



# Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General  
13 July 2010

Original: English

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## Committee against Torture

Forty-fourth session

26 April–14 May 2010

### List of issues prior to the submission of the fifth periodic report of Egypt (CAT/C/EGY/5)\*

### Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations

#### Articles 1 and 4

1. With reference to the Committee's previous recommendation (CAT/C/CR/29/4, para.6 (b) on the adoption of a definition of torture which fully corresponds to the definition of article 1, paragraph 1, of the Convention, please provide detailed information on the applicable criminal provisions and penalties for acts of torture.
2. Please provide information on the normative status of the Convention in the State party's legal order. Please provide information, with specific illustrations, on the implementation of article 151 of the State party's Constitution in practice, i.e. to what extent can the Convention be invoked by individuals before judicial instances of the State party?
3. Please also provide information on the criminal provisions applicable when the acts of torture (i) are committed against a person other than an accused person; (ii) do not consist in physical abuse; (iii) are committed by a person who does not present himself/herself as an agent of the State party; and (iv) are committed for purposes other than to coerce a confession. Please also provide information on the provisions of the criminal law and penalties applicable to offences of attempted acts of torture, and to the instigation, consent, complicity in, and acquiescence to, the offence of torture.

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\*The present list of issues was adopted by the Committee at its forty-fourth session, according to the new optional procedure established by the Committee at its thirty-eighth session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic reports. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

4. Please describe steps taken by the State party to ensure that torture is made punishable by appropriate penalties which take into account its grave nature, in accordance with the requirements of article 4, paragraph 2, of the Convention.

## **Article 2\***

5. The Committee, pursuant to its previous Concluding observations (CAT/C/CR/29/4, para.7), and to its annual report of 9 July 1996 (A/51/44, para.180-222), would like to receive information on steps taken by the State party to carry out a thorough investigation into the conduct of the police forces in order to establish the truth or otherwise of the many allegations of acts of torture, bring the persons responsible for those acts before the courts and issue and transmit to the police specific and clear instructions designed to prohibit any act of torture in the future.

6. Recalling the Committee's previous recommendation to eliminate all forms of administrative detention (CAT/C/CR/29/4, para. 6(f)), please comment on reports before the Committee that over 10,000 persons are currently detained administratively under article 3(1) of the Emergency Law (Law No. 162 of 1958), providing for the arrest and detention of criminal suspects, and of "persons who are dangerous to public security and order". Please provide the Committee with statistical data on the current number of persons in administrative detention, disaggregated by origin, age, gender, ethnicity, location and duration of the detention. Please list the charges which have been brought against these persons.

7. Please provide information on steps taken by the State party to set up an independent investigation machinery, including in its composition judges, lawyers and medical doctors, that should efficiently examine all allegations of torture, in order to bring them expeditiously before the courts, as recommended by the Committee in the inquiry procedure undertaken pursuant to article 20 of the Convention (A/51/44, para.221).

8. Please provide information on steps taken by the State party to ensure that all detained persons are afforded, in practice, fundamental legal safeguards from the very outset of detention, including the right of access to a lawyer and a medical doctor of their own choice, as well as the right to inform a relative, to be informed of their rights and to be promptly presented to a judge. Please also indicate whether all persons detained are registered from the very outset of detention.

9. Please provide the Committee with the number of persons who have been subjected to trial before a military court and State security court since the consideration of the State party's previous report in 2002. Please indicate for what crimes these persons were tried. Recalling the Committee's previous recommendation (para.6(i)), and also taking note of reports that the amendments to the Code of Military Justice in 2007 introduced a right of appeal to the Supreme Court for Military Appeals by way of cassation, please specify the scope of the latter court's review of facts and evidence.

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\* The issues raised under article 2 may also arise under other articles of the Convention, including, but not limited to, article 16. As General Comment n°2, paragraph 3, states "The obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter "ill-treatment") under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. (...) In practice, the definitional threshold between ill-treatment and torture is often not clear." See also Chapter V of the same General Comment.

10. Please provide specific information on reports that 26 leading members of the Muslim Brotherhood were arrested between December 2006 and January 2007 without judicial warrant and without being informed of the reasons for their arrest, were later brought before the civilian criminal Court in Cairo and acquitted, but immediately arrested thereafter by security forces. The case was referred to the Supreme Military Court of Haikstep, pursuant to an order of President Mubarak, for retrial, and 14 defendants were sentenced to prison terms ranging from 3 to 7 years in April 2008.
11. Please provide detailed information on the legal basis for:
- (a) The trial of civilians before military jurisdictions;
  - (b) The retrial of individuals by a military court where these persons have been acquitted by a civilian jurisdiction;
  - (c) Information on the Presidential powers to refer a case to a military jurisdiction;
  - (d) Whether, and which, alternatives to pre-trial detention are being implemented.
12. Please provide information on the grounds for the current detention of Mr. Mahmoud Ezzat and 12 other members of the Muslim Brotherhood (arrested in early February 2010) and the charges, if any, which they face.
13. Please provide the Committee with specific information on the measures taken to ensure that the Constitutional amendments to article 179, adopted in March 2007, do not impact on the protection against arbitrary detention. Please inform the Committee of any specific mechanisms available to detainees to challenge the legality of their detention.
14. Referring to the Report of the Special Rapporteur on the promotion and protection of Human Rights while countering terrorism (2009) after his visit to Egypt, please provide the Committee with information on allegations received pertaining to the signature of so-called "declarations of repentance" allegedly used as a bargaining tool, or a condition for the release of terrorist suspects subject to administrative detention.
15. Please provide information on measures taken to ensure and strengthen the independence of the judiciary, and to protect in particular the freedom of association of judges, and prevent harassment and disciplinary proceedings against them.
16. Please provide information on the number of complaints received by the National Council for Human Rights related to violations of the provisions of the Convention, and indicate whether this body has the mandate and capacity to investigate and respond promptly and in full independence to such complaints, in compliance with the Paris principles; please provide relevant statistics, and indicate what specific action has been taken in this regard, and the outcome of any complaints concerning torture and/or ill-treatment. Please also inform the Committee about the measures taken by the State party to strengthen the independence of the National Council.
17. (a) The Committee is aware that the ongoing state of emergency, which has been in place without interruption since 1981, was most recently renewed in May 2010 for another two years. Recalling its previous recommendation (para 6(a)), the Committee further recommends that the State party should definitively repeal the Emergency Law. The Committee would also wish to receive information on the guarantees adopted by the State party to ensure that the state of emergency is in no circumstances used as a justification for acts of torture.
- (b) Please also provide information to the Committee on the counter-terrorism law under preparation, which will reportedly replace the current state of emergency. Please

include information on whether the future law will contain an express safeguard against the use of torture.

18. Please inform the Committee of the specific offences which would fall within the definition of terrorism in article 86 of Law No. 97 of 1992.

19. Please provide information on the applicable legal provisions, if any, which provide that an order from a order cannot be invoked as a justification for torture.

20. Further to the Committees' previous recommendation (CAT/C/CR/29/4, para. 6(j)), please provide updated information on the prevalence of abuse of minor detainees, especially sexual harassment of girls, committed by law-enforcement officials. What specific measures have been taken to prevent, monitor and investigate such instances of abuse? Please also describe the results achieved and provide relevant statistics disaggregated by origin, age, gender, ethnicity and location.

21. Please comment on reports that the welfare of street children and working children is of particular concern. Please provide the Committee with specific statistics on trafficking in the following areas: (1) organ trafficking involving street children; (2) child trafficking associated with illegal migration; (3) child trafficking for domestic labour; and (4) trafficking for sexual exploitation. Please indicate what measures have been taken to prevent, monitor and investigate each of these types of crime.

22. Please provide information on measures taken to adequately prevent, raise awareness of, and combat trafficking, including resources made available for the implementation of these measures. Please also provide statistical data on the incidence of trafficking in women and children, updated since the consideration of the previous report. Statistical data should also be provided on the number of complaints, and on the related investigations, prosecutions, convictions and sanctions, and on compensation provided to victims.

23. Please provide specific information on the content of the draft law on trafficking and the existence and implementation of regional and bilateral memorandums of understanding and/or agreements with other countries on trafficking.

24. Please provide information on the situation of female domestic workers, on the legal framework protecting them and allowing them to bring complaints against employers. Please provide specific information about relevant ongoing investigations, and on efforts made to ensure that all abuses, including ill-treatment, are promptly investigated and punished.

25. Please provide updated information on measures taken to adequately prevent, combat and punish violence against women and children, including domestic violence and violence in the workplace, or in the public sphere, the prevalence of which was recently reported by the Committee on the Elimination of Discrimination against Women to have increased. In this respect, please comment on the fact that violence would appear to be socially legitimized and accompanied by a culture of silence and impunity and that cases of violence are thus underreported. Please also indicate whether the State Party envisages amending provisions in the Penal Code, including articles 17 and 60, which condone acts of violence against women by exempting perpetrators from punishment, or reducing the sentences imposed. How are these provisions interpreted before domestic courts? Please refer to examples of case law.

26. Please provide the Committee with information on measures taken by the State party to tackle the specific issues of marital rape, violence against women in detention centres, and "honour crimes". Please also provide:

(a) Statistical data on the prevalence of such acts of violence, and on the related investigations, prosecutions, and penal sanctions as well as on any compensation provided to victims; and

(b) Updated information on the number of complaints received by the Office for women's complaints, (in the National Council for Women), established in 2001. Please elaborate on the mandate of this Office, in particular with the documenting and investigation of complaints received.

27. Please provide information on further measures taken to adequately prevent, combat and punish female genital mutilation (FGM), including measures aimed at ensuring the effective implementation of Law No. 126 of 2008, and at the prosecution and adequate punishment of perpetrators of this practice.

### **Article 3**

28. Please elaborate on the State party's own acknowledgement (cited in the Report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism of 2009), that it has engaged in "extraordinary renditions" in the context of the fight against terrorism, whereby it transferred individuals to another State for the purpose of interrogation or detention, including through "diplomatic channels".

29. Please provide information on the reported practice of the State party of receiving terrorist suspects, whether Egyptians or foreign nationals, from other countries, including through its acknowledged participation in the United States of America Central Intelligence Agency (CIA) rendition programme.

30. Please indicate whether the State party has relied on "diplomatic assurances" in order to return persons to countries known to practise torture. If so, please provide detailed information on:

(a) The procedures in place for obtaining diplomatic assurances, including at what level are such assurances sought, and what minimum elements are required;

(b) Steps taken to establish a judicial mechanism to monitor and review the sufficiency and appropriateness of diplomatic assurances in any applicable case;

(c) Steps taken to guarantee effective post-return monitoring arrangements;

(d) All cases where diplomatic assurances have been provided since the consideration of the previous report;

(e) Any assurances that have not been honoured, and appropriate action taken in such cases by the State party.

31. Please comment on information from the report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism about the practice of "proxy detention", whereby an indeterminate number of terrorist suspects are held indefinitely in the State party's places of detention at the behest of another Government.

32. Please provide updated information on the current situation of Mr. Mohammed Alzery (see Human Rights Committee Communication No. 1416/2005), and Mr. Ahmed Hussein Mustafa Kamil Agiza (Committee against Torture, Communication No. 233/2003), both nationals of the State party currently serving prison sentences, who were sent back from Sweden to Egypt, and were allegedly subjected to acts of torture. Please indicate whether any investigation aimed at identifying and prosecuting the perpetrators was undertaken, and if so, please describe the outcome of any such investigation.

33. Please provide specific information on reports that large groups of Eritrean nationals were forcibly deported to their home country in December 2008 and, most recently, in January 2009, even though they were reported to face a substantial risk of torture in Eritrea, and noting that the deportation took place despite repeated appeals from the Office of the United Nations High Commissioner for Refugees which had remained largely unsuccessful, to have access to detention centres to determine protection needs.

34. Please provide information on:

(a) Steps taken to ensure that detention of asylum-seekers is used only in exceptional circumstances or as a last resort, and then only for the shortest possible time; in that regard, please provide specific information on the situation and status of refugees and migrants reported to have been apprehended in the Sinai Peninsula, administratively detained, some of whom were tried before military tribunals under the Emergency Law, for illegal entry;

(b) Measures adopted to ensure due process in asylum applications and deportation proceedings, including access to counsel, legal aid and an interpreter;

(c) Steps taken to guarantee access to judicial review for all asylum-seekers and to an entirely independent appeal mechanism to review rejected applications; and

(d) Any agreements signed by the State party in relation to the return of asylum-seekers.

35. Please indicate any requests for extradition received and provide detailed information, including their outcome, on all cases of extradition, return or expulsion since the previous report. Please provide data, disaggregated by age, sex and ethnicity, on:

(a) The number of asylum applications registered;

(b) The number of applicants in detention;

(c) The number of applicants whose application for asylum was accepted;

(d) The number of applicants whose application for asylum was accepted on grounds that they had been tortured or might be tortured if returned to their country of origin;

(e) The number of cases of refoulement or expulsion.

### **Articles 5 and 7**

36. Please indicate whether, since the consideration of the previous report, the State party has rejected, for any reason, any request for extradition by a third State for an individual suspected of having committed an offence of torture, and which is thus initiating its own prosecution as a result. If so, please provide information on the status and outcome of such proceedings.

### **Article 10**

37. With reference to the Committee's previous concluding observations, which recommended that the State party continue the process of training law-enforcement personnel (CAT/C/CR/29/4, para. 6(o)), please include updated information on:

(a) Further educational and training programmes developed and implemented by the State party to ensure that law-enforcement personnel, border guard staff, penitentiary

staff and staff of detention centres, as well as all members of the judiciary and prosecutors are fully aware of the State party's obligations under the Convention;

(b) What specific training, if any, is provided to State Security Investigations (hereinafter "SSI") officers;

(c) Steps taken to ensure adequate training for all medical personnel involved with detainees on the detection of signs of torture and ill-treatment in accordance with international standards, as outlined in the Istanbul Protocol;

(d) Steps taken to develop and implement a methodology to evaluate the implementation of its training/educational programmes, and its effectiveness and impact on the reduction of cases of torture and ill-treatment. Please provide information on the content and implementation of any such methodology as well as on the results of the measures implemented.

## **Article 11**

38. Please provide information on any new interrogation rules, instructions, methods and practices as well as arrangements for custody that may have been introduced since the consideration of the previous periodic report. Please also indicate the frequency with which these are reviewed.

39. Recalling the Committee's previous recommendation (para. 6(d)), please provide information on measures taken to effectively and systematically monitor all places of detention, including those for aliens. Please indicate whether the State party has established a national prevention mechanism, in accordance with the Optional Protocol to the Convention.

40. Specifically concerning facilities run by the SSI, please provide specific information on the modalities, visiting entity, and periodicity for inspection to which they are subject, with particular reference to reports of secret underground cells.

41. Please provide specific follow-up information to the recommendation of the Special Rapporteur on the promotion and protection of human rights while countering terrorism, concerning the mandatory conduct of independent, unrestricted and unannounced inspections of all places of detention, including SSI premises and military institutions involved in counter-terrorism that have been consistently pointed out as irregular detention facilities.

## **Articles 12 and 13**

42. (a) Please comment on numerous documented and concurring reports that torture is systematic in detention centres, police stations and premises of the SSI throughout the country, and that, while hundreds of complaints have been brought to the attention of the Public Prosecutor's Office, it has failed to investigate such complaints, especially when the suspected perpetrators are members of the SSI;

(b) Please provide specific information on the cases of Mr. Abdessadek Zahran Chahine (deceased, allegedly arrested on 5 February 2009), Mr. Magdi Anwar Mar'i (deceased, allegedly arrested on 11 July 2009), Mr. Ahmed Hassan Fouad (deceased, allegedly arrested on 5 November 2006), and Mr. Mohamed Abdulhafid Neboua (deceased, allegedly arrested on 10 July 2007), who were reportedly subjected to acts of torture at the hands of the police, and died as a result. Reports on these cases also state that no enquiry

was carried out by the relevant authorities to investigate these acts, nor any suspect prosecuted.

(c) Please also provide specific information on the case of Mr. Hisham Mahmoud Diab, who was reportedly arrested in May 2001, tortured for 45 consecutive days at the SSI headquarters in Lazoghli, tried by a military court and sentenced to 3 years imprisonment. While he served his sentence, the SSI, using the Emergency Law as justification, reportedly ordered his re-arrest. Mr. Diab allegedly remains in detention.

43. Recalling the Committee's previous recommendation (para. 6(c)), please provide information on measures taken to ensure that all allegations of torture and ill-treatment, including by law-enforcement officials, are promptly, effectively and impartially investigated and that the perpetrators are prosecuted and sentenced in accordance with the gravity of their acts. Please also indicate whether all suspects in *prima facie* cases of torture and ill-treatment are automatically suspended from duties or reassigned during the process of investigation.

44. Please provide statistical data on the number of complaints of alleged torture and ill-treatment, their investigation and prosecution and results of the proceedings, both at the penal and disciplinary levels. The information should be disaggregated by sex, age and ethnicity both for the individual filing the complaint and for the perpetrator of such acts.

#### **Article 14**

45. In accordance with the Committee's previous recommendation on redress (para. 6(n)), please provide details on steps taken to ensure that adequate compensation, redress and appropriate rehabilitation programmes, including medical and psychological assistance, are provided to victims of torture and other ill-treatment, trafficking, domestic and other sexual violence. Please indicate specific redress and compensation measures ordered by the courts and actually provided to victims of torture, or their families.

#### **Article 15**

46. Please indicate steps taken to ensure that, in practice, evidence obtained by torture shall not be invoked as evidence in any proceedings, in accordance with article 15 of the Convention. Please indicate which provision in the Penal Code and/or Code of Criminal Procedure applies in this case, and provide specific illustrations.

#### **Article 16**

47. Please provide updated information on measures taken to improve conditions in all detention facilities, including places of detention for asylum-seekers and psychiatric institutions, to bring them in line with international minimum standards, in particular to address overcrowding and health care. Specific information on the prisons of Wadi Al Gadid, Leman Tora, and Damanhour should be provided. Further to the Human Rights Committee's previous concluding observations, please provide information on the current access of United Nations human rights mechanisms, the International Committee of the Red Cross (ICRC), and non-governmental human rights organizations to places of detention.

48. Please provide information on the material, human and budgetary resources that are made available by the State party to ensure that the conditions of detention are in conformity with minimum international standards. Please provide detailed data on the impact and effectiveness of these measures in improving prison conditions.



49. Please indicate whether the State party uses solitary confinement in detention. If so, please provide the Committee with up-to-date statistics, and describe steps taken to limit the use of solitary confinement to a measure of last resort, for as short a time as possible under strict supervision and with the possibility of judicial review.

50. Please provide detailed information on the application of alternative forms of punishment. This information should include, *inter alia*, which alternative forms of punishment are used and statistics disaggregated by origin, age, gender and ethnicity.

51. Further to joint communications sent by three Special Procedures mandate holders, please provide specific information on the situation of the group of men who were arrested between October 2007 and January 2008, some of whom were subjected to forced anal examination and HIV tests without their consent, chained to their hospital beds, and later charged under article 9 (c) of Law 10/961 for “habitual practice of debauchery”, i.e. related to conduct of a homosexual nature. Please provide updated information on the status of these individuals, and clarify the charges they faced and the sentences imposed, keeping in mind the Committee’s previous recommendation to remove all ambiguity in legislation (para. 6(k)). Please also provide the Committee with information on steps taken to ensure that no individual is persecuted as a result of his/her sexual orientation, and to prevent all degrading treatment of such persons, including invasive body searches and forced medical tests.

52. Please provide information on the availability of separate detention facilities for juvenile offenders and women. Updated information should also be provided on steps taken to improve living conditions in detention facilities for persons under the age of 18.

53. Please indicate steps taken to adequately prevent and combat inter-prisoner violence in places of detention. Please indicate whether, whenever injuries are recorded by a doctor, which are consistent with allegations of inter-prisoner violence, the matter is immediately brought to the attention of the relevant prosecutor and a preliminary investigation is initiated by him. Furthermore, information should be provided on measures taken to prevent, investigate, and prosecute or punish the persons found responsible. Data should also be provided on the impact and effectiveness of these measures in reducing cases of inter-prisoner violence.

54. (a) Recalling the Committee’s previous recommendation to ensure that human rights non-governmental organizations can pursue their activities unhindered (para. 6(m)), please provide the Committee with updated information on the announced future amendments to Law 82 of 2002 on associations, and indicate whether such amendments will alleviate current restrictions on the registration and operation of NGOs and other civil society associations. Please indicate whether civil society is being involved in the drafting process of such amendments.

(b) Please also provide information on steps taken to ensure that all persons, including those monitoring human rights, are protected from any intimidation, unjust imprisonment or violence as a result of their activities, and to ensure the prompt, impartial and effective investigation of such acts. Please provide specific information on the application of article 3 of the Emergency Law (which provides for the possibility for the Minister of Interior to arrest and detain for an indeterminate period any person considered as representing a threat) to the operation of NGOs and other civil society associations.

55. Please provide the Committee with detailed information on the number of offences which carry the death penalty, the number of persons sentenced to death, the number of those executed, and the number of sentences commuted.

56. Please comment on reports that at least 75 people were sentenced to death in June 2009 alone, compared with 87 in the whole of 2008. Please provide information on the

offences for which these persons were sentenced to death, and the number of sentences which will be commuted out of this number.

57. Please elaborate on whether the State party has reopened the investigation into the events of 30 December 2005, so as to clarify the circumstances which led to the death of 27 Sudanese migrants. Please also indicate what measures were adopted to prevent the occurrence of similar events in the future.

58. Please also provide information to the Committee regarding reports that since January 2010, several Palestinian civilians have been killed and others wounded as a result of clashes with the State party's security forces along the border with Gaza. Please inform the Committee as to whether the State party has opened an investigation into these events, and on measures adopted, if any, to prevent the occurrence of similar events in the future.

59. Please provide updated information on measures taken to adequately prevent, combat and punish discrimination against, and ill-treatment of, vulnerable groups, including ethnic and national minorities, and different sexual orientation groups. Statistical data should be provided on the number of related complaints, and on investigations, prosecutions, convictions and sanctions, as well as on compensation provided to victims. What was the impact and effectiveness in reducing cases of such acts?

### **Other issues**

60. Referring to the Committee's previous recommendation as part of its Concluding observations (para. 7), and to its annual report of 9 July 1996, please provide information on the steps thus far taken to implement the Committee's recommendations addressed to the State party in May 1996, in the context of the inquiry procedure provided for in article 20 of the Convention.

61. Keeping in mind the State party's voluntary Pledge to the General Assembly to "further strengthen the national redress mechanisms (...) with a view to enable them to report any complaint and to guard against impunity of any kind", please provide detailed information on steps taken to establish an effective system to compile statistical data relevant to monitoring the implementation of the Convention at the national level, including complaints, investigations, prosecutions and convictions in cases of torture and ill-treatment, trafficking, and domestic, sexual and ethnically motivated violence and discrimination, as well as on compensation and rehabilitation provided to the victims.

62. Please provide information on steps taken to become a party to the Optional Protocol to the Convention. Please also indicate what steps have been taken by the State party to accept the competence of the Committee under articles 21 and 22 of the Convention.

63. Please indicate any changes in the State party's position on withdrawing its reservations, declarations and understandings lodged at the time of ratification of the Convention.

### **General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention**

64. Please provide detailed information on the relevant new developments in the legal and institutional framework within which human rights are promoted and protected at the national level, since the previous periodic report (19 February 2001), including any relevant case law decisions.

65. Please provide detailed relevant information on any new political, administrative and other measures taken to promote and protect human rights at the national level since the previous periodic report, including on any national human rights plans or programmes, and the resources allocated to them, their means, objectives and results.

66. Please provide any other information on new measures and developments undertaken to implement the Convention and the Committee's recommendations since the consideration of the previous periodic report in 2002, including the necessary statistical data, as well as on any developments in the State party which are relevant to the Convention.

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