the 2nd periodic report.

Reservation

9. The Committee observes that the State party's reservation to articles 20 and 21 of the Convention is unnecessary. It points out that article 20(3) of the Convention expressly recognizes kafalah of Islamic law as a form of alternative care. Article 21 expressly refers to those States that "recognize and/or permit" the system of adoption, which does not apply to the State party because it does not recognize the system of adoption.

10. The Committee recommends the State party to continue its efforts to consider withdrawal of its reservation to articles 20 and 21 of the Convention, in accordance with the Declaration and Plan of Action of the Vienna World Conference on Human Rights (1993).

Coordination

11. The Committee notes the efforts to improve the effectiveness of the National Council of Childhood and Motherhood (NCCM) in monitoring and coordination to implement the Convention. Nevertheless, the Committee is concerned that there remains inadequate administrative coordination and cooperation at the national and local levels of government.

12. The Committee recommends the State party to continue to improve intersectoral coordination and cooperation at and between national and local levels of government. It further recommends the State party to provide adequate support to local authorities, including development of professional capacity, for implementation of the Convention. Moreover the Committee recommends the State party to pursue the preparation and development of a comprehensive national plan of action to implement its obligations under ratified international human rights treaties, including the Convention, through an open and consultative process, in accordance with the 1993 Vienna Declaration and Programme of Action (para. 71).

Civil Society

13. Noting efforts to increase collaboration with NGOs, including efforts to establish an NGO liaison office in the Secretariat of the NCCM, as well as the recent draft legislation on NGOs, the Committee is still concerned that insufficient efforts have been made to involve civil society in the implementation of the Convention.

14. The Committee emphasizes the important role civil society plays as a partner in implementing the provisions of the Convention, including with respect to civil rights and freedoms. The Committee recommends the State party to consider a systematic approach to involve civil society, especially children's associations and advocacy groups, throughout all stages of the implementation of the Convention, including policy-making. In this regard, the Committee recommends the State party to ensure that legislation regulating NGOs conform to international standards on freedom of association, as a step in facilitating and strengthening their participation. The Committee recommends that greater efforts be made to involve relevant State actors in the dialogue with civil society, such as local government officials, and the police;

and further encourages the State party to support initiatives aimed at strengthening the role of civil society.

Data Collection

15. While noting that the analysis of data is an essential function of the NCCM, the Committee is concerned that disaggregated data of persons under 18 years relating to the rights contained in the Convention is not systematically collected by the Central Agency for Public Mobilisation and Statistics (CAPMAS).

16. The Committee recommends the State party to ensure this data is systematically collected and regularly updated so that it can be analyzed and used as a basis to assess progress and design policies to implement the Convention. The Committee encourages the State party to seek technical assistance in this regard from, *inter alia*, UNICEF, if necessary.

Monitoring

17. The Committee notes that in addition to intersectoral coordination, the NCCM is also the body responsible for monitoring the progress and implementation of the

Convention, as well as receiving complaints pertaining to the violation of child rights. The Committee emphasizes the importance of establishing an independent mechanism with the mandate of monitoring and evaluating progress in the implementation of the Convention.

18. The Committee encourages the State party to consider the establishment of an independent national human rights institution in accordance with the Paris Principles relating to the status of national institutions (A/RES/48/134), to monitor and evaluate progress in the implementation of the Convention at the national and, if appropriate, at the local levels. In addition, the institution should be empowered to receive and investigate complaints of violations of child rights in a child-friendly manner, and effectively address them. The Committee encourages the State party to seek technical assistance from, *inter alia*, the Office of the High Commissioner for Human Rights and UNICEF.

Dissemination/Training of the Convention

19. The Committee is concerned at the low level of awareness among the general public

of the Committee's previous concluding observations (CRC/C/15/Add.5).

20. The Committee recommends the State party to ensure that its concluding observations are widely disseminated, not only among government agencies and professionals, but also the public-at-large.

21. Noting efforts undertaken by the NCCM to disseminate the provisions of the Convention amongst professionals working with and for children, and the general public, including children, the Committee is still concerned at the low-level of awareness of it, and that the State party is not undertaking adequate dissemination and awareness-raising activities in a systematic and targeted manner.

22. The Committee recommends the State party to strengthen its efforts in the dissemination of the Convention's provisions and information regarding its implementation among children and parents, civil society and all sectors and levels of government. Moreover, the Committee recommends the State party to strengthen its efforts and develop systematic and ongoing training programmes on the provisions of the Convention for all professional groups

working with and for children (eg. legislators, judges, lawyers, law enforcement officials, civil servants, local government officials, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, and social workers). The Committee encourages the State party to seek technical assistance from, *inter alia*, the Office of the High Commissioner for Human Rights and UNICEF, in this regard.

D.2. Definition of the Child

23. In light of its previous concluding observations (CRC/C/15/Add.5), the Committee is concerned at the existing very low age of criminal responsibility, which is set at seven years.

24. The Committee recommends the State party to consider raising the age of criminal responsibility.

25. In light of its previous concluding observations (CRC/C/15/Add.5), the Committee is concerned that the disparity between the minimum age for marriage for males and females, which is 16 years for girls and 18 years for boys provided in the 1923 Law on

Marriage Age is discriminatory. The Committee is also concerned about early and forced marriages, primarily in rural areas.

26. The Committee recommends the State party to raise the minimum age for marriage for females to that of males. In addition, the Committee recommends the State party to continue its efforts in respect of public education campaigns to combat early and forced marriages, particularly in rural areas.

27. The Committee is concerned at the discrepancy between the definition of a child contained in article 2 of the 1996 Children's Code as a person under 18 years, and the age of majority set at 21 years in article 44 of the 1948 Civil Law.

28. The Committee recommends the State party to harmonize its legislation in accordance with the Convention in order to avoid the situation where there are effectively two categories of minors: those under 18 years, and those between 18 and 20 years of age.

D.3. General Principles

The right to non-discrimination

29. In light of its previous concluding ob-

servations (CRC/C/15/Add.5), and taking note of the efforts by the State party to address discrimination, including the establishment of a gender unit within the NCCM, as well as the National Council for Women, and the promulgation of Law No.1 of 2000, concerning the regulation of certain rules and procedures relating to litigation in cases of personal status law, the Committee remains concerned by the persistence of discrimination.

i) In particular, the Committee finds that discrimination of girls, and children born out of wedlock under personal status laws (ie. no. 25/1920, no. 25/1929, no. 260/1960, no. 100/1985, no. 77/1943) is incompatible with article 2. Notwithstanding constitutional and other guarantees of equality between the sexes, it considers that discriminatory personal status laws are the entry-point of discrimination against women in society. Moreover, the Committee is concerned that discriminatory social attitudes towards the education of girls, primarily in rural areas, result in their low school enrollment and high drop-out rates, and in early and forced marriages.

ii) The Committee finds that infringement of a child's rights under the Convention as

a result of indirect discrimination, or discrimination against his or her mother, under personal status laws (e.g. in relation to child custody upon separation), is incompatible with article 2. Concerning the 1975 Nationality Law, the Committee is concerned with the negative impact on children of restrictions on the right of an Egyptian woman to pass on her nationality to her child, particularly where she is married to a non-national.

30. In accordance with article 2 of the Convention, the Committee recommends the State party to take effective measures, including enacting or rescinding civil and criminal legislation where necessary, to prevent and eliminate discrimination on grounds of sex and birth in all fields of civil, economic, political, social and cultural life. In this regard, the Committee encourages the State party to consider the practice of other States that have been successful in reconciling fundamental rights with Islamic texts. In concurrence with the findings of the Committee on Economic, Cultural and Social Rights (E/C.12/1/Add.4), the Committee recommends the State party to remove all provisions of the Nationality Law which discriminate against women, and also against children. The Committee recommends the

State party to take all appropriate measures, such as comprehensive public education campaigns, to prevent and combat negative societal attitudes in this regard, particularly within the family; and train members of the legal profession, especially the judiciary, to be gender-sensitive. Religious leaders should be mobilized to support such efforts.

31. In light of its previous concluding observations (CRC/C/15/Add.5), and taking note of efforts by the State party to combat poverty and its negative effects on children, the Committee remains concerned at the large disparities in enjoyment of economic and social rights, particularly health and education, experienced by children living in rural areas, and regions lagging behind in socio-economic development.

32. The Committee recommends the State party to take all necessary measures to ensure that all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, in accordance with article 2. The Committee recommends the State party to prioritize and target resources and social services for children belonging to the most vulnerable groups, especially in areas which lack basic services.

Best interests of the child

33. The Committee is concerned that in all actions concerning children, the general principle of the best interests of the child contained in article 3 of the Convention is not sufficiently taken into consideration, including in matters relating to family law (e.g. decision of custody upon separation in article 20 of Law no. 25/1929 as amended, is determined by the child's age rather than the child's best interests, and is discriminatory).

34. The Committee recommends the State party to review its legislation and administrative measures to ensure that article 3 of the Convention is duly reflected therein and taken into consideration.

Respect for the views of the child

35. Taking note of efforts by the State party, including the holding of a children's parliament, the Committee is concerned that respect for the views of the child remains limited due to traditional societal attitudes towards children in schools, the courts, and especially within the family.

36. The Committee encourages the State party to promote and facilitate within the fam-

ily, the school, the courts, and administrative bodies respect for the views of children, and their participation in all matters affecting them in accordance with article 12 of the Convention. In this regard, the Committee recommends the State party to develop skills-training programmes in community settings for teachers, social workers, and local officials to assist children to express their informed views and opinions, and to have them taken into consideration. The Committee recommends the State party to seek assistance from, *inter alia*, UNICEF.

D.4. Family Environment and Alternative Care

Violence/abuse/neglect/maltreatment

37. In light of articles 19 and 39 of the Convention, the Committee is concerned at the incidence of ill-treatment of children in schools despite its prohibition, and within the family. It is further concerned that domestic violence is a problem in Egypt, and that this has harmful consequences on children.

38. The Committee recommends the State party to take legislative measures to prohibit

all forms of physical and mental violence, including corporal punishment and sexual abuse against children in the family, schools, and care institutions. The Committee recommends that these measures be accompanied by public education campaigns about the negative consequences of ill-treatment of children, and the promotion of positive, non-violent forms of discipline as an alternative to corporal punishment. Programmes for the rehabilitation and reintegration of abused children need to be strengthened. Moreover, adequate procedures and State mechanisms need to be established to: receive complaints in a child-friendly manner; monitor, investigate and prosecute instances of ill-treatment; and ensure that the abused child is not victimised in legal proceedings. The Committee recommends the training of teachers, law enforcement officials, care workers, judges and health professionals in identification, reporting and management of cases of ill-treatment. Attention should be given to addressing and overcoming socio-cultural barriers that inhibit victims from seeking assistance. In concurrence with the Committee on Economic, Social and Cultural Rights, the Committee recommends the State party to take effective measures to combat domestic violence, and criminalize marital rape. The Committee rec-

ommends the State party to seek assistance from, *inter alia*, UNICEF and WHO.

D.5. Basic Health and Welfare

Children with disabilities

39. In light of its previous concluding observations (CRC/C/15/Add.5), the Committee remains concerned with the situation of children with disabilities, particularly that only a very small percentage receive specialized services.

40. The Committee recommends the State party to review existing policies and practice in relation to children with disabilities, taking due regard of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and of the Committee's recommendations adopted on its General Discussion Day on "Children with Disabilities" (CRC/C/69). The Committee recommends the State party to pursue the development of standardised definitions, and terminology relating to disabilities for the purposes of collecting comprehensive data on these children. It encourages the State party

to make greater efforts to promote community-based rehabilitation programmes and inclusive education; to address geographical disparities in the distribution of services (ie. rural areas, and regions such as Upper Egypt); to ensure the provision of services for children under 4 years, as well as severely mentally disabled children. The Committee encourages the State party to undertake greater efforts to make available the necessary resources, and to seek assistance from, *inter alia*, UNICEF, and WHO, and relevant NGOs.

Right to health and healthcare

41. The Committee is concerned with the high incidence of anaemia and parasitic infections of children, particularly in rural areas.

42. The Committee recommends the State party to improve its health infrastructure and continue to cooperate and seek assistance from, *inter alia*, UNICEF and WHO.

43. The Committee is concerned at insufficient information available in relation to adolescent health, such as access to reproductive health services, STD and HIV/AIDS prevention programmes, mental health

counselling services, and substance abuse education.

44. The Committee recommends the State party to undertake a comprehensive study to understand the nature and extent of adolescent health problems, and with the full participation of adolescents, use this as a basis to formulate adolescent health policies and programmes. In light of article 24, the Committee recommends that adolescents have access to and be provided with reproductive health education, and child-friendly counselling and rehabilitation services. The Committee recommends the State party to seek assistance from, *inter alia*, UNICEF, and WHO.

45. Taking note of the Government's 1996 Decision to prohibit female genital mutilation, and the 1997 Ministerial decree banning this practice in Ministry of Health service outlets, as well as various efforts to educate the public about the harms of this practice, including campaigns in the media and in the curricula, the Committee is concerned that the practice is still widespread.

46. The Committee, concurring with the Committee on Economic, Social and Cultural Rights, recommends the State party to

address the issue of female genital mutilation as a matter of priority. In addition, the State party is recommended to design and implement effective education campaigns to combat traditional and family pressures in favour of this practice, particularly among those who are illiterate.

D.6. Education, Leisure and Cultural Activities

Aims of education

47. In light of its previous concluding observations (CRC/C/15/Add.5), and taking note of significant efforts by the State party to improve education coverage, enrollment and retention levels, and the inclusion of the Convention in the school curricula, the Committee remains concerned with the poor quality of education, in general. The Committee is further concerned with the lack of success of literacy programmes for school drop-outs.

48. The Committee encourages the State party to continue its efforts to pursue universal access to education, targeting the girl child and children belonging to the most vulnerable groups. It recommends the State

party to undertake a process of curriculum reform, which stresses the importance of critical thinking and problem-solving skills development. In relation to the literacy classes, the State party is encouraged to study the reasons for their poor success rates, paying attention, *inter alia*, programme content, class scheduling, and negative social perceptions held by young people of attending such classes. The Committee encourages the State party to seek assistance from, *inter alia*, UNICEF, UNESCO and relevant NGOs.

D.7. Special Measures of Protection

Economic exploitation

49. In light of its previous concluding observations (CRC/C/15/Add.5), and taking note of efforts by the State party to address child labour, the Committee remains concerned with this problem. Its main concerns are:

- i) insufficient comprehensive and accurate data available on children working in Egypt;
- ii) regulations governing working hours and

exposure to hazardous conditions for children are either not respected, nor effectively enforced. In particular, that there is no effective inspection and supervision in the private sector, family enterprises, agricultural activities and domestic labour, precisely where child labour in Egypt is concentrated, and in many cases involving hazardous conditions; and

iii) reports that 80% of child labour is concentrated in the agricultural sector. Many of these children are working long hours in dusty environments, without masks or respirators, receiving little or no training on safety precautions for work with toxic pesticides and herbicides. Moreover, seasonal work in agriculture is reportedly performed by children below 12 years in state-run cooperatives (ie. cotton pest management) despite this being contrary to the law.

50. The Committee recommends the State party to establish an effective mechanism to collect disaggregated data of child labour, including violations, to serve as a basis for designing measures, and evaluating progress in this area. The Committee recommends the State party to ensure that the minimum-age

for admission to employment is enforced. Employers should be required to have and produce on demand proof of age of all children working on their premises. The labour inspectorate should be strengthened to ensure effective monitoring and implementation of child labour standards in the private sector, family enterprises, agricultural activities and of domestic labour; and it should be empowered to receive and address complaints of violations. The Committee further recommends the State party to continue its efforts to carry out campaigns to inform, and sensitize the general public, especially parents and children, of work hazards; and to involve and train employers', workers' and civic organizations, government officials, such as labour inspectors and law enforcement officials, and other relevant professionals. The Committee encourages the State party to continue its cooperation with relevant UN agencies, such as the ILO and UNICEF, and NGOs. It recommends the State party to ratify ILO Convention No. 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour.

Commercial sexual exploitation

51. The Committee is concerned at the insufficient data and awareness of the

phenomena of commercial sexual exploitation of children in Egypt.

52. The Committee recommends the State party undertake a national study on the nature and extent of commercial sexual exploitation of children, and that disaggregated data be compiled and kept up to date to serve as a basis for designing measures, and evaluating progress. The Committee recommends the State party to review its legislation and ensure that it criminalizes the sexual exploitation of children, and penalises all those offenders involved, whether local or foreign, while ensuring that the child victims of this practice are not penalised. The Committee recommends the State party to: ensure that domestic laws concerning the sexual exploitation of children be gender neutral; provide civil remedies in the event of violations; ensure that procedures are simplified so that responses are appropriate, timely, child-friendly, and sensitive to victims; include provisions to protect from discrimination and reprisals those who expose violations; and vigorously pursue enforcement. Rehabilitation programmes and shelters should be established for child victims of sexual abuse and exploitation. There is a need to adequately train personnel working with child victims. The Committee recom-

mends the State party to carry out awareness-raising campaigns to sensitize and mobilize the general public on the child's right to physical and mental integrity and safety from sexual exploitation.

Administration of juvenile justice

53. The Committee is concerned that status offences, such as begging and truancy, under article 96 of the Children's Code are in practice criminalized.

Furthermore, the Committee is concerned at the absence of effective, child-friendly, and independent complaints mechanisms for juvenile detainees; and that the right to social rehabilitative measures is not adequately guaranteed.

54. The Committee recommends the State party to periodically review and assess the administration of juvenile justice, particularly the conformity of legislation and practice with articles 37, 39 and 40 of the Convention, as well as other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and the Vienna Guidelines for

Action on Children in the Criminal Justice System. The Committee recommends the State party to repeal status offences, such as begging and truancy; ensure separation from adults in pre-trial detention; establish effective independent complaints mechanisms; and that facilities and programmes for the physical and psychological recovery and social reintegration of juveniles be developed. The Committee recommends the State party to seek assistance from, *inter alia*, the Office of the United Nations High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice, and UNICEF through the Coordination Panel on Juvenile Justice.

D.8 Optional Protocols to the Convention on the Rights of the Child

55. The Committee encourages the State party to ratify and implement the Optional Protocols to the Convention on the Rights of

the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

D.9 Dissemination of the Convention

56. Finally, the Committee recommends that in accordance with article 44, paragraph 6, of the Convention, the second periodic report presented by the State party be made widely available to the public at large and that consideration be given to the publication of the report along with the written answers to the list of issues raised by the Committee, the relevant summary records of the discussion, and the concluding observations adopted thereon by the Committee following its consideration of the report. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.