

The Human Rights Association for the Assistance of Prisoners (HRAAP) legally registered under number 1820/2003, works towards upgrading the penal systems in Egypt. It also monitors and overlooks the conditions of Egyptian prisons, by offering legal support to prisoners, calling upon authorities to improve prison conditions, encouraging researchers to conduct analytical and applied studies on the prisons' conditions.

The Egyptian prison system still suffers from a primitive policy which regards prisons as places to gather and collect the outlaws, to treat them harshly and to use them as examples to deter others from committing crimes. This approach badly affects the law governing prisons, which is described by harshness in treatment of prisoners, and is in conflict with Egypt's commitment to international conventions and agreements as well as the minimum accepted standard to treat prisoners

The Most Important Negative Features in Egyptian Prisons

First – Healthcare:

The right to proper and adequate healthcare for prisoners is a right guaranteed by international human rights conventions. Nevertheless, it is hardly applicable in Egypt. despite the presence of articles in the Egyptian Prison's Law which guarantee the right to healthcare. For example, Article 33 states that, "In any prison or hard labor prison, there should be a physician or more than one; at least one has to be permanently resident." Also Article 36 of the same law states, "Any convict who is suffering from a life threatening or crippling disease as verified by the prison's doctor will be presented to the Director of the Medical Section in Egyptian prisons who will, with the help of a forensic doctor, look into the decision to release the patient. The release order will be activated following the signature of the General Director of the Prisons Authority and the approval by the General Prosecutor." The administrative authority and the concerned prosecutor are also informed of the release.

Yet, in practice the deterioration of the Egyptian prisons is further exacerbated by the quality of medical services and the lack of medical equipment required for dangerous and advanced diseases that require precise testing and observation. Some Egyptian prisons even lack pharmacies with adequate medical supplies. Some do not have a residing physician. Among the diseases that are spread in Egyptian prisons, the most common are: pulmonary tuberculosis, liver cirrhosis and liver enlargement, stomach ulcers, enlargement of the spleen, cartilaginous illness, the erosion of backbone cartilages., anemia, hearing complications, infectious skin diseases. Moreover, two cases of AIDS have been discovered in the Central Prison of Port Sa'id.

Among the worst examples of the violation of healthcare rights are:

1-Prisoner Ahmed Mohamed Mazloom Al-Sayed:

Mr. Al-Sayed is currently bedridden at the Liman Tora hospital. He was convicted in 2002, under Case No. 14868. His health status is deteriorating as he suffers partial paralysis and kidney nephritis. He also suffers from pus in his kidneys and urine; as well as a fibrous backbone. This all came as a result of medical negligence. His health further deteriorated until his bladder stopped functioning due to the many pebbles in the kidneys..

Thus, HRAAP filed a lawsuit before the Administrative Judiciary Court, urging the authorities to release the patient due to his deteriorating health. On 7 July 2007, the Court issued a release, Verdict No. 1644/61K. The Ministry of Interior appealed against the verdict, even though the Court has rendered its decision. However, since the court's verdict was issued

, the Ministry of Interior refused time and again to release the patient. This prompted us to file two complaints to the Misdemeanor Court against the Minister of Interior and the General Director of the Prisoners Authority. Finally the patient was released on 20 October 2007. On 2 June 2008, HRAAP also filed a re-compensation complaint in the name of Mazloom's mother, Mervat Ismael, which was registered under No. 42943/62K. The decision was postponed until 15 January 2009. We also filed a re-compensation complaint in the name of Mazloom on 2 June 2008. Both complaints were filed to re-compensate the prisoner/patient for the delay of more than a year to implement the court's decision which effectively released him from prison.

Second – The right to communicate with the outside world (correspondence and visits):

Communication with the outside world is an integral part of the rehabilitative process. Article 36 of the Prisons' Law has emphasized that each prisoner has the right to correspondence and visits.. However, reality is different. Barriers to visitation illustrate the difficulty of accessing the outside world for the Egyptian prisoner. The most grave violations to this right are: (1) the recurrent closure of the prison preventing visits with the pretension of security requirements; (2) shortening the duration of both private and personal visits; (3) severe censorship and monitoring of the prisoners' correspondence; (4) and finally not informing the detainees' relatives of the detainee's place of imprisonment. These violations all contravene Article 139 of the Criminal Procedures Law, which states, “The person arrested or detained should be immediately informed of the reason for his arrest or detention. He also has the right to contact whomever he thinks should know about his arrest including a lawyer. Also the detained will be treated as being temporary detained until he is convicted or cleared by a court. Also the detained or one of his relatives has the right to appeal his detention after a period of a month.” Another violation is the policy of “alienation”. This policy is based on deliberately moving the detainees to far away prisons to make it more difficult for their relatives to visit them.

Third – The Right to Education:

Article 29 of the Egyptian Prisons' Law states that there should be a curriculum devised for the detained as a result of the cooperation of the Ministry of Interior and the Ministry of Education. Article 31 of the same law states that the prison's administration is responsible to secure the prisoners' learning process. Thus it is the right of the prisoners to join schools and colleges. It is also their right to either take the necessary exams during their imprisonment. Our reports and rulings of the administrative court have pointed to the fact that the Ministry of Interior continues to violate this right by preventing the distribution of school books to political detainees and preventing them from taking exams due to issues such as security or that their universities lie outside the constituencies of the prisoners detention center. Sometimes the prison's administration receives books for prisoners from their families, but destroy them as a form of an illegal and unjustified punishment.

The Administrative Judiciary Court of Egypt has ruled against the Minister of Interior's decision to prevent some detainees from taking their exams under the pretense of "security warranties." One of these detainees was Mohamed Fathi Mahmoud. He wanted to pursue higher studies yet his prison's administration refused. HRAAP filed a lawsuit, No. 19067/59K, before the State Council, which issued a rightful verdict to enable the prisoner to join university.

Fourth – The Phenomenon of Forced Disappearance

The phenomenon of forced disappearance in Egypt has become a systemic occurrence over the last ten years. The society finds itself unable to deal with it despite the presence of legal injunctions, which are designed to protect citizens. In previous reports, HRAAP highlighted the disappearance of 29 citizens despite their relatives' efforts to try to find them. Also, there are several law suits before the State Council against the Ministry of Interior to locate the disappeared. For example the case concerning Suliman Yassin Abdel Nasser, under Law Suit No. 31337 (1958), tried to locate his son, Nasser Suliman Yassin, after disappearing in 1997. Similarly, the case concerning Mrs. Sham'ah Abdullah Hammam, under Law Suit No. 31340 (1958), attempted to find the whereabouts of her husband, Emad Utaifi Hammam, who disappeared in 1996.

Fifth – Strikes in Egyptian Prisons:

Strikes are among the most important tools prisoners have to protest human rights violations. It is ultimately the only way for prisoners to express their opinion. In spite of the fact that Egypt ratified the International Covenant for Social, Economic and Cultural Rights, which grants the right to conduct strikes, there are not any references under Egyptian law to that right with regard to prisoners. However, in practice, Egyptian prisoners resort to strikes and sit-ins every now and then to protest human rights violations in prisons. The following is a list of the most famous cases of prison strikes:

- (1) Damanhour Prison: Seventy detainees collectively went into a hunger strike in August 2006. They were protesting their detention for 15 months despite court orders to release them. They were referred to the prison's hospital for medical treatment.
- (2) Fayoum Prison: In September 2006 some political detainees went into a hunger strike to protest that they remain detained despite court orders for their release.
- (3) Tora Prison: In light of the suffering and bad treatment of prisoners at Tora, especially for political prisoners, forty prisoners decided to go on hunger strike on 25 November 2006. The prison's administration did not inform the prosecution. Instead, they brutally repressed the strikers by sending them to solitary confinement, sexually assaulted them and threatened them with torture. Thus the prisoners were forced to end their strike on 30 November 2006 .

Sixth – Torture in Places of Detention:

Despite that torture is prohibited in the Egyptian Constitution and by law, in practice it is widely practiced in Egyptian prisons and detention centers. It is hard to prove torturous acts, which leads the perpetrators to get away with it or receive a light verdict. There are three articles in the Egyptian Penal Code that deal with torture: Articles 126, 129 and 282. All of these laws suffer serious shortcomings. Article 126 prohibits the torturing of detainees by forcing a false confession, and to threatening the detainee during arrest. The Article also prohibits brutality by the holders of public offices under the crime of a misdemeanor. Article 129 punishes every public worker to no more than one year and a fine of no more than 200 Egyptian Pounds, who uses brutality to dishonor or cause pain to a detainee using his authority. The punishment for the crime of torture is seriously flawed, given the severity of its practice. Moreover, the law narrowly focuses on physical harm and ignores “moral or mental” harm. As for Article 282, it does not distinguish between individual-to-individual torture and authority-to-individual torture. The law should severely punish the latter instance. In the latter case, public officials especially police officers conduct torture based on the authority granted to them as public officials. Article 126 is the most controversial. It states that, “Each public official who orders the torture of a convict or does it by his own hands in order to extract a confession will be punished by hard labor for three to ten years. If the victim of the torture passes away the torture crime will be treated as intentional murder.” We would like to note that this article stipulates three conditions for the crime of torture: (1) that a convict is

physically harmed, that (2) the person who orders torture or conducts it is a public official, and (3) that the aim behind torture is to extract confession.

The following are among two of the most important cases of torture in Egyptian prisons:

(1) The case of Emad Al Kabeer at the Bulaq Al Dakrur police station:

In this case, an unusual verdict was issued to imprison police captain Islam Nabeeh, Associate Investigator in Bulaq al Dakrur police station, and Police Secretary, Reda Fathi, for four days pending investigation. They were implicated in the torture of Emad Al Kabeer.

2-The case of the actress Habibah:

She was convicted of murdering her husband Atallah Gafar Attallah Mohamed Al Ajami (Qatari) in 1999. However, she was subjected to torture and confessed as a result of this torture. The court sentenced her to ten years in prison. However, after five years, the real perpetrators were caught while they were trying to sell stolen objects from the apartment of Attallah. Habibah was released and the real criminals were tried. Also, Police Officer Yasser al Aqadd, who tortured Habibah in the Haram police station to force her to confess that she killed her husband, was tried. The verdict included the following statement by the court: "The crime committed by the convict is dangerous enough for the perpetrator to get 10 years in prison. However the court will mitigate this punishment to 1 year because the court feels comfortable that the convict will not return to this crime again. The court nevertheless will insist that the convict will be fired from his job as appropriate punishment."

Seventh – Egyptian Prison Laws that Contravene International Conventions:

A. As mentioned above, Article 1 (Repeated) of Law No. 396 (1956), which regulates prisons, states that, ""Every detainee or prisoner, or anyone deprived of his freedom will be placed in one of the prisons mentioned in the previous article or one of the places authorized by the Minister of Interior to be used as detention facility. The right of a visit entry to these prisons is stated in Article 85 and is practiced by the General Prosecutor or whoever acts on his behalf on the condition that he is in the degree of at least a chief prosecutor"

1) This article contravenes Article 42 of the criminal procedures law which states that, "The members of the General Prosecution, and the heads and deputies of the primary courts and the courts of appeal can visit public and central prisons that are in their constituencies. They have the right to make sure of the non existence of an illegally detained detainee; the right to read their records; the right to read the arrest and imprisonment warrants; the right to photocopy them; and the right to talk to any prisoner and listen to his complaints. The administrators of prisons are obliged to assist them in all respect to get the information they seek. "

2) The same article represents a form of complete police hegemony over the judiciary.

3) Inhumane treatment is prevalent in these places. Moreover, juveniles are kept in the same place with adults, which are often packed, putting detainees a further risk of exposure to diseases.

B. Article 13 of the Prisons Regulatory Law stipulates that, "There are three categories of the convicted. The Minister of Interior, based on the recommendation from the General Director of Prisons and by the approval of the General Prosecutor defines the treatment and the living conditions under each category. The internal prison statutes are regarded in the context of placing the prisoners in the categories or when a prisoner moves from a category to another; taking into consideration the age factor and the health situation."

Regarding the living conditions of prisoners, the internal prisons statute states in Article 16 what it calls "comprehensive inspection". Under Article 20 of the same statute, the duties of the prisons psychiatrist are clarified. Article 46 suggests a system for testing the health of a

patient. From the above, it is clear that the law does not adopt a scientific way of testing and classifying the level of security, as called for by the modern penal policies which is fundamental to reform and rehabilitation efforts. Disciplined scientific inspection is required under the consultation of a team of physicians and psychiatrists. Also, the judiciary has to observe the inspection process. Finally there should be particular prisons appropriate for the situation of varied prisoners as hinted to by the explanatory memorandum of the Prisons' Regulatory Law.

Also there is a problem in the disciplinary measures adopted to reform prisons. Article 43 defined the penalties to be applied against prisons as follows:

1. Warning.
2. To deprive the prisoner from some or all the advantages given to him due to his category for a period no longer than 30 days.
3. To delay moving the prisoner to a higher category for a period of maximum six months if he was sentenced to detention or imprisonment and a period of maximum a year, and if he was sentenced to life in prison.
- 4-Downgrading the prisoner to a category less than his category for a period, a maximum of six months, if he was sentenced to detention or imprisonment and a period of maximum a year if he was sentenced to life in prison.
5. Solitary confinement for a maximum of 15 days.
6. Enroll the convict in a special disciplinary team of prisoners for a period that does not exceed 6 months, given an approval by the General Prosecutor. The deprivation of visits and correspondence is a consequence. We call on legislators to cancel the clause about punishing the prisoners with enrolling him in a special disciplinary team due to the blatant violation to the Egyptian Constitution, namely, "the humanness and dignity of man is what guides his true path towards the highest human ideal."

Article 43 therefore contravenes the Egyptian Constitution, which clearly states under Article 42 that, "Any person arrested, detained or his freedom restricted shall be treated in the manner concomitant with the preservation of his dignity. No physical or moral harm is to be inflicted upon him." Article 43 also contravenes the explanatory memorandum of the Prisons' Law, which urges not to humiliate prisoners.