

On the 40th Anniversary of the Convention against Torture, We once again Call Upon the Egyptian Government to Amend the Definition of Torture in the Penal Code



المركز العربي لاستقلال القضاء والمحاماة
THE ARAB CENTER FOR THE INDEPENDENCE OF
THE JUDICIARY AND THE LEGAL PROFESSION
(ACIJP)



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JUSTICE SUPPORT FOUNDATION (JSF)

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On the 40th anniversary of the International Convention against Torture, **the Justice Support Foundation** affiliated with **the Arab Center for the Independence of the Judiciary and the Legal Profession (ACIJLP)** calls on the Egyptian government to take immediate steps to amend the definition of the crime of torture in Egyptian law to align with Article no. 1 of the international Convention against Torture. The foundation also calls upon the Egyptian government to sign as well the Optional Protocol attached to the Convention in accordance with Article no. 93 of the Egyptian Constitution, which mandates Egypt's commitment to treaties and international agreements it joins and publishes in the Official Gazette, considering them an integral part of national legislation that must be enforced and implemented.

The foundation affirms that forty years after the issuance of this convention, there remains a significant gap between the definition of the crime of torture as outlined in Article no. 1, paragraph 1 of the referenced convention, and the definition of torture as stipulated in Article no. 126 of the Egyptian Penal Code. The latter restricts the criminalization of torture to cases where it is specifically intended to force a confession from the accused. Outside the scope of this definition, of course, is any act that results in severe pain or suffering, whether physical or mental... as well as any torture that is not intended to force the accused to confess. In this case, the crime becomes merely “Cruel Treatment” and does not require, according to the legislator, a punishment exceeding one year’s imprisonment. (Article no. 129 of the Penal Code).

The Foundation reiterates its demands in this regard that the Egyptian legislator take the initiative to amend the provisions of Article no. 126 of the Penal Code by expanding the scope of criminalization to include the accused and the non-accused, and in terms of the purpose or intent behind torture, whether it is to force him to confess or other purposes. Merely inflicting physical or mental harm on the accused, or intimidating him, based on the authority granted to the public employee, is sufficient for the crime of torture to take place.

The Foundation also calls on the Egyptian authorities to accede to the Optional Protocol attached to the Convention, and to amend its legislation in light of this accession and the obligations it imposes on it. It also emphasizes the necessity of intensifying the punishment for the crime of torture defined in Article 126 of the Penal

Code by raising both the minimum and maximum sentences to correspond with the severity of this crime. Additionally, it calls for amending the insufficient penalties for the offense of "Cruel Treatment" outlined in Article no. 129 of the Penal Code, where it is inadequate and disproportionate for perpetrators to be punished with imprisonment for a maximum period of only one year.

It is noteworthy that the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was issued by the United Nations on December 10, 1984, entered into force on June 26, 1987, and Egypt acceded to it in accordance with the provisions of Presidential Resolution No. 154 of 1986.

