

Tom Lantos Human Rights Commission Hearing

**EGYPT: HUMAN RIGHTS SEVEN YEARS AFTER THE REVOLUTION**

Testimony of  
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Thank you, co-chairmen and members of the Commission, for convening this important hearing and for inviting me to testify. The United States, and of course the people of Egypt, continue to have a stake in a stable, secure, peaceful Egypt. The mass human rights violations that are taking place threaten that future. I have been asked to focus my testimony on the draconian legal framework that the regime of Abdel Fattah al-Sisi is constructing steadily, and on the role of the parliament in that process.

## Background

Nearly seven years after the Tahrir Square uprising inspired Egyptians to go to the streets to demand economic opportunity, freedom, dignity, and social justice, Egypt has descended into military autocracy, in a form even harsher than what existed under the Hosni Mubarak dictatorship. Since the military–led ouster of President Mohamed Morsi in July 2013 and the subsequent ascent of General Abdel Fattah al-Sisi to power, serious human rights abuses and other repression are occurring on a scale unseen in decades. Tens of thousands of citizens have been harassed, threatened, forcibly disappeared, arrested, detained, imprisoned, abused, tortured, and killed for the “crimes” of opposing the government, criticizing its policies, or advocating alternative political visions—and sometimes even for no discernible reason. Victims of the vast crackdown include Islamists, secular pro-democracy and rights activists, secular nationalists, businesspeople, judges, lawyers, members of parliament, journalists, writers, people attending concerts, and even apolitical ordinary Egyptians caught in the dragnet. Young people have been especially affected. And the crackdown has recently expanded to include presidential candidate hopefuls, which puts the credibility of the 2018 presidential elections in serious question.<sup>1</sup>

Under al-Sisi rights and freedoms, even those formally guaranteed by Egypt’s 2014 constitution, have been stripped away. Public space has been sharply curtailed and the public sphere is policed for infractions of the regime’s strict political, moral, and cultural rules. The press and broadcast media are under increasingly tight regime control, and surveillance of the Internet is expanding. Hundreds of media and NGO websites have been blocked in recent months with no official explanation. The state has expanded its powers while making it almost impossible for citizens to hold their rulers accountable. Human rights abusers enjoy impunity. The judiciary, which once had a few pockets of independence and enjoyed some degree of prestige, has become subordinated to the executive branch, leading to a judicial system that upholds repression but offers little hope of justice. Egypt is run by powerful military, security and intelligence leaders who call the shots, behind a façade of civilians in the executive branch and the parliament. Al-Sisi governs Egypt through rule-by-fear instead of the rule of law.

## A New Legal Framework for Repression

Nevertheless, laws are very important to this authoritarian system. Since 2013, Egypt has been steadily constructing a new legal framework for repression. The goal of these laws is to protect those who hold power and to prevent, through punishment and intimidation, any challenges to the system, especially the through the kind of mass civic mobilization and popular activism that was common in Egypt from the Tahrir Square uprising through the ouster of Morsi. Through such laws, the regime seeks to institutionalize repression and to give its actions a veneer of “legality” and

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1. For overviews of the human rights situation in Egypt, see “World Report 2017: Egypt,” Human Rights Watch, <https://www.hrw.org/world-report/2017/country-chapters/egypt> and “Country Reports on Human Rights Practices for 2016: Egypt,” US Department of State, Bureau of Democracy, Human Rights and Labor, <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dclid=265494>

legitimacy before domestic and international audiences, as well as to deflect attention from the difficult security and economic conditions inside the country. The new repressive laws go far beyond even what was on the books during the dictatorship of Mubarak.<sup>2</sup>

These repressive laws were issued first by presidential decree (July 2013 through December 2015, before the parliament was in place), and later approved by the parliament that was elected in fall 2015, which also has passed additional authoritarian legislation since its first session in January 2016.

### The Role of al-Sisi's Parliament

The nearly 600-member parliament was formed through an election process that credible reports describe as manipulated by security and intelligence agencies to ensure the election of only loyal pro-regime figures and as marred by very low turnout. For the first time in many years, Egypt's parliament does not include even token representation of genuine opposition forces; the institution is dominated by different shades of pro-Sisi lawmakers. Some lawmakers themselves even have complained that security and intelligence agencies control parliament from behind the scenes, ending any small degree of independence from the executive branch that it might have once had. One prominent MP, Mohamed Anwar al-Sadat, was expelled after he complained publicly about such interference (and also criticized repressive NGO legislation). In its nearly two years of work, the parliament has passed numerous repressive laws in a rubber-stamp process. When a handful of lawmakers have raised concerns or objections, the parliamentary leadership often has punished them for falling out of line. MPs also use the platform of parliament to justify the growing repression and to denigrate Egyptians and foreigners who criticize the situation inside the country.<sup>3</sup>

### Repressive Laws Enacted Since 2013<sup>4</sup>

- The **Demonstrations Law** (issued by presidential decree in 2013; amended by parliament in 2017). This law makes authorized protests against the government effectively impossible and allows up to five years imprisonment for unauthorized peaceful protestors who “violat[e] general security and public order.” Thousands of young Egyptians have been arrested and jailed under this law.<sup>5</sup>
- Amendments to the **Penal Code** (issued by presidential decree in 2014; ratified by parliament in 2016). These amendments criminalize an undefined set of activities as “harming the nation’s interest” and, in the presumed context of combating terrorism, impose extremely harsh penalties—a minimum sentence of life imprisonment (and the death penalty for government employees) for “receipt of foreign funds with intent to harm national security.” Human rights defenders are being investigated under the Penal Code.

2. See Amr Hamzawy, *Legislating Authoritarianism: Egypt's New Era of Repression*, Carnegie Endowment for International Peace, March 2017, <http://carnegieendowment.org/2017/03/16/legislating-authoritarianism-egypt-s-new-era-of-repression-pub-68285> and Ragab Saad, “All the President’s MPs: The Egyptian Parliament’s Role in Burying Human Rights and Silencing Dissent,” Project on Middle East Democracy (POMED), June 2017, <http://pomed.org/pomed-publications/pomed-snapshot-all-the-presidents-mps-the-egyptian-parliaments-role-in-burying-human-rights-and-silencing-dissent/>

3. *Ibid.*

4. See Hamzawy, *Legislating Authoritarianism*, and Saad, “All the President’s MPs,” and “Egypt’s Antidemocratic Parliament,” Fact Sheet, POMED, October 2017, <http://pomed.org/pomed-publications/fact-sheet-egypts-anti-democratic-parliament/>

5. The Egyptian judiciary has handed down prison sentences for demonstrators under both the Demonstrations Law and the colonial-era Assembly Law (Law No. 10/1914). See “Toward the Emancipation of Egypt: A Study by CIHRS on the Assembly Law,” Cairo Institute for Human Rights Studies, January 2017, <http://www.cihrs.org/?p=19448&lang=en> and Mohamed Ansary, “How Egypt Uses a Colonial-Era Law to Crush Protests,” POMED, March 2017, <http://pomed.org/media-posts/how-egypt-uses-a-colonial-era-law-to-crush-protests/>

- Amendments to the **Military Court Law** (issued by presidential decree in 2014; ratified by parliament in 2016). The amendments give the army broad jurisdiction over vaguely defined “vital institutions,” including roads and other public property, and greatly expand the conditions under which civilians can be tried in military courts.
- The **Anti-Terrorism Law** (issued by presidential decree in 2015; ratified by parliament in 2016). This law defines “terrorism” in sweeping terms, to include speech, writing, and other peaceful dissent that the authorities deem to “harm national unity, social peace, or national security” as well as actions that “obstruct the enforcement of any of the provisions of the Constitution, laws, or regulations.” This law has been used to imprison peaceful activists, including for politically-oriented postings on social media.<sup>6</sup>
- The **Terrorist Entities Law** (issued by presidential decree in 2015; ratified by parliament in 2016). The terrorist entities law allows the public prosecutor to place Egyptians on a “terrorist entities list” under the law’s broad definition of terrorism and without an initial judicial ruling.
- The **NGO Law** (passed by parliament in 2016). This law criminalizes a vast range of legitimate NGO activities, severely limits domestic and foreign funding of NGOs, and increases already-excessive state control over Egyptian and foreign civic organizations’ work. Violations may result in heavy fines and prison sentences.<sup>7</sup> Provisions of this law, including a tax on funding, may violate U.S. law governing assistance to foreign countries, thereby impeding core U.S. foreign assistance programs in Egypt.
- The **Media Entities Law** (passed by parliament in 2016). This law creates three oversight bodies, whose heads are appointed by the President and are tasked with ensuring the conformity of the media to government fiat by censoring content they deem “immoral” or “harmful to national security.” (One oversees the state-owned press, a second regulates state-owned audiovisual entities, and a third regulates all print, broadcast, and digital media, both private and public.)
- Amendments to the **Judicial Authorities Law** (passed by parliament in 2017). These amendments weaken judicial independence by giving the president the role of choosing the heads of top judicial bodies.
- Amendments to the **Emergency Law** (passed by parliament in 2017). These amendments severely restrict citizens’ rights and erode due process under the guise of fighting terrorism.
- The **“Youth Entities” law** (passed by parliament in 2017). This law explicitly bans all political activity, even conversations addressing political topics, in public youth institutions such as sports clubs and recreation centers.
- The **Labor Union law** (passed by parliament in 2017). This law limits the activities of independent labor unions and grants the government broad powers to interfere with their activities.

6. Mahmoud Farouk, “The Wrong Target: Egypt Imprisons Nonviolent Student Activist for Terrorism,” POMED, October 2017, <http://pomed.org/pomed-publications/pomed-snapshot-the-wrong-target-egypt-imprisons-nonviolent-coptic-christian-for-terrorism/>

7. “The Dangers of Egypt’s NGO Law,” POMED, March 2017, <http://pomed.org/pomed-publications/dangers-of-egypts-ngo-law/> and “Egypt’s Campaign against Civil Society,” POMED, September 2017, <http://pomed.org/pomed-publications/fact-sheet-egypts-campaign-against-civil-society/>

According to Egyptian legal experts, many elements of these laws violate Egypt's 2014 constitution as well as obligatory international human rights conventions and resolutions. Article 93 of Egypt's constitution states that Egypt is obliged to respect the international treaties and human rights charters to which it is a signatory. In some cases, security agencies do not even honor the rules and procedures contained in these laws, exceeding their generous legal provisions in the process of committing human rights violations.

### Repressive Legislation Recently Proposed or Pending before Parliament<sup>8</sup>

In addition to the aforementioned laws and amendments, in recent months additional repressive legislation has been proposed, and some bills are now before parliament. They include:

- A bill **criminalizing homosexuality**. For the first time in Egypt, this law would explicitly criminalize same-sex relations. It would impose prison sentences for those convicted of “homosexual acts” as well as for anyone who “supports or promotes the acceptance of LGBT individuals in Egyptian society or the rights of the LGBT community in Egypt.”<sup>9</sup>
- A **press and media regulation bill**. This legislation elaborates the regulations to which media and press organizations will be held by the three supervisory bodies created by the 2016 Media Entities Law, enshrining their influence over private and public media.
- Proposed amendments to the **Nationality Law**. The amendments, approved by the cabinet in September 2017, would enable the state to strip citizenship based on a sweeping definition of who poses a threat to “national security” and “public order.”<sup>10</sup>
- Various bills and amendments of existing laws to **monitor and control activities on the Internet**. Proposed provisions would impose criminal penalties for spreading “false information about the state” online, establish a legal framework for banning websites, and tighten control over social media usage, including by requiring state-issued identification to register with social media websites.

As many analysts have noted, al-Sisi's regime justifies this draconian legislation as required to “fight terrorism” and “protect national security.” The regime is exploiting the genuine terrorist problem in Egypt to silence dissent and to build up its own power. While the parliament is passing such repressive laws at a rapid pace, terrorist incidents are becoming bloodier and bloodier. Most recently, on November 24, a horrific jihadist assault against civilians worshipping in a mosque in North Sinai killed more than 300 people, including at least 27 children, in the most lethal attack by a terrorist group in Egypt's modern history.<sup>11</sup> The regime's determination to crack down on nonviolent opposition diverts energy and resources from the difficult fight against terrorism. Such repression

8. POMED, “Egypt's Antidemocratic Parliament.”

9. “Egypt: Draft Bill to Criminalize Same-Sex Relations amid Unprecedented Homophobic Crackdown,” Amnesty International, November 9, 2017, <https://www.amnesty.org/en/latest/news/2017/11/egypt-draft-bill-to-criminalize-same-sex-relations-amid-unprecedented-homophobic-crackdown/>. Amnesty reports that the draft bill even includes a provision to “shame individuals convicted under the law by publishing their names and sentences in two widely read national newspapers.”

10. Nael Shama, “Stripping Away Identity: The Dangers of a Repressive New Nationality Law in Egypt,” POMED, December 2017, <http://pomed.org/pomed-publications/pomed-snapshot-stripping-away-identity-the-dangers-of-a-repressive-new-nationality-law-in-egypt/>

11. The massacre on August 14, 2013 at Raba'a and Nahda squares in Cairo, in which security forces killed at least 800 protesters, is the most act of civilian death on a single day in Egypt's modern history. See *All According to Plan: The Raba'a Massacre and Mass Killings of Protesters in Egypt*, Human Rights Watch, August 2014, <https://www.hrw.org/report/2014/08/12/all-according-plan/raba-massacre-and-mass-killings-protesters-egypt>

also can breed resentment, anger, and despair among parts of the population, enlarging the pool of disaffected Egyptians from which terrorist groups can recruit and build support.

### Conclusion and Recommendations

In the years following the January 2011 uprising, Egypt's military and security leaders have worried about a recurrence of mass citizen mobilization that would target them. Especially since 2013, they have gone to great lengths to suppress political activism, civil society, independent media, and youth initiatives, while castigating peaceful opposition activists, human rights defenders, and other Egyptians as terrorists, traitors, and foreign agents. Egypt's parliament has played a central role in these efforts with its swift approval of a long list of repressive laws that codify and entrench authoritarian practices.

Egyptian officials often assert that this parliament is a sign of the country's "democratic progress." Instead, it is just further evidence of the evaporation of space for independent political and social activity. Any such characterization obviously is not only highly inaccurate, but even cynical. The reality is that a legislature that excludes genuine opposition voices, that rubber-stamps most authoritarian directives from the executive branch, and that stifles debate even among its own members not only is antidemocratic, but also may pose risks to stability. As Egypt faces complex security, economic, and social challenges, the country needs effective avenues to channel citizen demands to decision-makers and to debate sound policy responses. Instead, the parliament and other such mediating bodies are being hollowed out. As occurred during Mubarak's autocracy, in a country without the rule of law, justice, or safety valves in the form of representative and accountable governing institutions, an eventual eruption of popular unrest only becomes more likely.

Regarding the role of the United States in addressing the issue of repressive legislation and the role of parliament in Egypt, I would like to offer **three suggestions**.

1. U.S. officials, from the executive branch and Congress, should press the Egyptian government on **five laws** in particular. The demonstrations law, the NGO law, and the anti-terrorism law, which in their current forms make the exercise of the fundamental rights of free assembly and expression all but impossible. The **demonstrations law** is responsible for the arrest and imprisonment of thousands of Egyptian young people who simply gathered in public, sometimes for only minutes, to express their political views peacefully. State regulation of public demonstrations is legitimate but should not be designed to deter to nonviolent protests or impose prison sentences. The **NGO law** stifles peaceful civil activity, including the work of Egypt's indigenous human rights community that is crucial to monitor and analyze human rights violations, as well as of development and charitable organizations. The law also hinders the activity of U.S.-funded NGOs operating in Egypt. The UN Special Rapporteur on the Right to Peaceful Assembly and Association has warned that this law threatens to "devastate" Egypt's civil society.<sup>12</sup> The **anti-terrorism law** is not an effective counter-terrorism tool because it is being used not only against actual terrorists but also to punish people who may oppose the government but who have nothing to do with

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12. "Egypt NGO Bill Threatens to 'Devastate' Civil Society, UN Expert Warns," United Nations Office of the High Commissioner for Human Rights, November 23, 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20920>

terrorism. In addition, the United States should press Egypt not to move forward with the **law criminalizing homosexuality**, which violates international norms and would inflict shocking cruelty on Egyptians' actions in their private lives or for their personal beliefs, or with the **amendments to the Nationality Law**, which if enacted would be a powerful blow to Egypt's dissident communities.

2. The United States should **avoid providing assistance** (such as training programs, capacity-building, equipment, study tours, and the like) to this parliament. Such aid not only would be wasteful in the current circumstances, but also would grant a seal of approval to an antidemocratic institution.
3. When delegations of Egyptian MPs visit the United States, American lawmakers and executive branch officials should forthrightly **raise serious concerns about Egypt's human rights crisis** and the country's growing authoritarianism. Keeping silent about the dangerous trajectory of Egypt, the Arab world's most populous country and a longtime U.S. regional partner, ultimately serves neither Egyptian nor U.S. interests.