

Prepared Remarks for the Tom Lantos Human Rights Commission Hearing

Egypt: Human Rights Seven Years After the Revolution

Wednesday, December 6, 2017

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Chairperson McGovern, Chairperson Hultgren:

Thank you for convening this hearing, and for inviting us to speak.

I covered Egypt for Human Rights Watch for most of the 22 years I was with Human Rights Watch. I happened to be in Cairo in late January 2011, when Egypt erupted in a popular uprising engendered in large part by the abusive behavior of President Mubarak's government and security forces, including rampant torture, extrajudicial executions, wretched prison conditions, politicized courts, and arbitrary detention on a large scale. It deeply saddens me that today, under President al-Sisi, Egypt has seen the revival of those same abusive practices, and the impunity that protects the perpetrators, to an extent that exceeds that of former regimes.

My remarks will focus on the machinery of repression and the institutionalization of injustice – how the al-Sisi government has misused arrest powers, torture, detention, and extrajudicial killings to suppress and punish all manner of political protest.

Arrests

Egyptian authorities have not provided information regarding numbers of or reasons for arrests in the period since the July 2013 coup. Human Rights Watch's best estimate, based on government statements and the compilations of reliable independent Egyptian rights organizations, is that between July 2013 and May 2014, the first ten months of military rule, authorities arrested or charged at least 41,000 people, including an estimated 29,000 members or supporters of the Muslim Brotherhood; lawyers and human rights researchers say as many as 26,000 more persons have been arrested since the beginning of 2015. Those

arrested include secular and leftist activists as well as alleged supporters of the Muslim Brotherhood.

The quasi-official National Council for Human Rights annual report of May 2015 concluded that arrests after July 2013 had pushed Egyptian prisons to 160 percent of capacity and police stations to 300 percent of capacity. The number of prisons prior to 2013 was 43; since then government decrees have established 19 new prisons, although some of these appear to be detention facilities attached to police stations – jails rather than prisons – and others are extensions of existing prisons, such as Wadi al-Natroun and Tora. It is not clear how many of these new facilities have been constructed or become operational.

The growing number of persons in custody for political offenses has been compounded by authorities' disregard for the two-year legal limit on **pre-trial detention** by routinely renewing temporary detention orders, leading the respected Egyptian Initiative for Personal Rights (EIPR) to conclude in May 2016 that "pretrial detention has become a tool of political punishment without trial or the right of defense." The EIPR documented 1,464 cases of persons being held pending trial beyond the legal limit, and said many cases involved charges of illegal assembly and membership in an illegal organization.

You are of course familiar with the three-year detention of the Egyptian-American child rights activist **Aya Hegazi** and her Egyptian husband, along with several others. While they were ultimately acquitted of the transparently bogus charges against them, their prolonged incarceration showed the perverse consequences of pre-trial detention practices along with dilatory court proceedings typical in cases involving social and political activists.

When authorities detained **Ismail al-Iskandrani**, on November 29, 2015 one officer told his family that authorities would release him in a few hours. Iskandrani is one of the very few journalists providing independent reporting on Sinai. He remains in jail on renewable 45-day detention orders, on charges of belonging to the Muslim Brotherhood and disseminating "false news" for his reporting on security force abuses in Sinai. Last week al-Iskandrani completed two full years in pre-trial detention.

Alaa Abdel Fattah, a prominent secular opposition activist, received a 15-year prison term, reduced on appeal to five years in February 2015, for organizing a

demonstration two years earlier, in violation of the 2013 decree prohibiting peaceful assembly of more than 10 people without prior Interior Ministry approval. Abdel Fattah and 23 others, including Michele Dunne's Carnegie colleague and former member of parliament **Amr Hamzawy**, and former president **Mohamed Morsi**, face up to five years in prison in a separate case for allegedly defaming the judiciary after they criticized the courts for lack of independence.

Abdel Fattah, on his release, will face a further five years' probation. The probation protocol will likely be like that faced by **Ahmed Maher** and **Mohamed Adel**, founders of the April 6 movement. Maher and Adel left prison in early January after serving three-year sentences for violating the 2013 assembly law, only to be subjected to a highly **abusive and punitive conditions of probation**. According to an Amnesty International examination of probation practices, judges set the period of probation – in their cases three years – but police determine the specific requirements without oversight of any kind. Instead of simply requiring them to report to a police station regularly, police required Maher and Adel to spend up to 12 hours every night, from 6 pm to 6 am, in their respective police stations, leaving Maher unable to resume his profession as a civil engineer or to care for his ill mother, and Adel unable to resume his Cairo University studies or proceed with wedding plans. Violation of probation conditions can result in renewed imprisonment, and has for several activists – or we should say former activists, since these onerous conditions clearly intimidate the affected individuals from resuming their previous activism or expressing their political opinions.

On June 30, 2017 authorities detained **Hossam Khalaf** and his wife **Ola al-Qaradawi**. Ola is the daughter of the Egyptian Islamist cleric Yusuf al-Qaradawi, a prominent critic of the government who has long resided in Qatar. Their families believe their prolonged solitary detention, on allegations of financing terrorist operations and affiliation with an illegal organization, is rooted in the Saudi Arabia-led campaign against the Qatari government. They are in separate prisons and denied visits by family and lawyers, in violation of Egyptian law.

Some arrests are pre-emptive. On the night of April 21, 2016, security forces arrested around 100 persons, including lawyers and journalists as well as political activists, ahead of protests announced for April 25. In January 2016 police

searched apartments and questioned residents in more than 5,000 homes ahead of the January 25 anniversary of the 2011 uprising. The raids, according to some residents, were not targeted but intended to round up anyone fitting the youth demographics of the 2011 protests. As one official at the Interior Ministry's National Security branch told a Reuters reporter at the time, "We have taken several measures to ensure activists don't have breathing space.... Some have been arrested in order to scare the rest."

Human rights defenders have not been exempt. Two weeks ago, on November 18, an Alexandria misdemeanor court ordered the detention of lawyer **Mahienour al-Masry** and four others for six weeks in connection with a June protest, charging them with "participating in an unauthorized gathering" and "insulting the president." They face up to 5 years in prison and five years of probation if convicted. Al-Masry had served jail time earlier for participating in peaceful protests against government policies. Other prominent human rights advocates, including **Malek Adly** of the Egyptian Center for Economic and Social Rights and **Mina Thabet**, with the Egyptian Commission for Rights and Freedoms, have been subjected to arbitrary detention. In May police arrested **Hanan Badr al-Din**, a co-founder of the Association of Families of the Disappeared, when she met with a formerly disappeared person in an effort to get information about her own husband, who had been disappeared since July 2013. Authorities arrested Ibrahim Metwally, a lawyer and co-founder of the same association, on September 10 as he was about to board a flight to Geneva to present the UN Human Rights Council with a file on enforced disappearances in Egypt, including his son Amr, who was "disappeared" four years ago. At this writing both Badr al-Din and Metwally remain in detention.

Recent headlines highlighted the activities of the **General Directorate for Protecting Public Morality** (the "morality police") following the October roundup of more than 75 people for alleged "debauchery" after some had unfurled a "rainbow" banner, a universal symbol of diversity, at a Cairo concert featuring an openly gay Lebanese singer. Underlying this headline event is an escalating Ministry of Interior campaign against perceived **homosexual and transgender persons** – since October 2013 the annual number of arrests for "debauchery" jumped to five times what it had been over the previous decade, from 14 to 66. The ministry campaign features sophisticated entrapment tactics and, following

arrest, forced submission to anal “examinations,” an archaic procedure with no evidentiary value and which the World Medical Association has condemned as form of torture or other cruel, inhuman and degrading treatment or punishment. Last week a Cairo court convicted 14 persons for “inciting debauchery” and “abnormal sexual relations,” Reflecting the state media-induced hysteria over “sexual deviants,” an Egyptian legislator recently introduced a draft “Law on Criminalizing Homosexual Acts” which would clearly violate the rights to free expression, freedom of association, and freedom from discrimination, in addition to the right to privacy.

Children have not been spared in arrest sweeps. A UNICEF representative in January 2015 told a reporter that it had recorded more than 700 cases of children detained in connection with political events, while the Nadeem Center reported an additional 160 children detained a camp of the paramilitary Central Security Forces.

In May 2016 authorities arrested six young men for making a **satiric music video** mocking President al-Sisi. In February 2016 the EIPR said that it had documented numerous cases since the beginning of 2015 of arrests and prosecutions for “**contempt of religion**” involving Sunnis, Shia, Christians and atheists. In one case a court sentence three Coptic Christian students to five years in prison for creating a video mocking practices of the Islamic State armed group – the charges were “defamation and insult” of Islam.

Egypt’s economic crisis – devaluation of the Egyptian Pound by half and a 35 percent inflation rate followed steps taken to secure a \$12 billion International Monetary Fund loan – have seen a rise in worker mobilization. At least 180 workers who advocate or participate in **workplace strikes and sit-ins**, mostly over bonuses and delayed wages, have been arrested over the past two years, in some cases referred to military courts for trial.

Abusive Counterterrorism Measures

The definitions of terrorism in the various decrees and legislation issued since the military coup, such as the law enacted in August 2015, exceed the already over-broad language in Egypt’s penal code, defining a “terrorist entity” as any group that practices or advocates infringements on public order, or “national unity,” or harms the environment, antiquities, or public and private property. These

provisions allow for the arbitrary criminalization of protected rights to free expression and peaceful assembly.

In January a Cairo criminal court, responding to the prosecutor general's request, **summarily designated** some 1,538 Egyptians as "terrorists," immediately imposing a travel ban, asset freeze, and loss of political rights. Prosecutors alleged they had financially assisted the Muslim Brotherhood and/or helped plan attacks on security forces. The individuals learned of their designation after the fact through news reports – they had not been informed of any judicial hearings or opportunity to contest the decision.

In April, following the horrific Islamic State attacks on two churches, President al-Sisi declared a **state of emergency** covering the entire country, not only Sinai, and extended it twice since then. Under the 1958 Emergency Law, security forces have nearly unchecked powers to arrest and detain as well as impose media restrictions – powers that authorities were already exercising with abandon. As Nathan Brown, a Carnegie Endowment senior fellow, wrote, the intent was to communicate to Egyptian society, and especially the state apparatus, "to get on board with the new regime. Egypt's courts, in particular, have been given a stern implicit message: judges shouldn't let strict legalism obstruct their more important role in the fight against terrorism." It specifically allows the government to refer civilians to **State Security Emergency Courts**, which facilitates the expedited prosecutions that al-Sisi has called for. The president can appoint specific judges, including military officers, and there is no appeals process or options for Cassation Court intervention – the Cassation Court has voided many verdicts of the terrorism circuit courts, especially death sentences following mass trials. Scores of cases have already been referred to the State Security Emergency Courts since they were reinstated in October.

Torture

Under President al-Sisi, Egyptian security forces, and particularly the Interior Ministry's National Security Agency, have revived the **routine use of torture during interrogations**. Exacerbating the torture crisis, prosecutors typically ignore complaints of detainees, refusing to order medical examinations or investigate the torture allegations, and sometimes threaten the detainees with additional abuse. Officials at the highest level, including President al-Sisi, have effectively

green-lighted the crime by failing, despite widespread evidence, to authorize independent investigations or otherwise hold perpetrators accountable, making them complicit in crimes that are widespread and systematic – in other words, a crime against humanity.

The Egyptian Coordination for Rights and Freedoms (ECRF), identified 44 individuals who were tortured to death while in police or Ministry of Interior custody between August 2013 and December 2016. Deaths in custody have continued to occur in 2017, but we have not been able to determine the extent to which these were the result of torture, medical neglect, or other reasons. Human Rights Watch in September published a report, based on face-to-face interviews with 19 former detainees and the family of a 20th between 2014 and 2016, showing how National Security Agency officers use torture to coerce confessions, implicate others, or inflict punishment. They described a pattern of abuse aimed at preparing fabricated cases against suspected dissidents, starting with their **warrantless arrest**, subjecting them to **torture during periods of enforced disappearance**. They then present them to prosecutors, who typically pressured suspects to confirm their confessions, which had been prepared by security officials, rather than investigate their allegations of torture.

Between July 2013 and December 2016, prosecutors officially investigated 40 torture allegations, a fraction of the hundreds made. In response to our report, in September a government statement claimed that three officers and four low-ranking security personnel had received sentences following final appeals in torture cases. We found only six cases in which prosecutors won guilty verdicts against Interior Ministry officials; all these verdicts remain on appeal. Only one involved the National Security Agency. In several cases, prosecutors affirmed fraudulent arrest dates provided by NSA officers falsely claiming that arrests occurred a day before presentation to prosecutors, to simulate compliance with the requirement under Egyptian law that suspects be presented to prosecutors within 24 hours of arrest. The **complicity of prosecutors** – a pattern we had earlier documented in the Mubarak years – paints a disturbing picture of complicity in perpetrating and covering up torture at every level of Egyptian law enforcement.

Of the 20 cases we documented, 13 were tortured in National Security offices (six of them in **NSA headquarters** inside the Interior Ministry), five in police stations, and two in both. I should stress that these are only some of many torture cases we have documented since al-Sisi took power. The victims told us that a typical torture session began with an officer shocking them with an electric stun gun while they were stripped, blindfolded and handcuffed, while others beat them with sticks and metal bars. In the absence of satisfactory answers, the shocks moved to more sensitive parts of the body, almost always including genitals, and increased in duration. These sessions were followed by forcing the victims into severe stress positions, such as handcuffing them behind their backs and then suspending them from the edge of a door for periods ranging from minutes to hours, causing excruciating pain and often shoulder dislocation.

These techniques are much the same as we had documented earlier, beginning in 1992. President al-Sisi and other officials acknowledge that torture occurs but assert that these are isolated incidents and that the Public Prosecutor investigates all cases brought to its attention. Our report, along with other work by Human Rights Watch and others, makes clear that such statements are simply not true: torture is widespread and implicitly if not explicitly endorsed by the Office of the Public Prosecutor.

The UN Committee against Torture, the body of independent experts which evaluates state compliance with the UN Convention against Torture in June 2017, following a special inquiry, concluded that the facts it had gathered “lead to the inescapable conclusion that torture is a systematic practice in Egypt.”

The impunity afforded to those responsible for torture is reflected in the efforts under President al-Sisi to silence Egyptians attempting to end the scourge of torture. The **Nadeem Center for the Rehabilitation of Victims of Torture and Violence**, founded in 1993, received a government order in early 2016 to shut its doors for violating the terms of its license, apparently referring to the center’s regular reports on cases of alleged torture in custody. A year later, in early February, authorities backed by a large force of police, physically sealed the group’s premises – the first physical closure of an independent human rights organization.

Negad al-Borai, a prominent defense attorney and human rights advocate, has been called for interrogation on several occasions on charges “broadcasting false information” and “disturbing public security” after his firm sent to President al-Sisi and other officials a draft bill criminalizing torture in police stations and detention facilities. Two judges, **Hisham Raouf** and **Assem Abd al-Gabbar** faced disciplinary hearings before the Supreme Judicial Council for their collaboration with al-Borai.

Arbitrary Justice and Military Trials of Civilians

Many trials violated Egyptian law as well as international standards. In March and April 2014, a criminal court judge in the governorate of Minya handed down the death penalty to more than 1,200 people allegedly involved in two attacks on police that resulted in the death of one officer. The judge did not allow the defendants the right to mount a meaningful defense or ensure that all had access to counsel. The first trial, which resulted in 529 death sentences, lasted less than an hour, and only 74 defendants were present. The court also barred some defense lawyers from attending. The second trial yielded 683 death sentences.

In October 2014, President al-Sisi issued a decree greatly **expanding the jurisdiction of military courts**, including the retroactive referral of hundreds of cases, by decreeing military jurisdiction over all public property, including roads. As of September 2017, cases of at least 15,000 civilians were sent to military courts, including more than 150 children. Convictions often were based solely on the word of national security officers.

One military court is in Al-Galaa Military Camp, the headquarters of the Second Field Army, outside Ismailia. The camp is also the site of several prisons, including Azouly, where, according to a June 2017 report of the Egyptian Commission for Rights and Freedoms, more than a thousand civilians, many of them “disappeared,” have been subjected to torture and ill-treatment in the aftermath of the July 2013 military takeover.

In February 2016, a mass military court trial resulted in sentencing all 116 defendants to life imprisonment, including a 3-year-old boy whose name prosecutors had failed to remove from the list of defendants despite being aware of the error. The case stemmed from a January 2014 protest in Fayoum; after dispersing the protest with live ammunition, killing three people, Interior Ministry

officials recommended charges against a seemingly random number of residents, including a deceased man and another who was out of the country at the time.

Enforced Disappearances and Extrajudicial Executions

In August 2015, the Egyptian Commission for Rights and Freedoms documented 912 forced disappearances since August 2013, 52 of whom remained disappeared when the report appeared. In December 2016, the NCHR, responding to increased reports of enforced disappearances, called on the Ministry of Interior to comply with the criminal procedure code in carrying out arrests and detentions.

National Security Agency officers frequently “disappear” detainees for days or weeks during which time the suspects are tortured to coerce them to sign confessions that are often fabricated by the officers before they are presented to a public prosecutor. Authorities, with the connivance of prosecutors, fraudulently register the date of arrest as the day prior to appearing before the prosecutor, so as to feign compliance with the legal obligation to present a suspect to a prosecutor within 24 hours of arrest.

Human Rights Watch documented two separate incidents in which security officers or armed men operating under their supervision murdered suspects in their custody in incidents staged as shootouts with “terrorists,” in which the murdered men turned out to have been “disappeared” sometime earlier.

One of the incidents occurred in North Sinai in January 2017, when as many as 10 men died. On January 13, the Interior Ministry issued a statement claiming that its counterterrorism forces had tracked suspected Islamic State fighters to an abandoned house in al-Arish earlier that day and were preparing to raid the house when they came under fire and security forces returned fire, killing all 10 inside. The statement identified six of the men by name, alleging they had been involved in killings and attacks on security forces. The ministry subsequently posted a heavily-edited video clip on YouTube showing at least eight commandos approaching a building, two of them firing at a man on the ground outside, and six dead men in civilian dress lying in different interior rooms surrounded by weapons, pools of blood, and bullet-pocked walls. Relatives of three of the men and the lawyer of a fourth told Human Rights Watch that Interior Ministry security forces had arrested the men without warrants the previous October and November, months before the alleged raid, and showed Human Rights Watch

formal inquiries they had made to the Interior Ministry at the time. Two military experts we consulted expressed doubts about the authenticity of the video, particularly the behavior of the purported commandos, who did not indicate that they were under any threat. Separately a forensic expert told us the positioning of the bodies and blood in the house suggested that at least one body had been moved prior to the taping. Relatives and a lawyer who viewed two of the bodies in the morgue said they appeared to have been shot once in the head. Human Rights Watch's inquiries to the Interior Ministry and Prosecutor General received no response, and to our knowledge there has been no investigation of the incident.

A second incident occurred in the North Sinai village al-Tuma, apparently in November 2016. On April 20 a video aired on a TV channel aligned with the Muslim Brotherhood which appeared to show a military intelligence officer directing the brief interrogation and then execution of at least two and as many as eight men by members of a local militia known to work closely with the military. A voice offscreen say, "Not just the head. Not just the head. Enough." We reviewed other videos and photos that appeared to confirm the incident. A separate video posted on a pro-government Facebook page on November 20, 2016 appeared to show the same eight bodies lined up next to the same building that was in the execution video. Six soldiers stand next to the bodies, and one says, "This is the revenge for those who died." Two of the victims, brothers from the Rumailat clan, had reportedly been arrested and "disappeared" on July 18, 2016, months prior to the purported shootout in November.

An earlier incident in Cairo on July 1, 2015 also involved an apparently fake raid to cover up extrajudicial executions of nine mid-level Muslim Brotherhood leaders. The Interior Ministry first said in a Facebook posting it had arrested the nine in a raid. Three hours later a pro-government newspaper website, citing an unnamed "security source," said security forces had "succeeded in eliminating nine Brotherhood leaders." At 8 pm the Interior Ministry issued another statement claiming security forces had come under fire from inside the apartment and had killed all nine in the shootout. Relatives told us that the men had been arrested and fingerprinted prior to their deaths and that their bodies bore signs of torture.

Prison Conditions

The NCHR has reported on severe **prison overcrowding**, as well as harsh conditions for the country's expanding prison population. One commissioner told me that NCHR interventions had helped to get improved prison regulations and better enforcement but only "at the margins."

Human Rights Watch in 2016 documented particularly bad conditions in Cairo's **Scorpion Prison**, a maximum-security facility of some 320 cells in four H-blocks located inside the larger Tora Prison complex. Its estimated 1,000 inmates include many top Muslim Brotherhood leaders, accused Islamic State members, and critics of al-Sisi's government, including journalists. Although under the nominal authority of the Interior Ministry's Prisons Authority Bureau, Scorpion in practice is under the control of the National Security Agency, renowned for its record of torture and abuse. A former Scorpion warden, Maj. Gen. Ibrahim Abd al-Ghaffar, said in a television interview in 2012: "It was designed so that those who go in don't come out unless dead." Many Scorpion inmates are **political prisoners** rather than dangerous criminals.

From our interviews with relatives, lawyers, a former prisoner, and review of medical files and photos, we concluded that staff beat inmates, sometimes severely, isolated them in cramped "discipline" cells, cut off access to families and lawyers, and interfered with access to health care, contributing to the deaths of at least six persons between May and October 2015. The treatment we documented amounted to torture in some cases and clearly violated basic international norms for the treatment of prisoners. Relatives of inmates told us that conditions deteriorated drastically in May 2015, with al-Sisi's appointment of **Magdi Abd al-Ghaffar** as minister of interior. It was after his appointment that the prison prevented families from delivering food and medicines for months at a time, amounting to what the relatives called a "starvation policy" that left inmates ill and gaunt. Prisoners were denied basic hygiene necessities, including soap, toothbrushes and eating utensils, and books and newspapers. Inmates sleep on concrete platforms without mattresses and only some blankets and cardboard for cushioning. In one of the cases of in which the inmate died, prosecutors withheld a burial permission form until his relative agreed not to file a complaint about the lack of access to health care.

On October 24, the State Commissioners' Committee, a body of the State Council, formally agreed to prepare a non-binding legal opinion on the "suitability" of the Scorpion facility, following a complaint by families and lawyers of Scorpion inmates asking a court to shut the facility down.

Scorpion is not the only prison where inhumane conditions prevail. The EIPR earlier this month reported on the complaints families of three defendants in **Al-Abadiyya Prison** confined in cells 1.5 by 2 meters, without ventilation and a bucket as a toilet, and allowed out for only 15 minutes every 24 hours to empty the bucket. The complaint says the prison administration has refused them access to prison doctors despite illnesses, rashes, and eye infections.

In December 2016, when prisoners at **Borg al-Arab** prison in Alexandria protested poor conditions, security forces attacked them with batons, tear gas, and pepper spray, injuring hundreds with burns and fractures, injuring hundreds, relatives and lawyers said. Prison authorities then ransacked the cells, throwing away belongings including clothes, medicines, and hygiene products.

The **treatment of former President Morsi**, who is being held in Molhaq Prison, in the Tora prison complex, provides another window on the appalling treatment of political detainees in Egypt. Morsi has been allowed to receive only three visits from his family and lawyer – the third was in June, after nearly four years. He has complained that the authorities have denied him access to needed treatment and medications for diabetes and other ailments.

In November, Nubian human rights defender **Gamal Surour** died in custody, evidently from medical neglect, after his arrest in connection with peaceful protests demanding the right for Nubians to return to lands from which they had been forcibly displaced in the 1960s.