



The Tahrir Institute
for Middle East Policy

Written Testimony of

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Chairman Ros-Lehtinen, Ranking Member Deutch, and members of the Subcommittee, thank you for holding this important hearing to discuss the current human rights and security situation in Egypt since the overthrow of former President Mohamed Morsi in 2013.

Four days ago, on May 16, ousted President Mohamed Morsi and more than one hundred others were sentenced to death for charges of conspiring with foreign militants to free imprisoned Islamists.¹ The same day, three Egyptian judges were shot dead in North Sinai² and a policeman was killed on the outskirts of Cairo. The incidents of that day are notable in that they serve as examples of the continuing instability that Egypt faces.

Since the days of hope and inspiration following the January 25, 2011, revolution, Egypt has experienced several waves of instability, which come with many inherent challenges. More than four years after the revolution, these challenges have prevented real, tangible, and significant changes from taking place in Egypt. Unfortunately, in the minds of many, these challenges have also reinforced a false dichotomy between economic stability and security on one hand and democracy and human rights on the other.

History tells us that this assumption is flawed: Egypt, for the longest time, was considered the most stable country in the region and for that reason President Hosni Mubarak was supported for three decades, only to be toppled in only 18 days of popular protests. The 2011 uprisings sent a clear message that there is no enduring stability in the absence of equality, freedom, and democracy. It is clear that Egypt's domestic affairs cannot be ignored or viewed in isolation from regional geopolitical developments and the international policies that seek to address them.

Missing this clear message, international policymakers seem to increasingly accept an approach toward Egypt that prioritizes short-term stability over long-term, sustainable change. Four years after the Arab Spring, a regional landscape dominated by instability, chaos, violence, and the threat of imminent danger that could soon spill over to the rest of the world has created pressure for rapid response—but too often this response comes at the expense of proactive and long-term policy planning. This testimony aims to clarify the current situation in Egypt, the main challenges facing the country, and how the United States can effectively support sustainable progress in Egypt.

The periods following the downfall of Mubarak in 2011 and then of Morsi in 2013 saw moments of instability and insecurity that have provided a fertile environment for the proliferation of security threats in Egypt. The influx of weapons from neighboring Libya, mounting frustrations with leadership and governance, and the ideological capital of transnational jihadism (particularly the rise of the Islamic State since 2011) have all contributed to the rise of terrorism in Egypt.

While Egypt has a clear and pressing need to confront this security threat, an accountable and professional security sector and an independent and impartial judicial system that can be trusted to mete out justice in an even-handed manner must be the foundations of its efforts. The January 25 revolution was triggered by many forms of injustice, primary among them police abuse and brutality. However, throughout the past four years, no systematic approach has been taken to hold those who commit violations accountable or to embark on serious attempt toward police reform. As a result, violations remain numerous.

¹ Mohammed Morsi, Egypt's ex-leader, sentenced to death," BBC (May 16, 2015), *available at* <http://www.bbc.com/news/world-middle-east-32763215>.

² Lizzie Dearden, "Egyptian judges shot dead in Sinai hours after former president Mohamed Morsi sentenced to death," THE INDEPENDENT (May 17, 2015), *available at* <http://www.independent.co.uk/news/world/africa/three-egyptian-judges-shot-dead-in-sinai-hours-after-mohamed-morsi-sentenced-to-death-10255067.html>.

Effective action by a competent security force cannot be the sole pillar of successful policy to counter security threats in Egypt. When the country faced a wave of terrorism in the 1990s, the state responded with hard-nosed tactics, leaving a wake of repressive policies that ultimately created more grievances than they solved. To avoid the mistakes of the past, Egypt and its international partners have an opportunity to create a lasting stability by enacting policies that consider freedom and democratic development an integral component of security, rather than an obstacle to it.

The Deterioration of Egypt's Security since 2011

In 2012, Egypt saw 41 acts of terror; in 2013 and 2014, the annual count rose to over 330. This year, from January to April 2015 alone, there have already been 442 discrete acts of terror on Egyptian soil. During this time period, we at the Tahrir Institute for Middle East Policy (TIMEP) have documented several trends in the location and nature of attacks. Increasingly, the threat is no longer isolated to the remote and sparsely populated Sinai Peninsula. While nearly all attacks before 2014 occurred in the North Sinai province on Egypt's eastern border with Israel, in the past four months, attacks in this area have accounted for only 31% of all attacks, with Greater Cairo accounting for nearly 20%.

Attacks are also becoming deadlier and civilians are affected by attacks more than ever. The two deadliest months in terms of terror attacks in the past four years were January and April 2015, and each of the first four months of 2015 saw more attacks with civilian casualties than in any other month during the past five years.

Not only is the threat evolving in terms of the number and nature of attacks, but the number and character of the violent actors is changing as well. At the time of cementing its November announcement of allegiance to the Islamic State, Ansar Bayt al-Maqdis refined its propaganda, appearing on social media for the first time and releasing video-recorded executions in the style of its counterparts in Iraq and Syria. The group began to carry out Islamic State-style beheadings. Also, its tactics became more sophisticated, leading to large-scale, coordinated attacks in July, October, and January, which continue today.

In the rest of the country, smaller and sporadic shootings have morphed into targeted assassinations and attacks involving the use of improvised explosive devices, many of which have been carried out by a new coalition of groups that call themselves the Allied Popular Resistance Movement. Groups operating under this banner do not espouse the same jihadist ideology as their analogues; rather, they employ a language of revenge and retribution for those who support a state leadership that they view as illegitimate. They target police, judges, and businesses in order to carry out a violent version of what they call justice.

In the Western Desert region, Egypt's porous border with Libya has caused significant security problems for the country since the downfall of Muammar Qaddafi in 2011. The difficulty in adequately securing a long desert border has allowed for freer flows of arms, and, in some cases, militants into and out of Egypt. In February 2015, a United Nations panel of experts concluded that "Egypt continues to be among the primary destinations for Libyan weapons."³

Facing few limitations, Egypt's terror groups and their regional counterparts continue to successfully expand online, spreading their propaganda and recruiting new members. The Islamic State has been especially successful in utilizing the internet for recruitment and the dissemination of its terrorist narrative.

³ United Nations, Security Council, *Final report of the Panel of Experts established pursuant to resolution 1973 (2011)*, S/2015/128 (23 February 2015), available at http://www.un.org/ga/search/view_doc.asp?symbol=S/2015/128.

While the exact number is unknown, many Egyptians have traveled to fight under the Islamic State banner in Iraq, Syria, and Libya, and returned home with new knowledge and experience.

As J.M. Berger of the Brookings Institution noted in his recent testimony before the Senate Committee on Homeland Security & Governmental Affairs, the success of terror groups stems in part from their advanced technical capabilities, messaging skills, and in their ability to take advantage of the inter-connectivity of social media.⁴ By using social media to spread propaganda and connect to potential recruits, terror groups have been able to provide social context and a validation of beliefs for would-be terrorists, allowing them to easily become part of a group and making them more likely to mobilize in the name of IS. Because of its size, IS can afford to have several thousand members tweeting several times a day and can offer two or three recruiters for each potential recruit. Although it may be used nefariously, the potential for connectivity has also been used for constructive political means; many positive policy changes have been triggered by public pressure channeled through social media campaigns, and in this way, social media represents an effective medium for accountability.

Considering these security trends and challenges facing Egypt, we at TIMEP acknowledge the necessity of the Obama administration's recent decision to overhaul its aid relationship with Egypt in a way that more appropriately focuses on security and terrorism. By ending Egypt's cash flow financing in fiscal year 2018 and directing U.S.-funded military aid for Egypt toward counterterrorism and border security equipment and training, the United States will be better positioned to assist Egypt in a way that reflects both countries' shared security interests. However, the United States must ensure that any assistance provided for security or counterterrorism purposes to Egypt will not be used irresponsibly or allow for crackdown on peaceful opposition.

At the same time, efforts to tackle Egypt's immediate security threats must be accompanied by a long-term strategy to meaningfully address Egypt's endemic social, economic, and political problems. While Egypt has not yet succumbed to widespread violence and insecurity in the way that other countries in the region have, it is not immune to that fate. The United States must work with leadership in Egypt to reform its human rights practices, continue to support education initiatives, and implement the democratic reforms for which so many Egyptians have risked—and lost—their lives.

Structural Reforms Needed to Achieve Security in Egypt

Internally, Egypt needs to urgently address the following longstanding, structural challenges that have undermined civil and political rights:

- **Enhance the rule of law and open up political space**

At the crux of any reform that will adequately address the aforementioned concerns lies a need for trust in the rule of law, a fully-functioning and effective elected legislature, and confidence in the judiciary. In the absence of a parliamentary body to carry out the legislative functions of the state, President Abdel-Fattah El Sisi has enjoyed both executive and legislative authority since his inauguration on June 8, 2014. While many of his legislative decrees have fallen well within constitutional requirements to ensure the function and prosperity of the nation, a number of controversial laws that implicate citizens' freedoms and rights have been passed, including the University Law and the foreign funding amendments to the penal code.

⁴ U.S. Senate, Committee on Homeland Security & Governmental Affairs. *Jihad 2.0: Social Media in the Next Evolution of Terrorist Recruitment*, Hearing, May 7, 2015, at 35:00, available at <http://www.hsgac.senate.gov/hearings/jihad-20-social-media-in-the-next-evolution-of-terrorist-recruitment>.

Such legislation should be the product of extensive debate and research through an elected parliamentary body and ultimately should be a reflection of the will of the people.

- **Promote accountability and professionalism in the security sector**

One of the sparks of the uprising in 2011 was the brutal beating and death of Khaled Said at the hands of police. Graphic photos of Said's bloodied and disfigured face prompted many to take to the streets, fed up with the impunity of police abuse. Today, there seems to have been little progress in police reform, and allegations of brutal beatings, sexual abuse, and electric shock are particularly common among prisoners in Egypt's detention facilities. Despite the many protections against such abuse afforded by Egypt's constitution, these laws are weakly enforced, leaving many torture victims deprived of justice.

Accountability for abuse is rare, though it does occur. In May 2015, Egypt's Court of Cassation upheld a sentence against 14 policemen for torturing to death two prisoners in 2006.⁵ Twenty-six year old Karim Hamdy, a lawyer, was tortured to death at the same police station in February 2015.⁶ Two police officers are currently standing trial for Hamdy's death, yet impunity seems to be the norm when it comes to police abuse and violence, and those who advocate for police reform face an uphill battle. A recent attempt by two Egyptian judges to propose a law that would criminalize the use of torture in police stations and detention facilities resulted in their being referred to investigation.⁷

Rather than a few sporadic and largely symbolic instances of accountability, deep and comprehensive security sector reform is critical. Human rights and professionalism training must be integral to all levels of police and military training, not only for the officer corps. Gaining the respect of citizens, rather than their animosity, will better allow security forces to address true threats to public safety, and not be the source of them.

- **Create and protect spaces of public engagement where dissent may be peaceably expressed**

In November 2013, then-Interim President Adly Mansour signed into effect a controversial law that effectively banned street protests, severely restricting Egyptians' right to peaceful assembly and freedom of expression. Since its adoption, the law has been used to target several prominent activists and political opposition members. Among those who have been arrested under the law are activists and peaceful human rights defenders who participated in the revolution and engaged in critical opposition to injustices during all periods of rule since and before the time of Mubarak. These include Alaa Abdel Fattah, Ahmed Maher, Ahmed Douma, Yara Sallam, Sanaa Seif Mohamed, and several others.

Prominent activist and blogger Alaa Abdel Fattah was sentenced in February 2015 for violating the protest law, and is presently serving a five-year prison term and is to pay a fine of 100,000 Egyptian pounds (over \$13,000 USD). Women human rights defenders have equally been targeted by this law. Lawyer and activist Yara Sallam and activist Sanaa Seif, who have been detained since June 21, 2014, were sentenced in October 2014 along with nearly two dozen other activists and are presently serving a

⁵ "Egypt court upholds sentences against 14 policemen for torture, AHRAM (May 3, 2015), available at <http://english.ahram.org.eg/NewsContent/1/64/129272/Egypt/Politics-/Egypt-court-upholds-sentences-against-policemen-f.aspx>.

⁶ "Autopsy shows lawyer was tortured to death at Matareya police station," MADA MASR (Feb. 27, 2015), available at <http://www.madamasr.com/news/autopsy-shows-lawyer-was-tortured-death-matareya-police-station>.

⁷ "Egypt investigates judges for drafting anti-torture bill," AL ARABY, April 20, 2015, available at <http://www.alaraby.co.uk/english/news/2015/4/21/egypt-investigates-judges-for-drafting-anti-torture-bill>.

two-year prison sentence for violating the law. Additionally, award-winning human rights lawyer Mahinour El-Masry was sentenced and served a six-month jail term for violating the law.

By jailing peaceful protestors and restricting the rights of all to public space, Egypt has cut the state's ability to hear grievances at the knees. Public demonstration should signal an urgent need for reform measures, and by curtailing it, advocates have no recourse—or only violent recourse—to express their message. For these reasons, Egypt must urgently repeal its protest law and immediately release those unjustly detained and sentenced pursuant to it.

- **Foster transparency through diverse and independent media**

After the 2011 uprising, many new voices were heard across Egypt's television and radio waves, sparking new conversations about politics and society. This trend has been halted, and may even be reverting back to the restrictive environment that we saw prior to 2011. Today, many journalists face intimidation or arrests—such as photojournalist Mahmoud Abou Zeid (a.k.a. “Shawkan”), who has been detained for over 600 days without trial—or face other forms of punishment for attempting to bring valued information to the Egyptian public. Those who are not directly targeted by the government may nevertheless censor themselves for fear of punitive consequences.

While the Egyptian state has a commitment to ensuring the professionalism of media that is not used to disseminate hate speech, this must not supersede its commitment to ensuring freedom of expression and information. At a bare minimum, those imprisoned for their commitment to government transparency must be released, and specific legislation must outline definitions for hate speech.

- **Engage with civil society counterparts as essential partners in governance**

Egyptian civil society is currently facing serious challenges. The changing political leadership and climate in Egypt over the past three years tightened the grip on freedom of association throughout the country since the crackdown on foreign nongovernmental organizations (NGOs) working in Egypt put 43 individuals on trial in 2012. Twenty-seven of the defendants, including myself, were sentenced *in absentia* and received prison sentences of five years, while five others received two-year prison sentences and eleven others received one-year suspended sentences. Many of the Egyptian defendants in this case—like me—are now living in exile, separated from our families and unable to return to our country due to the likelihood that we will be forced to spend years behind bars in service to these unjust sentences.

In September 2014, Egypt's penal code was amended to increase the penalties for those who seek or receive foreign funding for the broad purpose of undermining national interests. The failure to define national interests or acts which may undermine these means the law risks an overly broad and indiscriminate application. The new penalties would impose up to a life sentence (25 years, under Egyptian law) and fines of no less than 500,000 Egyptian pounds (about \$66,000 USD). The overly obscure language in the law makes it possible for it to be applied in a repressive manner, creating an environment of fear among those in civil society.

The Egyptian government should realize that civil society is not the enemy, and should consult with, rather than punish, Egyptian NGOs. Restrictions that allow for invasive monitoring of NGO activities should be lifted, and the penal code must be amended to allow civil society actors the freedom to engage in their important work without fear of spending their life behind bars or in exile.

- **Recognize and address the struggles of marginalized groups, including women, minorities, and the poor**

Insecurity, instability, and terrorism are always felt most acutely by already vulnerable populations, such as women, religious and ethnic minorities, and the poor. A vision for security that includes all Egyptians undoubtedly requires recognizing the ongoing struggle of Egypt's marginalized groups.

For women, this means—at minimum—making it safe for them to go out in public. According to a 2013 study by UN Women, an estimated 99.3% of Egyptian women have experienced sexual harassment.⁸ Often this harassment leads to brutal outcomes, as Egypt saw following the horrific June 2014 video of a woman being gang-raped in Tahrir Square. .

Like women, religious minorities must confront ongoing challenges as they attempt to weave themselves into Egypt's social and political fabric. For many Egyptians, the right to mere religious identity presents a daily—and for some, existential—struggle. Religious freedom in Egypt remains elusive, particularly as leadership has declared its intent to establish Egypt as a protector of “moderate Islam.”⁹ While some have praised a commitment to moderation in the face of extremism, the state's increasing role as arbiter of moral authority has had devastating implications for minority identity communities. Additionally, this commitment to moderate Islam has come hand in hand with unfulfilled promises for meaningful religious reform.

If Egyptian state leadership and state religious institutions mean to address tendencies toward extremism in Egypt's Muslim communities, the first step must be taken with examination of the theological tendencies of state institutions themselves. Al-Azhar, Egypt's foremost religious authority, continues to harbor religious perspectives that are imperceptible from the extremists the country aims to combat. Rather than prescribing moral authenticity, Egypt's religious and state leaders should promote meaningful dialogue that explores and raises awareness about non-normative religious and identity values.

Access to adequate housing, water, sanitation, and education and health facilities plague the 26% of Egypt's population living in poverty. While their grievances have provided fodder for the recruitment of terrorists, Egypt's poor should not be viewed as suspicious criminals but for their potential contributions to Egyptian society, as Egypt's next doctors, lawyers, artists, leaders, and, yes, judges, waiting for their rightful opportunities.

The U.S. Can Play a Critical Role in Promoting a Balance between Security and Freedom in Egypt

The United States must recognize the integral importance of rights and freedoms for bilateral strategic interests, and this must form the foundation of the U.S. relationship with Egypt. Not only will this help to secure U.S. economic and security interests in the region, but if carried out with diligence, deliberation, and earnest commitment, the United States may additionally repair a negative image in the country.

⁸ “Study on Ways and Methods to Eliminate Sexual Harassment in Egypt,” UN WOMEN (2014), available at http://harassmap.org/en/wp-content/uploads/2014/02/287_Summaryreport_eng_low-1.pdf.

⁹ “El-Sissi: Egypt a ‘beacon of moderate Islam’,” PBS NEWS HOUR (Sept. 24, 2014), available at https://www.youtube.com/watch?v=3GZjfzV_dx4.

Several objectives should provide the foundation for U.S.-Egypt bilateral relations:

1. *Encourage swift parliamentary elections in adherence with Egypt's constitutional and international legal obligations.*

In the absence of an elected legislature, any discussion of inclusive reform policies in Egypt is meaningless, as reform will remain the legal responsibility of the president alone. While President Sisi has a responsibility to continue to enact legislation that pertains to the functioning of the nation, he has publicly declared his intent to hold elections promptly. However, elections have been postponed several times, and at the time of testimony, no date had yet been set for them.

The United States must highlight the necessity of free and fair elections for good governance. While these are not the only requirements for democracy, elections are important for opening political space for all, not just for one oppressed group. This is particularly important as many of the nascent political actors that emerged after the 2011 revolution face an existential threat now that their resources have been drained after years of delayed democracy.

2. *Strengthen rule of law through transitional justice programs and judicial reform.*

Weaknesses in the judicial process and pervasive impunity undermine the rule of law, both for those who believe their status places them above the law or those who believe the law will never be on their side. The United States must pressure Egypt to repeal repressive laws and should encourage legal training for judges that emphasizes the right of all to due process. This is of utmost importance in combating terrorism, as the pervasive evidence of torture, expedited trials under a military judicial system, and mass sentencing impede the judiciary's ability to effectively investigate and prosecute legitimate terrorism. The United States should recognize these weaknesses and advocate for their reform.

3. *Press for security sector reform with requisite human rights and professionalism training and accountability measures.*

A fundamental component of transitional justice in Egypt must be the reform of the security sector and accountability for security sector abuses of justice. The few but public trials in which police have been held responsible for their offenses is a step in the right direction for accountability, but ultimately those offenses must not only be punished, but prevented. Requisite trainings on internationally-accepted standards on use of force, the letter of the law surrounding human rights, and best practices to enforce law among vulnerable populations should be implemented at every level of police and military training. The United States, which already partners with Egypt on training programs, should augment these and conduct regular review to ensure programs' efficacy.

4. *Target security measures to known cyber- and physical threats, rather than engaging in indiscriminate crackdowns.*

Egypt's current war on terror been characterized by sweeping arrests, large-scale military campaigns in the Sinai Peninsula, and restrictions on freedoms of expression, associations, and assembly. Not only is this approach ineffective in identifying actual threats, it risks fostering acrimony toward the state, potentially creating future terrorists. Specific definitions of terrorism are necessary to ensure targeting of credible threats, and law enforcement should focus on threats based on thorough investigation.

Additionally, recognizing the power of technology at the hands of extremists, policymakers must devote efforts to combating extremism online. These efforts require a counter-narrative to extremism, one which should not necessarily be religiously-based but that speaks to and address the demands and objectives of youth, who represent such a critical demographic in the region. Contrary to current calls, the current cyber threat should not prompt policies of increased surveillance and restriction on freedom of expression, but rather expand this space for more open and alternative narratives to those of the extremist groups.

Recommendations to the U.S. Government

To support the objectives and further the policy approach outlined here, the U.S. government can urge a more careful and strategic rebalancing of Egypt's security challenges and human rights obligation in a number of ways:

Consider a Recalibration of U.S. Aid Levels

- Congress should require the State Department, in consultation with the Defense Department and the U.S. Agency for International Development (USAID), to conduct a multi-year strategic review of military and economic aid to Egypt to assess whether current funding levels—as well as the administration's recently proposed changes to U.S. aid to Egypt—effectively advance human rights and democracy reform in Egypt, support Egypt's economic growth, and meet the United States and Egypt's mutual national security interests.

Demand Greater Respect for Fundamental Rights

- The U.S. government must continue to urge Egyptian officials to relax or abolish current restrictions placed on civil society organizations and workers by, among other things:
 - requesting assurances that the aforementioned foreign funding restrictions and penalties will not be applied to civil society organizations or workers—particularly those whom USAID and the State Department work with to implement U.S. aid programs—for engaging in legitimate civil society activities protected under international law;
 - insisting that efforts to implement the 2002 NGO law be suspended and that Egypt's parliament, once elected, immediately set out to draft a new associations law that complies with international human rights law;
 - urging, in every meeting with Egyptian officials and at every level, that all civil society workers currently detained under the protest law or for otherwise exercising their fundamental human rights be immediately and unequivocally released and charges against them dropped, and that the right to freedom of association be protected in accordance with international law;
 - urging as well that journalists detained for doing their jobs are immediately and unconditionally released and charges against them are dropped, and that members of the press be permitted to work without interference;
 - demanding that all charges be dropped and sentences commuted for the 43 NGO workers; and
 - ensuring that *all* religious minorities in Egypt are accorded equal rights, and that the “blasphemy” law in Egypt's penal code be repealed.

Ensure that U.S. Military Assistance is Used Responsibly

- The White House has recently announced several significant and much-needed changes to its military aid relationship with Egypt. Going forward, the United States must ensure that any future military aid provided to Egypt is used appropriately and for legitimate defense, security, and/or counterterrorism purposes, and that it is not used indiscriminately against civilian populations.

By recognizing that there can be no security without rights, and no safety without democratic development, the United States has a unique opportunity not to establish its own values in the region, but to offer the crucial support for the millions of Egyptians who proved in 2011 that they too hold these values dear.