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The Egyptian Center For Housing Rights

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World Organisation Against Torture

The Policy of Forced Eviction and House Demolitions in Egypt: A Form of Cruel, Inhuman or Degrading Treatment or Punishment

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The Egyptian government regularly and deliberately conducts large-scale forced eviction and house demolitions against the poor using bulldozers, Central Security personnel, firearms and, in some cases, tear gas, all on the flimsiest of "law-enforcement" pretexts. In most instances, as a result of such punitive enforcement of State power, the victims are being left in serious destitution and vulnerability. Building up on existing precedents, describing the level of severity attained by the forced evictions and house demolitions, along with the degree of suffering -physical and psychological- brought by these policies, the report concludes that they constitutes a form of cruel, inhuman or degrading treatment, in violation of article 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

1. HOUSE DEMOLITIONS, FORCED EVICTIONS AND ARTICLE 16

In the case *Selçuk and Asker v. Turkey*, the European Court of Human Rights (ECHR) ruled that the destruction of the defendant's home constitutes a form of cruel, inhuman or degrading treatment, in violation of article 3 of the European Convention on Human Rights, which states that "no one shall be subjected to torture or to inhuman or degrading treatment or punishment".

This decision was upheld in two subsequent rulings of the Court: *Bilgin v. Turkey* and *Dulas v. Turkey*.

In determining the occurrence of cruel, inhuman or degrading treatment, the ECHR recalled that it must attain a minimum level of severity, dependent upon the circumstances of the case. In this respect, the ECHR jurisprudence, which has been consistent since 1998 on that particular issue, singles out specific elements allowing to determine the occurrence of cruel, inhuman or degrading treatment in case of house demolitions and forced evictions. These

elements are related to 1)

the manner in which the homes are being destroyed and the evictions are being carried out; 2) the personal circumstances of the victims and 3) the situation in which the victims are being left after the demolitions/evictions took place.

With respect to the manner in which the homes are being destroyed, the ECHR pointed out the following elements as factors causing suffering of sufficient severity to be categorized as inhuman treatment:

the fact that the victims were unprepared (lack of prior notification), premeditation by the State agents, the presence of security forces in the lieu of demolition/eviction, the destruction of the homes and possessions in front of the victims, disrespect for the victims' feelings and inadequate precautions to secure the safety of the victims.

Regarding the personal circumstances of the victims, the ECHR underscores factors of old age and duration of residence in a given place as elements aggravating the severity of the victims' suffering, which is engendered by the house demolitions or forced evictions.

Following this reasoning, other aggravating factors can also be taken into account. Indeed, in pinpointing old age and the duration of residence in a given place, the ECHR defines elements that render the victims more vulnerable to the house demolitions/evictions.

In this respect, poverty can also be considered as an aggravating factor.

Indeed, poverty renders the victims more vulnerable to house demolitions or forced evictions as the victims are simply not in a position to afford alternative housing. In addition the victims often lose all they have in the house demolitions and evictions and are, therefore, being left with nothing.

Finally, the ECHR also takes into account the situation in which the victims are being left after the demolitions/evictions took place.

In this respect, the Court lists the deprivation of livelihood, deprivation of shelter, deprivation of support, the obligation to leave one's village or community, the destitution of the victims and the absence of assistance by the authorities as factors causing suffering of sufficient severity to be categorized as inhuman treatment.

The jurisprudence of the ECHR has been followed by the Committee against Torture (CAT) in its November 2001 Concluding Observations on Israel in which the Committee stated that "Israeli policies on house demolitions may, in certain instances, amount to cruel, inhuman or degrading treatment or punishment (article 16 of the Convention)".

In this respect, it is also interesting to note that the UN Special Rapporteur on torture, in its report on Brazil, looks at two cases of eviction involving the use of force.

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