

**TESTIMONY OF LORNE W. CRANER  
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SUBCOMMITTEE ON THE MIDDLE EAST AND NORTH AFRICA  
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Chairman Ros-Lehtinen, Members of the Committee, it has been nearly sixteen months since I testified before you on events in the Middle East and, specifically, on Egypt. I want to thank you for your continued focus on the region, and Chairman Ros-Lehtinen, I want to thank you personally for the unwavering interest and support you have shown to us and our colleagues at this table.

I wish today's hearing was a report on progress Egypt has made in its transition, but regrettably it is not. The Egyptian transition at this point can only be described as a mess, and it is moving in an ever more negative direction. You've generously focused this hearing on "American NGOs under attack in Morsi's Egypt," so let me begin by describing how Morsi's Egypt is turning out.

#### **EGYPT'S TRANSITION**

I said in my last testimony that democratization comes many ways – slow and fast, civic and political, revolutionary and evolutionary – and that precise trajectories are difficult to predict. I think all of us in the democracy and governance assistance community share the view that political transitions in the Middle East will take time. Egypt is not different from other countries when we say the transition is a decade or decades-long project. That is not so different from transitions that occurred in Eastern Europe and elsewhere in the world regarding timeframes; as I often note, countries as varied as Bulgaria, Romania and Slovakia took many years after the fall of the Soviet Union to finally break with their authoritarian past. While we are in agreement that we must have a long-term outlook, it is also true that key milestones along the way impact the course of the transition, and bad decisions along the way could fundamentally alter the direction countries in the Middle East are headed. In Egypt, it appears that it is headed in the wrong direction. And, in Egypt, both the new non-governmental organization (NGO) law under discussion and, tangentially, our case and the issue of international NGOs working in Egypt, constitute negative milestones in the country's course of transition that should not be overlooked.

One of the benefits of multiple transitions occurring simultaneously is that we have some points for comparison that can and should be utilized to set a general frame of reference for how well countries are doing. Egypt and Tunisia are different countries. Compared to Egypt, Tunisia started with a more homogeneous population that is smaller and better educated. Tunisia has less poverty and in years past, was often pointed to as a model of economic success. Yet both are Arab countries that share a similar recent history of having autocratic rulers overthrown by citizen revolts driven by a demand for more accountable rule. In both countries, judging by first elections, Islamist political parties are the ascendant political forces. Both have had to tackle the questions of new constitutions, freedom of association and NGO laws. It is appropriate eighteen months after the region's revolutions began, to look at the two in comparison today. I am here to

tell you we should be modestly optimistic about Tunisia's current course and very concerned about an Egyptian drift backwards toward authoritarianism.

Tunisia's interim government has faced notable crises, including the assassination of a secular opposition politician earlier this year. In its current iteration however, an interim government led by both Islamist and secular political parties has endured. The country's National Constituent Assembly has been slow in fulfilling its mandate to write a new constitution and is now on its fourth draft. With each episode of crisis though, a new consensus seems to emerge and at present there is reason to believe the fourth constitutional draft will be voted on.

In stark contrast, Egypt held a constitutional referendum that made select changes and held parliamentary elections beginning in late 2011. Previous quotas in the electoral law for women and minorities were removed. Few women or minorities were elected to the new parliament. Parliament was later disbanded based on a ruling from Egypt's Supreme Constitutional Court (SCC) that judged an interpretation made by Egypt's electoral commission to be unconstitutional.

Elections for a new Egyptian president were held in 2012. In response to the SCC ruling, Egypt's President Mohammed Morsi issued a constitutional declaration placing legislative powers in his hands until a new constitution was adopted and elections for a new parliament held. He also declared his decrees above judicial review.

Unlike Tunisia, Egypt's Islamist party, Freedom and Justice (FJP), won a majority of seats in parliamentary elections for the later disbanded parliament and also won elections for president and for the Shoura Council. FJP initially indicated it would not compete for a majority of seats in parliament only to later reverse this decision. FJP likewise indicated it would not field a presidential candidate but ultimately fielded two, the second after its initial candidate was deemed ineligible. In Egypt, a constituent assembly formed by the parliament was decried for being stacked with Islamists. This assembly was later deemed void as part of the disbanding of parliament but Morsi ordered the body back to work. In a second iteration of the assembly, a more balanced composition of political and societal forces was included only to be undone during the final drafting stages when secular members of the assembly walked out in protest due to what they characterized as intransigence by the FJP and Salafist majority. Morsi's response was to accelerate the timeframe for holding a referendum on the constitution, which was conducted in December 2012 amid widespread social unrest. The new constitution was passed by a popular referendum where only 32 percent of eligible Egyptians turned out to vote. This participation rate continues an alarming trend in post-Arab Spring Egypt where each successive election has produced lower voter participation.

Freedom of expression thus far presents the most striking study in contrast between the Tunisian and Egyptian political transitions. Tunisia entered its revolution as one of the most tightly controlled, and thought to be one of the most efficient, police states in the world. Despite issues, it can presently be counted as among the more free of countries in the Arab world on freedom of expression.

In contrast, a return of the types of strictures on freedom of expression witnessed under the Mubarak regime presents an alarming picture in Egypt. Beyond the high profile arrest of an Egyptian satirist for insulting Morsi, more Egyptian journalists have faced legal action during the Morsi presidency than during Mubarak's entire 28-year reign. Editors and television producers have been routinely removed from their posts and replaced with individuals more friendly to the Muslim Brotherhood.

Regarding the draft NGO law, the Morsi government is taking the same narrow, restrictive approach to civil society as the former regime. The most recent NGO law draft advocated by the Morsi government mandates that foreign funding be approved by a "Coordinating Committee" likely stacked with state security and intelligence representatives as well as representatives from the types of ministries that withheld IRI's registration and that of other international NGOs for over six years. This Committee replaces the current law's minister which was Fayza Aboul Naga during the Mubarak era. In the current draft law, international NGOs cannot conduct activities without prior approval and the Committee has broad powers to refuse a license to international NGOs. The current draft restricts the ability of Egyptian civil society organizations to receive foreign funding without prior Committee approval. Equally as troubling, the current draft also requires approval by the Coordinating Committee for Egyptian NGOs to engage in domestic fundraising activities. The combination of membership and physical presence requirements for Egyptian NGOs along with restrictions on funding and onerous reporting on internal decision-making fundamentally undermines the growth of an independent civil society in post-Mubarak Egypt.

## **NGO TRIAL**

This brings me to our issue, the trial and guilty verdicts against the staff of the organizations represented here today. To recap briefly, the International Republican Institute (IRI), and our counterparts had our offices raided by Egyptian authorities on December 29, 2011, just days before the third phase of Egypt's parliamentary elections that both IRI and the National Democratic Institute (NDI) had been officially invited by Egypt's Ministry of Foreign Affairs to observe. The raids stemmed from a secretive "fact-finding" committee, launched with the prodding of Mubarak hold-over Minister of International Cooperation Fayza Aboul Naga sometime in 2011, to investigate the influences of "foreign funding." A long-time Mubarak appointee, Aboul Naga had pursued a strategy of demonizing our respective organizations based on her narrow parochial interest goal to control U.S. foreign assistance funding and to have it channeled through her ministry. Along with powerful interests in the Egyptian state security apparatus, she was responsible for halting IRI's registration efforts even though we submitted paperwork to operate legally in Egypt in 2006.

At the time the raids occurred, seventeen IRI expatriate and Egyptian staff had already been called into Egypt's Ministry of Justice (MOJ) for "interviews" by investigating judges (with some of those interrogations going on for four hours or more and with at least three staff called back for follow-up inquiries). In the initial aftermath of the raids and reactions by the U.S. Government, assurances from Egypt's then military rulers were provided but came to naught and instead the situation escalated on January 21, 2012 when IRI's country director Sam LaHood was prevented from exiting Egypt on a routine trip out of the country. It was only then that IRI

and other organizations learned that a number of American citizens and other international staff had been placed on a “travel ban,” effectively detaining them in Egypt pending the outcome of the MOJ investigation.

A flurry of diplomatic activity again provided assurances from Egypt’s military leadership that a resolution was at hand. But on February 6, 2012, MOJ investigating judges in a highly unusual press conference announced formal charges against 43 American, Egyptian and third-country employees of IRI, NDI, Freedom House, International Center for Journalists (ICFJ) and Germany’s Konrad Adenauer Stiftung. Specifically, the staff was charged with two primary offenses: operating without a license (a misdemeanor offense with a possible fine penalty) and receiving unauthorized foreign funds to conduct those operations (a felony offense with penalties of up to five years imprisonment). This is despite the fact that we have been seeking registration since 2006 and received approved U.S. Government funding (which incidentally the Government of Egypt has willingly accepted directly at a rate of \$1.5 billion annually).

A circus-like atmosphere followed with the first court session flooded by Egyptian media and frivolous civil suits demanding monetary damages for alleged offenses to Egyptian sovereignty. Some demanded the death penalty for the organizations’ respective employees. We and our counterparts endured a relentless flurry of attacks in the Egyptian media that sought to brand the organizations as nefarious foreign entities seeking to sow chaos in Egypt. Our Egyptian staff was named in the press as foreign spies, their families harassed.

A change of the court’s venue and judges briefly seemed to improve the atmosphere but in each session, our Egyptian employees were subjected to state prosecutors and their witnesses repeating the same unsubstantiated and politically charged attacks, suggesting that they were subversives attempting to undermine Egyptian national security. And then, on September 9, 2012, Aboul Naga testified. She repeated outlandish and offensive lies from her sworn statement to the investigating judges which suggested democracy promotion was a neo-colonial design linked to Israeli interests. This nonsense was made an integral part of the prosecution’s case and in its closing argument, Egyptian prosecutors again suggested the international NGOs were intent on undermining Egyptian national security and conducting espionage-like activities meant to foment chaos, absurd accusations that have absolutely nothing to do with the specific charges at hand.

For our part, our respective Egyptian attorneys attempted to present a defense based on the merits of the charges against us, entering into our defense evidence and witness testimony revealing the true nature of our work, which included helping Egyptian groups advocate for persons with disabilities to be part of the elections process and sharing information about constructive engagement in democratic processes like electoral campaigning. Evidence demonstrating that the Egyptian government had full knowledge of the organizations’ programs based on correspondence between the U.S. State Department and Egyptian Ministry of Foreign Affairs – along with the extensive efforts IRI had undertaken to become registered since 2006 – were likewise presented to the court, as was a report completed by Egypt’s own Shoura Council in 2012 which placed the onus of the international NGO registration process on mismanagement by the Egyptian government.

And yet, despite an abundance of objective information confirming the weakness of the charges against IRI, NDI, Freedom House, ICFJ and Konrad Adenauer – charges that were spurious and politically motivated – the trial court on June 4, in harsh and disjointed verdicts found all 43 defendants to be in violation of Egyptian law and imposed penalties ranging from one to five years in an Egyptian jail with hard labor. The verdicts obviously have a direct negative impact on our organization and the 14 IRI staff convicted. Beyond this, as we said in our statement issued June 4, the verdicts “will have a chilling effect on Egyptian civil society and, taken with other recent developments, raises serious questions about Egypt’s commitment to the democratic transition that so many people demanded when they took to the streets in early 2011.”

The work that IRI undertook in Egypt from the immediate aftermath of the January 2011 Arab Spring up until the time of the raids on our offices is no different from the efforts our organization has undertaken in numerous countries around the world and in transitions dating to the 1980s. It is not different from programs that have been accepted and appreciated by countries as diverse as Georgia, Indonesia and Poland and no different from the type of work we are doing in Tunisia now. It is the work of helping build the underpinnings of democratic institutions and practices, supporting the growth of civil society and fair elections, building consensus among political stakeholders of all types, and ensuring women, minorities and persons with disabilities have a voice in the democratic process. I am proud of IRI’s work and proud of IRI staff, especially the 14 defendants, who have worked to help Egyptians build a democracy. Along with our board of directors, I am committed to supporting our staff and keeping them out of Egyptian prison.

In fairness, this unacceptable situation began long before the current Morsi government and before Egypt’s revolution. Having said that, the direction Egypt is headed under the Morsi government cannot be isolated from the recent NGO trial ruling. Our organization along with others in this hearing have attempted to promote universal values for democratic development in the new NGO draft law and other key factors in Egypt’s political transition. But, in fact, the current verdict on our respective organizations is occurring within a broader dynamic in Egypt’s transition. The judges’ ordered closure of our respective organizations in Egypt represents a serious blow to the fundamental notion of a vibrant civil society. It is a parallel issue to the current draft NGO law, and both are milestones that will help determine whether Egypt heads in the right direction versus towards a new authoritarianism dominated by the Morsi government.

## **CONCLUSION**

My immediate concern at this time is our 14 IRI defendant staff and keeping them out of harm’s way should Egypt attempt to issue new international arrest warrants for these individuals. Many have worked in countries around the world to help build democracies. Their freedom is my prime concern.

In my last testimony, I said that the United States and Egypt have enjoyed a longstanding strategic partnership that has benefitted both countries for more than three decades. I also said that for the U.S.-Egyptian partnership to endure, the United States must have a willing partner in Egypt. Events of the last year involving our organizations and Egypt’s transition more broadly make it difficult to tell whether or not the Egyptian government seeks the same type of partnership we do.

I also said in my last testimony that to overlook the current assault on democracy in the interest of maintaining relations with the Egyptian government would send a wrong-minded message. We are now two years into this transition. We are now a more than a year into a politically motivated NGO trial, with verdicts including prison sentences. We understand that Egypt is still in the early stages of its transition and that mistakes will be made by people attempting to steer the country from an autocratic to an open society. And yet, it is difficult at this point to see Egypt making the positive strides toward building its society that we see in Tunisia.

The United States must strongly and consistently support popular demands for transparency, accountability and freedom at this critical crossroads in the new Middle East. This means a continued commitment to civil society and speaking clearly with respect to ongoing attacks against international NGOs attempting to help Egypt become a democracy. The Administration and U.S. Congress should be steadfast in supporting an enabling environment for political parties and civil society to build a democratic Egypt.

Thank you.