

The Struggle for Civil Society in Egypt

Testimony of Sam LaHood, Former Egypt Country Director
International Republican Institute

U.S. House Committee on Foreign Affairs
Subcommittee on the Middle East and North Africa

July 24, 2014

Chairman Ros-Lehtinen, Ranking Member Deutch and Members of the Committee, thank you and all the Members of Congress who have supported the nongovernmental organizations (NGO) and our staff who have been caught up in Egypt's crackdown on civil society. Chairman Ros-Lehtinen, I want to thank you personally for the unwavering interest and support you have shown to myself and my colleagues at this table. You have appropriately focused this hearing on the struggles for civil society in Egypt and what a struggle it is today – we here are living proof of some of that struggle.

On June 4, 2013, I was convicted by an Egyptian court to five years prison in Egypt with hard labor – for working to advance democracy as part of a U.S. Government-supported policy and program. Along with 42 of my colleagues from five international organizations, I was found guilty in a trial that was very obviously politically motivated and the result was pre-ordained in a bogus trial. Ultimately, it was part of a broader attempt to stifle and intimidate an Egyptian civil society emboldened by events that began on January 25, 2011. We, the convicted NGO staff, were entangled in an intergovernmental dispute between the United States and Egypt.

We were carrying out U.S. policy and look at the price we paid. This has affected our personal and professional lives.

I am here to present an account of my personal travails in Egypt as a result of actions taken by the Egyptian government against my organization and others seeking to advance basic freedoms. I would like to ask that Congress and more broadly the U.S. Government consider actions that will improve my situation and that of my convicted colleagues residing here in the United States. I ask that the convictions of the 43 NGO staff remain part of the conversations between U.S. and Egyptian governments, with the goal of achieving presidential pardons by Egyptian President Al Sisi. In the wake of events since the removal of former President Morsi, the U.S. Government should remain vigilant in its continued support for NGOs committed to a democratic Egypt.

For those of you who don't know the background, let me tell you the events that unfolded.

Background

The [International Republican Institute](#) (IRI) is a nonprofit, nonpartisan organization, and one of the four core institutes of the [National Endowment for Democracy](#). Our mission is to encourage democracy in places where it is absent, help democracy become more effective where it is in danger, and share best practices where democracy is flourishing.

In 2005, IRI opened its office in Cairo, Egypt. IRI applied for official registration in 2006 with the Ministry of Foreign Affairs. IRI was not asked to close its offices and Egyptian authorities were thoroughly briefed on IRI's work. Between the time of the original submission and the raids on our offices in 2011, IRI received no official response or action to advance or reject our application. In August 2010, I joined IRI to lead our program in Egypt. I personally met with officials from the Ministry of Foreign Affairs on six occasions and regularly shared information about my status in Egypt and IRI activities. At the

request of Egyptian authorities, IRI resubmitted registration paperwork in 2012. Nothing that I or IRI did was secretive and we welcomed interaction from the Egyptian government.

As IRI has repeatedly shown the Egyptian government, our program provides technical skills trainings, based on a wide range of international experiences, on the long-term development of political parties and civil society. IRI's work with Egyptian civil society supports nonpartisan voter education and civic engagement with the goal of enhancing democratic participation and does not interfere with or influence the outcome of elections.

At training seminars before the revolution, Egyptians would commonly note that some of the subject matter or lessons that we shared did not apply in Egypt as it was not an open or free competitive political system, or that the political space was too narrow to implement due to the authoritarian nature of the Mubarak government. The essence of democracy and governance work is the belief that people want to be free to determine their future. IRI believed that Egyptians would someday have an opportunity for the politics of that country to be played in a new and open environment, and that there would be a need for people and organizations to have the skills to operate within this new space. IRI was there to help them prepare for the future when that opening occurred – a future that Egyptians would decide and direct.

January 25, 2011 Revolution

In early January 2011, I was made aware of a Facebook page for a protest being planned for January 25. This social media effort was an Egyptian initiative. By January 23, there were over 80,000 fans of the page – a number that was unheard of prior to that period. Egypt – and Cairo in particular – during the January 25, 2011 revolution was a time and place that I will always remember. Watching those momentous events of a revolution unfolding and watching Egyptian friends demonstrate enormous courage was awe-inspiring. The electricity and euphoria of that moment is what Cairo felt like for weeks after January 25. The energy, hope and idea that anything was possible, everything was going to be different, and that life in Egypt was going to improve seemed to be everywhere and inside everyone.

In the months after President Mubarak stepped down, there was an enormous surge in positive interest by Egyptians in the programs that IRI provides to civil society and political parties. Friends and alumni came knocking on our door. They came looking for more information and assistance on the types of training programs we provide. Activists were eager to learn best practices on election campaigning, organization, advocacy, and voter education. This type of work is no different from the efforts our organization has undertaken in countries around the world and in transitions dating back to 1980s.

During this time, IRI expanded its program in response to this local surge in demand. We opened offices in Alexandria and Luxor to provide better regional support for our seminars. The demand was overwhelming throughout 2011 as new actors moved into the political space that was newly opened. In 2011, IRI trained more than 24,000 individuals under programs funded by U.S. Agency for International Development and U.S. Department of State.

Early Investigation

It was in the summer of 2011 when the first vague sign of a problem appeared in the form of news reports in the Egyptian media of a “secret” cabinet investigation into foreign funding that was reportedly coming into Egypt. These reports named many domestic and international organizations, as well as foreign governments. Elements of the Egyptian media are known to be unreliable and sensational; other elements take direction from state security. The Minister of International Cooperation and Planning at the time, Fayza Aboul Naga, was the leading voice of the allegations and was the public face that drove the actions that led to our trial and convictions. Near the end of the summer, more reports appeared that the cabinet investigation was completed and the file was submitted to the Ministry of Justice. The report, which would become known as the “Fact-Finding Report,” cited a number of organizations including those represented here today. This so-called “Fact Finding Report” was based on innuendo and rumor... everything but facts. In it, Minister Aboul Naga stated that “the American administration has been using the program of U.S. aid to penetrate Egypt and jeopardize its security under the cover of the program of U.S. aid to NGO’s.”

In the midst of this negative press reporting, IRI continued to conduct our program throughout Egypt as the country eagerly prepared for multi-stage parliamentary elections scheduled to begin in November 2011 and conclude in January 2012. IRI, along with the National Democratic Institute (NDI), applied to the Egyptian government to conduct official international election observations. On November 19, 2011, the Egyptian government authorized IRI to be official international election observers and later issued credentials to IRI to observe all three phases of the parliamentary elections. Our accreditation was the first formal written response IRI had ever received from the Egyptian government. At the time, I wrongly interpreted this as a positive sign for IRI’s ability to work in Egypt and the trajectory of our relationship with the Egyptian government.

Raids on NGO Offices

On the bright morning of December 29, our office in Cairo was busy preparing to receive and host our final election observation delegation for the January 3-4, 2012 elections. I received a frantic call from my colleague to say that the police were at our office. By the time I reached the office door, officials from the state prosecutors’ office were walking in, along with more than a dozen heavily armed police and military wearing helmets and carrying AK-47s. For more than seven hours, the authorities questioned everyone present and rifled through our office from top to bottom. They demanded passwords to computers, confiscated boxes of files and documents (including bank statements, financial information, and accounting documents), computers and servers, and all the cash in our office that was to be used for the monthly staff payroll as well as to finance our pending election observation mission. After a very tense and nervous day, they sealed our office with all of its contents, including personal effects, locked inside like a crime scene. Highlights of the confiscated items include more than \$150,000 in cash, numerous computers, files and documents. The raid that occurred on the Cairo office also occurred at IRI offices in

Alexandria and Luxor, as well as on the offices of NDI, Freedom House, International Center for Journalists and Germany's Konrad Adenauer Stiftung. These raids were well-planned and occurred concurrently across the country. Despite all this, IRI and NDI still managed to conduct international election observations for the final round of parliamentary elections.

In the weeks following the raids, there was a flurry of activity by Members of this Committee and many other Members of the U.S. Congress advocating assistance for our organizations. I have especially high praise for members of the executive branch and U.S. Embassy who worked to find a solution. I know that assurances were given by the highest levels of the Egyptian government that this issue would be resolved and that IRI equipment and resources seized in the raids would be returned, our offices would be unsealed and allowed to reopen. Those assurances have not been kept. In fact, from that point on, we descended even deeper into peril. The Egyptian bureaucracy – what is known by average Egyptians as the “deep state” – proceeded at full speed as Egyptian state investigators continued calling our staff in for interrogation. I, personally, spent an entire day at the Ministry of Justice and was questioned for four hours about my work and legal status in Egypt. In all, IRI had 16 employees from Egypt, United States and Europe called in for questioning.

Legal Actions

On January 21, 2012, I was scheduled to leave Egypt on a planned personal trip. It was also hoped that a diminished staff and activity level would help encourage a more constructive atmosphere and help get our organizations and personnel past the dispute with the Egyptian government. Upon swiping my passport when passing through Egyptian passport control, the customs agent paused for a full minute, then confirmed my name and information, and asked me to wait. The agent returned with another customs official who took me out of line and informed me that I could not leave. Needless to say, it is an incredibly unsettling feeling when you are in a foreign country and attempting to depart on an international trip only to be told you cannot leave. I asked the officer what the issue was and she told me she did not know. I asked her why I could not leave and she did not know. I asked if there was anyone who could give me more information and she said no. I asked who I should talk to and she said she did not know. All she could tell me was that I was not allowed to leave Egypt despite having a valid visa that was in good standing. It is a surreal experience to be told you are not allowed to travel, something that happens in authoritarian countries around the world as a tool to intimidate and control people. Neither I nor our local attorney had been informed that the investigative authorities had placed travel restrictions on me and other NGO staff.

In the context of an on-going legal action and prohibition on departing the country, along with an Egyptian government-sponsored media campaign against NGOs that played to the worst xenophobic fears of Egyptians, concerns about the safety of the international NGO staff became justified. No one knew what could happen next. As a consequence, on January 28, 2012, IRI staff were invited by the U.S. Ambassador and other Ambassadors to stay at their respective embassies. Further, the public attacks against IRI and other NGOs, including the release of the names of IRI staff in print, broadcast and online media, had

consequences for IRI's Egyptian staff, who were ostracized and became the target of harassment within their respective communities. In the ensuing weeks when I, along with my colleagues, stayed in our respective embassies, there was pressure on the Egyptian government from the Obama Administration and Members of Congress to find a resolution.

Following referral of the Egyptian investigating judges' report to judicial authorities, an initial, procedural hearing was held on February 26, 2012 that officially started our trial. The hearing was marred by chaos and courtroom insecurity due to protests in and around the Cairo criminal courthouse. Shortly after the hearing and an agreement to post bail for non-Egyptian staff at a cost of nearly \$331,208 per person, the head of the Appeals Court authorized the lifting of travel restrictions. With assistance from the U.S. Embassy, myself and the other remaining international staff were flown out of Egypt on March 2, 2012. Even though I stood safely on U.S. soil, all 43 of us waited nearly one and a half years for a resolution to the trial as 11 additional painstaking courtroom hearings proceeded – hearings that our Egyptian staff attended where they were put into a courtroom cage and covered by media for national television news stories.

Throughout the investigation and trial, Egyptian authorities used benign technicalities to bring legal endorsement to outrageous allegations. In my case, it was that my organization did not have official registration, never mind that we had properly applied and worked with Egyptian authorities on our registration, and were given accreditation to be international election observers in the 2011 parliamentary elections. These technical charges were accompanied by a smear campaign in Egypt's yellow press intended to stir suspicion and tarnish the reputations of the organizations and individuals charged. In her official testimony to investigators about our organizations, Minister Aboul Naga used similar arguments that we saw in the media when she stated that “the January 25 Revolution took America by surprise...thus, the USA employed all its capacities to contain the developments and steer them towards serving US and Israeli interests. Evidence indicates an unequivocal desire and persistence to thwart any attempt at Egypt's progress as a modern democratic country with a strong economy since that will pose a threat to Israel and American interests,” and, “There were American articles and footage of American shows proving that these organizations worked in coordination with the CIA.” That a minister in the Egyptian government – and the one who is tasked with coordinating American economic aid – said this under oath in an official legal setting against us is as astounding as it is outrageous.

I would like to additionally note a few key points that emanated from the 12 proceedings over the course of nearly a year and a half that ended in the convictions of 43 innocent persons. The first is that the Egyptian government does not respect the rule of law. IRI's lawyers made a clear case that the Institute acted within the parameters of Egypt's standing NGO law, otherwise known as Law 84, the Law of Associations. Law 84 provides that foreign organizations need to request permission to conduct activities that would normally be conducted by Egyptian associations or civil institutions. It further provides, in Article 6, that requests to obtain permission are legally effective if 60 days have passed without any expressed objection to the request. The law makes no reference to a “license.” IRI submitted its request to establish operations in 2006 with all necessary documents for

registration. The attorneys noted this legal point to the court and presented evidence that registration paperwork had been submitted without any response. Due to the Egyptian government's inaction, and consistent with Law 84, IRI had obtained permission to conduct activities. In addition, the High Elections Commission (which supervised the 2011 parliamentary elections) authorized IRI employees to serve in an official capacity as election monitors in Egypt, affirming the position that legally IRI had been permitted to work in Egypt.

In its June 4, 2013, verdict, the Cairo Criminal Court acknowledged that the law does have a stipulation that, if 60 days pass without government permission, an organization had de facto permission. But the court ignored its own recognition of this and concluded that IRI staff had been working illegally nonetheless.

Furthermore, our lawyers offered clear evidence that this case was originally brought about because of a dispute between the governments of Egypt and the United States related to democracy assistance funding in the wake of January 2011 revolution. In short, a political conflict had emerged over the use of American economic assistance to Egypt, with Egypt insisting that the funding not be directed to organizations working on democracy.

There was overwhelming evidence presented by the IRI legal defense and the other defense teams showing the political, rather than criminal, nature of the dispute. In April 2012, INTERPOL denied Egypt's request to issue Red Notices (international wanted persons alerts) for 15 individuals connected to the case. The INTERPOL statement specifically noted Article 3 of its [INTERPOL'S] Constitution as the basis for rejecting the Government of Egypt's request: "it is strictly forbidden for the organization to undertake any intervention or activities of a political, military, religious or racial character." Additionally, a prosecution witness – when asked in court why previous action had not been taken against foreign organizations such as IRI – stated "for political considerations and the impact on the economic and military assistance programs." Numerous U.S. Government officials, including Secretary of State John Kerry and the White House National Security Council spokesman, made public statements attesting to the political nature of the trial. In short, my life and the lives of 42 colleagues were turned upside down over a political dispute, one in which Egypt objected to the U.S. values of freedom and democracy.

Impact of the Convictions

Since our convictions in a Cairo court last June, the full implications of the guilty verdicts are still emerging. Under Egyptian law, I am a felon; it is unclear whether that applies in the United States, so I need to read the fine print when I apply for a loan or sign a rental agreement, visa or job application. In applying for life insurance, my broker believed he was obligated to include my conviction in my application and that we could explain the unique circumstances and find an equitable solution. My broker contacted 13 of the top companies in the United States and only one indicated they wanted more information about my case. My broker was encouraged that we got a positive response, but was concerned about the ramification of providing detailed information about my verdict to the company for fear that it might enter into my permanent record. I am still waiting for the

Virginia State Board of Elections to tell me whether I am eligible to vote. In Virginia, the law is vague and says that convicted felons can only vote once they have completed their sentence. Fortunately, I am about to officially relocate my residence to Maryland where the state law is more explicit to stipulate that felons who were convicted in a municipal, state or federal court are ineligible to vote, so it is not an issue for me there. For a lawyer to be admitted to the bar, to be a stock broker, real estate agent, a teacher, or sell insurance, you need to have a clean record. Every time I fill out an application or questionnaire, I will be on the lookout for the question "Have you ever been convicted of a crime?" and will need to think carefully about my answer.

My ability to travel internationally is another question mark that hangs over my head. Clearly, I cannot travel to Egypt, but there are at least another dozen countries nearby that have close ties to Egypt. Canada and a number of European countries have said they do not recognize the verdict and have condemned it, but others are less clear. If I were to travel to places in Africa or Asia, how confident can I be that I will not run into legal trouble and be put into proceedings for possible extradition to Egypt, and how do I assess that risk?

But I know that my personal hardship *pales* in comparison to the hardship of others. Before I was put on trial in Egypt, I was fortunate to be offered temporary residence in the U.S. Embassy with the other accused Americans. I slept on an air mattress for a couple weeks in an auditorium on the Embassy grounds. I never faced the full humiliation of standing in a cage as is the custom for defendants in an Egyptian courtroom, nor did I spend even one day in an overcrowded Egyptian jail cell. Some of my convicted Egyptian colleagues have no option to return home without facing jail time. They are now refugees. They must choose prison or life in exile with the prospect of never seeing their home, family and friends again. Others have lost personal relationships and work opportunities. All of us have been impacted and had the course of our careers and lives altered.

It seems ludicrous to think that for working to advance democracy in Egypt, I would be rewarded with a jail term, but look no further than the three journalists from Al Jazeera who are currently serving seven and ten year jail terms for doing their jobs as journalists. Although I do not know Peter Greste, Mohamad Fahmy or Baher Mohamed well, I know that they were equally innocent of the ludicrous charges that they were put on trial for as those of us here today. If not for the enormous amount of attention focused on our plight that secured my ability to leave Egypt, I am sure I would be serving a five year jail sentence in Egypt right now. I am eternally grateful to the efforts that Members of Congress, U.S. Embassy staff and Obama Administration officials exerted to enable me to depart Egypt.

Egypt Today

I believe that the case against me and my colleagues here was part of a first step of the Mubarak-era old guard and security services to reassert control in Egypt and shrink the space available for political and civil society actors. Mubarak regime appointees who targeted our groups for democracy assistance in Egypt manipulated the bureaucratic machinery for their own ends. Many of these same persons, who constitute Egypt's deep state, have returned fully empowered. Whether rounding up political prisoners or putting

journalists on trial, Egypt's deep state – led by individuals in the Ministry of Interior, state security and other bureaucratic entities – is intent on controlling opposition in political groups, civil society and media through intimidation and repression.

We can see parallels between the rhetoric used against the 43 of us convicted in the NGO trial and that being utilized currently in Egypt. I had been smeared in public for the most ludicrous accusations of advancing Israeli interests, seeking to break up Egypt as a country, and working against the aims of the Egyptian revolution. In an equally absurd parallel, the Al Jazeera journalists recently convicted are accused of being terrorists and writing false stories. Egypt's draconian protest law has been used to justify the arrest and convictions of key revolutionary personalities like Ahmed Maher, Mohamed Adel and Ahmed Douma. Recently, the judiciary issued mass convictions and death penalties against hundreds of people – a process that certainly does not appear to reflect a rule-of-law based judicial system. It would be comical except this is real life, and the accusations and convictions have real consequences for the individuals involved.

The outlook for democratic space is not encouraging as evidenced by the latest draft of the NGO law. In June, the Ministry of Social Solidarity presented a draft law replacing the 2002 code regulating the activities of NGOs. The latest in a series of government attempts to reform the country's current NGO law, the proposed Law on Associations and Civil Institutions represents a return to the Mubarak-era policy of stifling activities of organizations engaged in social and political activism, and is clearly an attempt to restrain activities aimed at advancing democratic reforms in the country. If approved, the draft law will deal a serious blow to the independence of Egypt's NGO community and public sphere, and subordinate such organizations to the country's security establishment.

In its current form, the draft law recycles much of the same language as the 2002 law. It allows for the dissolution of NGOs on vague premises, including if their "real purposes" are directed toward "any activity that calls for racism or hate or discrimination between citizens on the basis of gender, origin, color, language, religion or creed, disability, or other basis in violation of the Constitution and the law." Similarly, the draft appears to limit associations' activities to only social welfare and development, and prohibits establishing organizations that "threaten national unity, public order, public morals, or call for discrimination between citizens based on sex, origin, color, religion, language or belief." With respect to foreign NGOs, the draft law provides for broad authority to reject or revoke the registration of such organizations, including on the nebulous basis that "the activities of the foreign CSOs do not meet the needs of Egyptian Community."

Though a revolution began in 2011 which broke the barrier of fear among civic activists, their activities are now being increasingly stifled by a regime that is attempting to put the genie back in the bottle. Since the January 25 revolution, Egyptian attitudes of what they want and expect from their lives and their government have been reset. I still think that if nothing else has changed in Egypt, the revolution changed attitudes and expectations. Since the revolution began, Egypt has been a wellspring of promise and disappointment to Egyptians, as well as to friends of Egypt around the world. Change is not always linear, but it is always hard and always a struggle.

IRI continues to partner with those Egyptians who want to build a more democratic and open society. We hope that the Egyptian government will soon make that possible.

Looking Forward

The same court that made a mockery of justice unfortunately not only has the power to punish Americans in their country but – unless action is taken – in our country, too. Do we really want to tell authoritarian governments that they have the power to affect the lives and prospects of innocent Americans?

Going forward, there are a number of things that the U.S. Government should consider to remedy the issues I have discussed and redirect efforts to move Egypt toward a more democratic path.

The U.S. Congress can statutorily affirm that the convictions of the 43 NGO staff are not recognized under U.S. law and were politically motivated. This would remove the legal question mark over our heads and the frustration of trying to determine, under 50 separate State jurisdictions, whether the convictions affect our ability to conduct routine everyday business.

The U.S. Government should continue to advocate for presidential pardons by the Egyptian President for the 43 NGO staff. Pardons would substantially alleviate the issues we face as individuals in our ability to travel, work and live full lives.

Within the U.S. Government, there should be a single point of contact in the interagency process who is tasked to find a solution to our case, meeting regularly with the individuals affected, keeping us informed about the advocacy taking place and sharing information.

The U.S. Government should assess its policy towards Egypt given the changing landscape. The U.S. Government should remain focused on the long-term goals and values that lead us to support people around the world who bravely stand up to advance freedom and human rights. The U.S. Government should not downgrade support for Egyptian or international civil society organizations like the ones here today – to do so would abandon our partners in Egypt as well as the values for which the United States stands.

There are many Egyptians who continue to be arrested and thrown in jail on trumped up charges who are guilty of nothing more than wanting a democratic future for their country. I would urge that the United States continues to support those committed to advocating for freedom and democracy.

Thank you.