CHAPTER TWELVE

EGYPT’S COMPLICITY IN TORTURE AND EXTRAORDINARY RENDITIONS

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1. INTRODUCTION

Robert Baer, a CIA agent, exemplified the importance of the Mubarak government for US intelligence when he observed that “If you want serious interrogation you send a prisoner to Jordan, if you want them to be tortured, you send them to Syria. If you want someone to disappear...never to see them again...you send them to Egypt.”1 Hosni Mubarak enjoyed close ties with Western countries enabling the US, Canada, Britain, and Sweden to deport terrorist suspects to a regime that specialised in interrogation methods prohibited by international law.

This chapter examines the implications of the fall of the Egyptian regime of Hosni Mubarak for the prohibition against torture, a jus cogens norm of international law. Torture theorist Darius Rejali argued in a major study, published in 1997, that torture was never really eliminated from democratic countries, so a change of regime in Egypt in favour of a democratic form of governance is no guarantee that torture, an entrenched part of the Egyptian security regime, will necessarily abate. Rejali’s thesis is probed in the light of the revelations of extraordinary renditions of terrorist suspects to Egypt and the implications of the Egyptian revolution for US and Egyptian collaboration in the “war on terror.”

Extraordinary rendition is the practice of transferring terrorist suspects, “with the involvement of the US or its agents, to a foreign State in circumstances that make it more likely than not that the individual will be subjected to torture or cruel, inhuman, or degrading treatment.”2 This

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The definition should be read together with Art 3(1) of the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (UNCAT): “(N)o State Party shall expel, return or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.” The Convention against Torture was an attempt to prohibit torture worldwide by eradicating it from every national judicial system. UNCAT explicitly embargoes the transfer of people to any other country suspected of engaging in torture. The US signed the Convention in October 1984 but since the 1990's has engaged in a programme of kidnappings, renditions and torture with the help of several Middle Eastern countries. After September 11, 2001 (until 2007) three thousand individuals were detained, with US involvement, in detention centres in Egypt, Morocco, Syria and Jordan with arrests and detentions intensifying during the wars in Afghanistan and Iraq. The US State department has repeatedly cited these countries for human rights violations and for torture so suspects were sent there precisely because their methods were well known to US authorities. The US collaborated particularly closely with Egypt to extract information from suspected terrorists about the global terrorist threat and to share the intelligence gleaned. There seemed to be no difference in the belief of the utility of torture by the democratic government of America or the authoritarian regime of Egypt when it was judged that the situation necessitated it.

2. Torture in Egypt

On 25th January 2011, Egyptians took to the streets against their government. After 18 days of widespread public protests president Hosni Mubarak,

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5 Saudi Arabia and Yemen are included in the list of the Parliamentary Briefing Paper. The American State Department accused these states as well for using torture in interrogation. The Briefing paper provides several examples: Ahmed Agiza and Mohammed al-Zari were transferred to Egypt; Hassan Osma Nasr to Cairo, Egypt; Khaled El Masri to Macedonia and then to Afghanistan; Jamal Quasim Aseed Mohammed to Pakistan and then to Jordan; Muhammad Saad Iqbal Madni to Egypt; Maher Arar to Syria and Mamdoud Habib to Egypt. See “Torture by proxy: International law applicable to ‘Extraordinary Renditions’,” 6.