

8-25-2017

The Silencing of Human Rights Activists in Egypt Post-Revolution

Jennifer Helmy

Follow this and additional works at: <https://repository.law.miami.edu/umicl>



Part of the [Comparative and Foreign Law Commons](#), and the [Human Rights Law Commons](#)

Recommended Citation

Jennifer Helmy, *The Silencing of Human Rights Activists in Egypt Post-Revolution*, 24 U. Miami Int'l & Comp. L. Rev. 565 (2017)

Available at: <https://repository.law.miami.edu/umicl/vol24/iss2/8>

This Article is brought to you for free and open access by the Journals at University of Miami School of Law Institutional Repository. It has been accepted for inclusion in University of Miami International and Comparative Law Review by an authorized editor of University of Miami School of Law Institutional Repository. For more information, please contact library@law.miami.edu.

THE SILENCING OF HUMAN RIGHTS ACTIVISTS IN EGYPT POST-
REVOLUTION

Jennifer Helmy

I.	INTRODUCTION	567
II.	TIMELINE OF THE REVOLUTION OF JANUARY 25, 2011, AND THE SUBSEQUENT EVENTS.....	568
III.	POST-REVOLUTION RESTRICTIVE LAWS.....	579
A.	THE CONTROVERSIAL PROTEST LAW OF 2013	580
B.	AMENDED CONSTITUTION OF 2014	584
C.	FOREIGN FUNDING LAWS.....	587
III.	THE PRACTICAL APPLICATION OF THE LAWS.....	589
IV.	HOW SHOULD THE GOVERNMENT BALANCE ORDER AND FREEDOM?.....	597
V.	CONCLUSION.....	606

I. INTRODUCTION

“The regime in Egypt is waging war against the young who dare to dream of a bright future for themselves and their country.”¹ In June 2015, the family of Egyptian activist Alaa Abd el-Fattah, who was detained at the time² and is now serving a five-year prison sentence for organizing an illegal protest,³ made this statement in reference to the detention of several citizens for exercising their newly acquired freedoms after Egypt’s January 25, 2011 Revolution.⁴

Beginning in December 2010 and continuing through 2011, political protests and demands for reform swept through several countries in the Middle East and North Africa (“MENA”) in what has been termed the “Arab Spring.”⁵ Throughout the region, citizens led revolutions to overthrow authoritarian rulers who were in power for

¹*The ‘Arab Spring’: Five Years On*, AMNESTY INT’L, <https://www.amnesty.org/en/latest/campaigns/2016/01/arab-spring-five-years-on/> (last visited Oct. 15, 2016) (internal quotation marks omitted).

² *See id.*

³ *Alaa Abdel Fattah: Egypt Jails Activist-Blogger for Five Years*, BBC (Feb. 23, 2015), <http://www.bbc.com/news/world-middle-east-31583404>.

⁴ *See The ‘Arab Spring’: Five Years On*, *supra* note 1.

⁵ *See id.* (noting protests in Tunisia, Egypt, Yemen, Bahrain, Libya, and Syria).

several decades, and many hoped that the Arab Spring would facilitate political reform and social justice effectuated through new governmental leadership.⁶ The reality is, however, that these new governments across the MENA region, and especially in Egypt, are currently suppressing activists by arresting, detaining, and imprisoning them, which has created a perpetual cycle of war and violence.⁷

This Note will focus on the detention and imprisonment of Egyptian citizens who have spoken out against the Egyptian government after the Revolution of January 25, 2011. Part I discusses the background of the course of events in Egypt after the Revolution. Part II briefly explains the changes in various laws after the Revolution. Part III presents cases showing the practical application of these new laws. Part IV provides steps that Egypt should take to address the human rights violations.

II. TIMELINE OF THE REVOLUTION OF JANUARY 25, 2011, AND THE SUBSEQUENT EVENTS

On January 25, 2011, tens of thousands of Egyptians congregated in Cairo's Tahrir Square and in other cities around the country to demand the removal of President Hosni Mubarak,⁸ who had survived six assassination

⁶ *See id.*

⁷ *See id.*

⁸ Anup Kaphle, *Timeline: Egypt's Rocky Revolution*, THE WASHINGTON POST (Aug. 19, 2013),

attempts throughout his thirty years in power.⁹ After eighteen days of anti-government demonstrations, President Mubarak officially resigned and assigned power to the Supreme Council of the Armed Forces (“SCAF”), at which time the constitution was suspended and the parliament disbanded.¹⁰ On February 14, 2011, the SCAF proposed a six-month time limit to draft a new constitution and hold parliamentary and presidential elections.¹¹ The SCAF asserted that it would cede power to the newly elected civilian government during that time.¹²

The Muslim Brotherhood, one of Egypt’s most powerful Islamist groups, pushed for elections to be held first, while the liberals and secularists preferred a constitution to be written first.¹³ The Muslim Brotherhood’s

<https://www.washingtonpost.com/apps/g/page/world/timeline-egypts-rocky-revolution/405/>.

⁹ *Profile: Hosni Mubarak*, BBC (May 9, 2015), <http://www.bbc.com/news/world-middle-east-12301713>.

¹⁰ Sarah Childress, *Timeline: What’s Happened Since Egypt’s Revolution?*, PBS FRONTLINE (Sept. 17, 2013), <http://www.pbs.org/wgbh/frontline/article/timeline-whats-happened-since-egypts-revolution/>.

¹¹ *Id.*

¹² *Id.*

¹³ *See id.*

preference ultimately prevailed, and parliamentary elections were held on November 28, 2011, and continued for six weeks.¹⁴ The Muslim Brotherhood and Islamists won an overwhelming majority of the seats in the upper and lower parliamentary houses.¹⁵

On March 9, 2011, protestors reconvened in Tahrir Square to demand a quicker transition to a democratic government, and the Muslim Brotherhood was notably silent during these protests.¹⁶ The army and military police arrested several liberal activists, taking them to the Egyptian Museum where they were beaten with wooden sticks and iron bars and tortured with electrical shocks.¹⁷ Approximately 150 men and women ultimately were tried and convicted in military courts and sent to military prisons.¹⁸

On October 9, 2011, Coptic Orthodox Christians, the Middle East and Egypt's largest minority, making up

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Childress, *supra* note 10 ("They tried to humiliate us and taunt us with names while they tortured us, trying to break us and destroy our dignity. They would say, 'Are you happy with your revolution now?'" (quoting activist Ramy Essam) (internal quotation marks omitted).

¹⁸ *Id.*

approximately 10% of Egypt's population, staged a peaceful sit-in at Cairo's Maspero television building.¹⁹ The Copts and some Muslims were protesting the events that occurred on September 30 and related sectarian attacks, during which a group of Muslims set fire to a church in Aswan because they believed it was an illegal church construction.²⁰ Aswan's governor, General Mustafa Kamel al-Sayyed, told the state media that the church was being constructed illegally, despite the fact that church officials presented documents indicating they had permission to replace a previous run-down church on that same site.²¹ Armed troops and armored vehicles shot at the protestors and plowed them down in the first post-Revolution, openly public instance of the military's use of lethal force.²² Twenty-six protestors were killed, most of them Copts.²³ Thirty-one protestors were charged in military courts for possession of

¹⁹ Maggie Michael, *Christians Under Siege in Post-Revolution Egypt*, NBC (Oct. 11, 2011, 8:30 PM), http://www.nbcnews.com/id/44850834/ns/world_news-mideast_n_africa/t/christians-under-siege-post-revolution-egypt/.

²⁰ *Id.*

²¹ *Id.*

²² Childress, *supra* note 10.

²³ Michael, *supra* note 19.

army weapons and for violence against armed forces, though most were released in December 2011.²⁴

On December 30, 2011, Egypt's police raided United States-backed pro-democracy non-governmental organizations ("NGOs"), and the United States hinted that it could review its \$1.3 billion in military aid to Egypt.²⁵ On June 14, 2012, Egypt's highest court ruled that much of the Islamist-majority parliament was elected illegally, forcing the SCAF to dissolve the parliament.²⁶ The SCAF also granted itself far-reaching new powers, including control over the national budget and the power to issue laws, which effectively limited the president's powers.²⁷ A day later, the Muslim Brotherhood's candidate, Mohammed Morsi, won the election, and was thereafter sworn in on June 30 as the Middle East's first elected Islamist head of state.²⁸ However, a power struggle ensued between the SCAF and the Muslim Brotherhood.²⁹ President Morsi nullified the SCAF's

²⁴ Ekram Ibrahim, *Justice Denied: Egypt's Maspero Massacre One Year On*, AHRAM ONLINE (Oct. 9, 2012), <http://english.ahram.org.eg/NewsContent/1/64/54821/Egypt/Politics-/Justice-denied-Egypt-Maspero-massacre-one-year-on.aspx>.

²⁵ Kaphle, *supra* note 8.

²⁶ Childress, *supra* note 10.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

declaration of increased power and chose General Abdul Fattah el-Sisi as his defense minister. On November 21, 2012, President Morsi unilaterally decreed that he was authorized to take any and all actions he deemed necessary to protect Egypt.³⁰ He gave his decisions immunity from judicial review and barred the courts from dissolving parliament, which produced a new wave of protests.³¹

On November 29, 2012, Islamists completed a draft of Egypt's new constitution, which codified the military's power and privileges that had been employed under Mubarak.³² Liberties and freedoms were enumerated, but only if they were in conformity with Sharia law.³³ On December 4, 2012, more than 100,000 people protested at the presidential palace against the draft constitution and President Morsi's new powers.³⁴ The police fired tear gas into the crowd, and, the next day, Islamists attacked an anti-Morsi sit-in, which resulted in violence that left at least ten people dead.³⁵

³⁰ Childress, *supra* note 10.

³¹ Kaphle, *supra* note 8.

³² Childress, *supra* note 10.

³³ *See id.* (citing Mona Makram-Ebeid, former member of parliament).

³⁴ *Id.*

³⁵ *Id.*

On January 25, 2013, on the two-year anniversary of the Revolution, hundreds of thousands gathered in Tahrir Square for a protest against the Muslim Brotherhood, President Morsi, and his abuse of power.³⁶ In protests across Egypt, more than 100 people were injured in clashes with police.³⁷ Police used flames thrown at them to set fire to two tents erected by youths.³⁸ The protestors again demanded an overhaul of the constitution, stating that it did not adequately protect human rights.³⁹ President Morsi's supporters commented that the opposition was perpetuating unrest and a quick adoption of the constitution was required to restore stability.⁴⁰ These violent protests continued through March.⁴¹ In April 2013, youth activists formed a new revolutionary group called Tamarod, which means "Rebel," and by June, they collected 22 million signatures in a petition for President Morsi to step down.⁴² They also demanded

³⁶ *Id.*

³⁷ *Id.*

³⁸ Tom Perry and Abdel Rahman Youssef, *Egypt Protests: Violence Flares in Tahrir Square on Second Anniversary of Uprising*, THE HUFFINGTON POST (Jan. 25, 2013, 3:29 AM), http://www.huffingtonpost.com/2013/01/25/egypt-protests_n_2548281.html.

³⁹ *See id.*

⁴⁰ *See id.*

⁴¹ Childress, *supra* note 10.

new elections and called for more protests across the country.⁴³

On June 30, 2013, the first anniversary of President Morsi's election, millions of Egyptians flooded the streets and demanded that President Morsi step down, and eight people were killed in clashes outside the Muslim Brotherhood's headquarters.⁴⁴ The next day, the military gave President Morsi an ultimatum, stating that it would be the military's duty to intervene if President Morsi did not come up with a political solution within the next forty-eight hours.⁴⁵ As warned, on July 3, 2013, the military placed President Morsi under house arrest, and General el-Sisi, chief of the new military leadership, suspended the constitution, shut down Islamist television stations, and issued arrest warrants for 300 Muslim Brotherhood officials.⁴⁶ President Morsi's supporters, along with most of the Western world, declared this a "military coup."⁴⁷ On July 4, General el-Sisi chose Supreme Constitutional Court Chief Justice Adly Mansour to serve as interim president until new

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Childress, *supra* note 10.

elections were held, and he also chose an interim cabinet that consisted of no Islamists.⁴⁸

Within the next few days, soldiers and police shot at hundreds of pro-Morsi protestors in Cairo, killing more than fifty protestors.⁴⁹ Each side stated that the other initiated the clashes.⁵⁰ Other clashes between pro- and anti-Morsi supporters in Cairo and Alexandria left more than thirty-six protestors dead.⁵¹ On July 9, 2013, the military proposed that, within six months, a new constitution would be drafted and elections for a civilian president and parliament would be held.⁵² On July 26, hundreds of thousands of anti-Morsi protestors gathered in support of the military.⁵³ General el-Sisi appeared on national television and declared a fight against terrorism, and prosecutors announced the investigation of Morsi for conspiring with the Palestinian militant group Hamas.⁵⁴ On July 27, security forces clashed

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Kaphle, *supra* note 8.

⁵² Childress, *supra* note 10.

⁵³ *Id.*

⁵⁴ *Id.*

with pro-Morsi supporters in Cairo, killing more than eighty people.⁵⁵

On August 14, 2013, security forces occupying armed vehicles and bulldozers and aided by snipers cleared through Muslim Brotherhood members and supporters who had been camping out and protesting for several days, killing more than 600 people and wounding thousands.⁵⁶ The attack lasted for more than twelve hours.⁵⁷ After this horrific violence, interim President Mansour imposed a curfew and declared a return to martial law, which had existed under Mubarak.⁵⁸ Clashes between pro-Morsi supporters and armed vigilantes erupted across the country, killing 173 people nationwide.⁵⁹ On August 17, security forces raided a mosque in Cairo where pro-Morsi supporters had been barricaded.⁶⁰ Mubarak was released from prison on August 22, but still remained under house arrest for charges of “complicity in the killing of more than 850 protestors during the Revolution.”⁶¹ On September 1, Morsi

⁵⁵ Kaphle, *supra* note 8.

⁵⁶ Childress, *supra* note 10.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ Kaphle, *supra* note 8.

⁶⁰ *Id.*

⁶¹ Childress, *supra* note 10.

and other Muslim Brotherhood members were charged with “committing acts of violence and inciting killing and thuggery,” and the military appointed a cabinet to draft a new constitution.⁶²

General el-Sisi was officially declared the winner of Egypt’s presidential election on June 3, 2014, receiving more than 96% of the popular vote.⁶³ There were allegations, however, that his sole opponent, Hamdeen Sabahy’s, campaign representatives were attacked and detained, and that el-Sisi’s representatives entered polling stations.⁶⁴ President el-Sisi’s supporters gathered in Tahrir Square to celebrate the promise of restored stability, but his opponents expressed skepticism due to then-General el-Sisi’s crackdown against activists and dissidents during the previous year.⁶⁵ As of January 23, 2016, security forces were still silencing most dissenters,⁶⁶ especially active youth, and

⁶² *Id.*

⁶³ *Egypt Declares el-Sisi Winner of Presidential Election*, CNN (June 4, 2014, 3:30 AM), <http://www.cnn.com/2014/06/03/world/africa/egypt-presidential-election/>.

⁶⁴ *Id.*

⁶⁵ Patrick Kingsley, *Abdel Fatah al-Sisi Won 96.1% of Vote in Egypt Presidential Election, Say Officials*, THE GUARDIAN (June 3, 2014, 1:14 PM), <https://www.theguardian.com/world/2014/jun/03/abdel-fatah-al-sisi-presidential-election-vote-egypt>.

⁶⁶ See Charles M. Sennott, *Reporter’s Notebook: Tahrir Square, Five Years Later*, PBS FRONTLINE (Jan. 25, 2016),

President el-Sisi still considered potential demonstrations to be a significant threat to the nation's stability.⁶⁷ This is evidenced by the fact that activists who still speak out against President el-Sisi's military regime are imprisoned, remaining home out of fear of arrest, or living in exile abroad.⁶⁸

III. POST-REVOLUTION RESTRICTIVE LAWS

Following the Revolution, the Egyptian government has passed several laws to even further restrict the freedoms of citizens and human rights and political activists.

<http://www.pbs.org/wgbh/frontline/article/reporters-notebook-tahrir-square-five-years-later/> (stating that the crackdown has consisted of government officials searching thousands of apartments, seizing online activists, arresting Facebook page administrators and hundreds of perceived political opponents, and shutting down an art gallery).

⁶⁷ Kareem Fahim, *Crackdown by Egypt Draws Attention to an Anniversary It Aimed to Avoid*, THE NEW YORK TIMES (Jan. 23, 2016), http://www.nytimes.com/2016/01/24/world/middleeast/crackdown-by-egypt-draws-attention-to-an-anniversary-it-aimed-to-avoid.html?_r=0.

⁶⁸ See Sennott, *supra* note 66.

Enumerated below are merely a few of these laws⁶⁹ promulgated under the guise of maintaining Egypt's stability and security.

A. THE CONTROVERSIAL PROTEST LAW OF 2013

An action in line with the increased repression of protestors, Interim President Mansour signed into law on November 24, 2013, the final version of the controversial protest law.⁷⁰ The law prohibits, among other things: holding political protests in places of worship,⁷¹ disrupting

⁶⁹ See generally Ziad Bahaa-Eldin, *Can the Revision of the Protest Law Open a Fresh Page?*, AHARAM ONLINE (Nov. 3, 2016), <http://english.ahram.org.eg/NewsContent/4/0/247143/Opinion/-Can-the-revision-of-the-protest-law-open-a-fresh-.aspx> (noting that other restrictive laws include laws that: expand military-court jurisdiction to try civilians in violation of the constitution, define crimes in overly broad terms that do not meet precision required for criminal statutes, and restrict freedom of expression for defamation of religion and the need to stop rumors that undermine the economy).

⁷⁰ Jason M. Breslow, *Egypt Adopts Broad New Restrictions on Protests*, PBS FRONTLINE (Nov. 25, 2013), <http://www.pbs.org/wgbh/frontline/article/egypt-adopts-broad-new-restrictions-on-protests/>.

⁷¹ Law No. 107 of 2013 (For organizing the right to peaceful public meetings, processions and protests), *al-Jaridah al-Rasmiyah*, 24 Nov. 2013, art. 5 (Egypt), http://www.constitutionnet.org/sites/default/files/protest_law_issued_nov_24.pdf.

“public security or order,”⁷² interfering with citizens’ interests,⁷³ and committing acts that “affect the course of justice.”⁷⁴ Pursuant to this law, the organizer of a public meeting, demonstration, or protest consisting of more than ten people must submit written notification to a police station within the area of the meeting.⁷⁵ Notification must be given three days prior to the protest, and must include the following information regarding the public meeting or protest: the place and route; the start and end times; the subject, purpose, demands requested, and mottos used; and the names, addresses, and contact information of organizers.⁷⁶ The Ministry of Interior’s Security Chief has the power to create any necessary measures to take action against protests that become non-peaceful.⁷⁷

Most importantly, the Ministry of Interior’s Security Chief has the power to ban public meetings, processions, or

⁷² *Id.* at art. 7.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.* at art. 8.

⁷⁶ *Id.*

⁷⁷ Law No. 107 of 2013 (For organizing the right to peaceful public meetings, processions and protests), *al-Jaridah al-Rasmiyah*, 24 Nov. 2013, art. 9 (Egypt), http://www.constitutionnet.org/sites/default/files/protest_law_issued_nov_24.pdf.

demonstrations that pose “threats to security of peace” as determined through “serious information or evidence” found before the scheduled protest.⁷⁸ Security forces have the right to disband protests if participants commit any crimes punishable by law or if they “violate the peaceful nature of expressing opinions.”⁷⁹ When dispersing protests, security forces must verbally request that participants voluntarily leave the protest, and if participants do not comply, security forces have the right to use water cannons, tear gas, and batons to disperse the participants.⁸⁰

If these methods fail to disperse the protestors, or if the protestors commit any acts of violence, sabotage, property destruction, or assault, then security forces may resort to violence by firing warning shots, sound bombs, gas

⁷⁸ *Id.* at art. 10. *But see* El-Sayed Gamal El-Din, *Egypt Cabinet Formulates Amendment of Unconstitutional Article 10 in Protest Law*, AHRAM ONLINE (Dec. 7, 2016),

<http://english.ahram.org.eg/NewsContent/1/64/251566/Egypt/Politics-/Egypt-cabinet-formulates-amendment-of-unconstituti.aspx> (noting that proposed amendment of Article 10, requiring interior minister to obtain judicial order to bar protest or change its location, has been referred to state council for legal review).

⁷⁹ Law No. 107 of 2013 (For organizing the right to peaceful public meetings, processions and protests), *al-Jaridah al-Rasmiyah*, 24 Nov. 2013, art. 11 (Egypt),

http://www.constitutionnet.org/sites/default/files/protest_law_issued_nov_24.pdf.

⁸⁰ *Id.* at art. 12.

bombs, rubber cartouche bullets, or non-rubber cartouche bullets.⁸¹ Furthermore, when protestors employ firearms, security forces may resort to self-defense by using force proportionate to the danger posed by the protestors.⁸² The Minister of Interior may prohibit protestors from demonstrating in specified “safe areas,” including in front of international organization offices, governmental agencies, courts, educational institutions, and “other public facilities,”⁸³ but governors may designate spaces within the governorate where peaceful protests may take place without prior notification.⁸⁴

Anyone who violates the catch-all provision of disrupting public order may be fined and imprisoned for two to five years,⁸⁵ and anyone who demonstrates in a place of worship or wears a mask during a demonstration may be fined and imprisoned for a year.⁸⁶ Anyone who organizes or

⁸¹ *Id.* at art. 13.

⁸² *Id.*

⁸³ *Id.* at art. 14.

⁸⁴ *Id.* at art. 15.

⁸⁵ Law No. 107 of 2013 (For organizing the right to peaceful public meetings, processions and protests), *al-Jaridah al-Rasmiyah*, 24 Nov. 2013, art. 17 (Egypt), http://www.constitutionnet.org/sites/default/files/protest_law_issued_nov_24.pdf.

⁸⁶ *Id.* at art. 20.

protests without giving the required notification to authorities may also be fined.⁸⁷

The Higher Constitutional Court issued a verdict on December 3, 2016, declaring Article 10 of the protest law, which gave the Minister of Interior the power to ban protests or change their course, unconstitutional.⁸⁸ But the court upheld the requirement of prior notification of protests and rejected a lawsuit against the entire law.⁸⁹ This law is responsible for the imprisonment of thousands of Egyptians, despite demands from human rights activists and international organizations to abolish the law.⁹⁰

B. AMENDED CONSTITUTION OF 2014

Egypt's most recent amendment to its constitution was enacted on January 18, 2014,⁹¹ and protects many rights and freedoms. Article 55 provides that any person arrested,

⁸⁷ *Id.* at art. 21.

⁸⁸ Aya Nader, *Egypt's Constitutional Court Rules Against Interior Minister Authority to Ban Protests*, EGYPTIAN STREETS (Dec. 3, 2016), <http://egyptianstreets.com/2016/12/03/egypts-constitutional-court-rules-against-interior-minister-authority-to-ban-protests/>.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 18 Jan. 2014, <http://www.sis.gov.eg/Newvvr/Dustor-en001.pdf>.

detained, or whose freedom is restricted “may not be tortured, intimidated, coerced, or physically or morally harmed.”⁹² Article 65 ensures that “[f]reedom of thought and opinion is guaranteed,” stating that every person has the right to verbally express his opinion.⁹³ Article 73, moreover, protects citizens’ rights to organize and participate in all forms of peaceful protests and public meetings when notification is served⁹⁴—a direct conflict with the protest law that gives the government the authority to prohibit protests, even after notice is served.⁹⁵ NGOs are protected under Article 75, which provides that “all citizens shall have the right to form non-governmental associations and foundations . . . which shall acquire legal personality upon notification.”⁹⁶ These associations may freely practice their activities, and administrative agencies may not interfere with their activities or dissolve them, except upon a court judgment.⁹⁷ Article 93 guarantees the nation’s commitment to compliance with human rights conventions: “The State shall be bound by the international human rights

⁹² *Id.* at art. 55.

⁹³ *Id.* at art. 65.

⁹⁴ *Id.* at art. 72.

⁹⁵ *See supra* Part II.A.

⁹⁶ CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 18 Jan. 2014, art. 75, <http://www.sis.gov.eg/Newvr/Dustor-en001.pdf>.

⁹⁷ *Id.*

agreements, covenants and conventions ratified by Egypt. . .

.⁹⁸

The constitution, however, also provides for the expansion of military powers. Article 234, valid for two presidential terms after the constitution goes into effect, provides that the SCAF must approve the appointment of the Minister of Defense.⁹⁹ This is a change from the 2012 constitution, which granted the president and the government exclusive authority to appoint a defense minister.¹⁰⁰ The requirement that the military approve the

⁹⁸ *Id.* at art. 93; see also *Civic Freedom Monitor: Egypt*, THE INT'L CTR. FOR NOT-FOR-PROFIT LAW (Dec. 2, 2016), <http://www.icnl.org/research/monitor/egypt.html> (noting that Egypt has ratified the following human rights agreements: International Covenant on Civil and Political Rights; International Covenant on Economic, Social, and Cultural Rights; Optional Protocol to International Covenant on Economic, Social, and Cultural Rights; International Convention on the Elimination of All Forms of Racial Discrimination; Convention on the Elimination of All Forms of Discrimination Against Women; Convention on the Rights of the Child; International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; Convention on the Rights of Persons with Disabilities; Arab Charter on Human Rights; and African Charter on Human and Peoples' Rights).

⁹⁹ CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 18 Jan. 2014, art. 234, <http://www.sis.gov.eg/Newvvr/Dustor-en001.pdf>.

¹⁰⁰ L. Lavi, *Egypt's Draft Constitution 2014: Focus on De-Islamization, Expansion of Military Power*, THE MIDDLE EAST MEDIA RESEARCH INST. (Jan.

defense minister suggests that Egypt intends to establish military rule, and creates a situation where the military is “a state above the state.”¹⁰¹ Article 204 now allows for civilians to stand trial in military court for crimes of assault against military zones, facilities, camps, or border zones, and assault against the Armed Forces’ “equipment, vehicles, weapons, ammunition, documents, military secrets, or its public funds . . . or crimes that constitute a direct assault against the officers or personnel of the Armed Forces by reason of performing their duties.”¹⁰²

C. FOREIGN FUNDING LAWS

President el-Sisi issued a presidential decree in September 2014, which amends Article 78 of the Penal Code.¹⁰³ The true purpose of this amendment was not

10, 2014), https://www.memri.org/reports/egypts-draft-constitution-2014-focus-de-islamization-expansion-military-power#_ednref29.

¹⁰¹ *Id.* (quoting ‘Amr Hamzawy, member of the National Salvation Front and former member of People’s Assembly) (internal quotation marks omitted).

¹⁰² CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 18 Jan. 2014, art. 204, <http://www.sis.gov.eg/Newvr/Dustor-en001.pdf>.

¹⁰³ *Egypt: Presidential Decree Enhances Punishments Against Legal Persons and Individuals Receiving Foreign Funding*, THE LAW LIBRARY OF CONG., GLOB. LEGAL MONITOR (Sept. 26, 2014), <http://www.loc.gov/law/foreign-news/article/egypt-presidential->

explicitly disclosed,¹⁰⁴ but the practical effect is to impede foreign funding of individuals and private organizations operating in Egypt.¹⁰⁵ Pursuant to this law, a life sentence and a hefty fine are imposed upon any persons requesting or receiving, or mediating request or receipt of, money, weapons, or equipment from a foreign country or a foreign local or private organization “with the aim of pursuing acts harmful to the national interest or destabilizing the general peace or the country’s independence and unity.”¹⁰⁶ This amendment, furthermore, grants the court the authority to impose a death sentence when a civil servant violates this law.¹⁰⁷

Egypt’s parliament passed a new, even more restrictive draft law governing NGOs and civil society organizations (“CSOs”) on November 29, 2016, which is now

decreed-enhances-punishments-against-legal-persons-and-individuals-receiving-foreign-funding/.

¹⁰⁴ Ziad Bahaa-Eldin, *Egypt: Where is the New NGO Law?*, AHARAM ONLINE (Dec. 21, 2016), <http://english.ahram.org.eg/NewsContent/4/0/253561/Opinion/0/Egypt-Where-is-the-new-NGO-law-.aspx>.

¹⁰⁵ *Egypt: Presidential Decree Enhances Punishments Against Legal Persons and Individuals Receiving Foreign Funding*, *supra* note 103.

¹⁰⁶ *Id.* (citing Presidential Decree No. 128 of 2014 (law amending the Criminal Code), *al-Jaridah al-Rasmiyah*, 21 Sept. 2014, art. 78 (Egypt)).

¹⁰⁷ *Id.*

pending ratification by President el-Sisi.¹⁰⁸ The law includes new provisions that require the government's permission before CSOs may accept foreign funding, operate in Egypt, work with foreign organizations or experts, or conduct surveys or publish reports.¹⁰⁹ The law increases the CSO registration fee and now includes prison sentences and steep fines as penalties for violations.¹¹⁰

III. THE PRACTICAL APPLICATION OF THE LAWS

Ahmed Saied, a surgeon who joined a group of silent demonstrators in November 2015 to commemorate the four-year anniversary of protestors killed by the military, was arrested a few hours after the silent demonstration under the pretense of not carrying his national identification card.¹¹¹ Saied was electrocuted and burned with cigarettes during his detention.¹¹² After his arrest, he was blindfolded and interrogated by national security forces about his

¹⁰⁸ *Civic Freedom Monitor: Egypt*, *supra* note 98.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ Aya Nader, 'We Made Chess out of Soap': *Exclusive Interview with Released Political Prisoner Ahmed Saied*, EGYPTIAN STREETS (Nov. 23, 2016), <http://egyptianstreets.com/2016/11/23/we-made-chess-out-of-soap-exclusive-interview-with-released-political-prisoner-ahmed-saied/> [hereinafter 'We Made Chess out of Soap'].

¹¹² *Id.*

involvement with the demonstration that was not approved as required.¹¹³ Officers prevented him from making any calls, and he spent the night at the police station before appearing in front of a prosecutor the next day.¹¹⁴

Saied was charged with protesting without permission and disrupting public order and was sentenced to two-years imprisonment.¹¹⁵ He shared a three-by-three meter cell with nine to twelve people,¹¹⁶ and authorities prevented his access to heavy clothing and medications while his health was deteriorating in prison.¹¹⁷ Saied was pardoned by President el-Sisi and released in November 2016¹¹⁸ along with eighty-one other protestors detained for violating the protest law, although several other high-profile activists remain imprisoned.¹¹⁹

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Court Upholds Two-Year Imprisonment Sentence for Egyptian Surgeon Ahmed Saied*, EGYPTIAN STREETS (Jan. 27, 2016), <http://egyptianstreets.com/2016/01/27/court-upholds-two-year-imprisonment-sentence-for-egyptian-surgeon-ahmed-saied/>.

¹¹⁸ *'We Made Chess out of Soap,' supra* note 111.

¹¹⁹ *Egypt's Sisi Issues Presidential Pardon for 82 Protestors, Including Islam El Beheiry*, EGYPTIAN STREETS (Nov. 17, 2016),

Similarly, in October 2016, the Ministry of Interior denied Coptic youth activists a permit to hold a protest commemorating the Copts killed during the Maspero massacre five years prior, citing “security reasons” as the reason for the denial.¹²⁰ The Ministry also threatened some of the activists.¹²¹ The Ministry, furthermore, denied the Coptic protestors a written copy of the rejection in an attempt to prevent them from appealing the decision.¹²² These cases demonstrate that, despite the amended constitution, the government continues to silence citizens attempting to exercise their rights to peacefully protest, often under the pretext of arresting them for another crime or denying permits for the maintenance of security.

Despite the fact that the freedoms of expression and assembly are guaranteed in the constitution, tension arises between these freedoms and the 2013 protest law, which has

<http://egyptianstreets.com/2016/11/17/egypts-sisi-issues-presidential-pardon-for-82-protestors-including-islam-el-beheiry/>.

¹²⁰ *Coptic Activists Denied Permit to Protest on Maspero Anniversary*, ASWAT MASRIYA (Oct. 5, 2016, 4:22 PM), <http://www.aswatmasriya.com/en/news/details/17821>.

¹²¹ *Id.*

¹²² *Amira El-Fekki, Coptic Activists Denied Protest Permit on Maspero Massacre Anniversary*, DAILY NEWS EGYPT (Oct. 5, 2016), <http://www.dailynewsegypt.com/2016/10/05/coptic-activists-denied-protest-permit-maspero-massacre-anniversary/>.

the practical effect of criminalizing free assembly when it is perceived as a threat to public order.¹²³ The protest law effectively allows the government wide latitude to shut down any opposition, even non-political, through violent force if demonstrators do not disperse.

After the government's raid of NGOs in 2011,¹²⁴ Egyptian authorities opened investigations into how these organizations received their foreign funds allegedly used for an illegal purpose.¹²⁵ These illegal purposes include any activities that could be construed as "pursuing acts harmful to national interests," "destabilizing general peace," or "harming security and public order."¹²⁶ In June 2013, in what is known as the "foreign funding trial," forty-three Egyptian and foreign NGO employees were sentenced in criminal court to imprisonment ranging from one to five years, with

¹²³ See Breslow, *supra* note 70.

¹²⁴ See *supra* Part I, at 4-5.

¹²⁵ See *International Organizations Slam Egyptian Court Decision Against Human Rights Activists*, EGYPTIAN STREETS (Sept. 19, 2016), <http://egyptianstreets.com/2016/09/19/international-organizations-slam-egyptian-court-decision-against-human-rights-activists/>.

¹²⁶ *Egypt: Asset Freeze is a Shameless Ploy to Silence Human Rights Activism*, AMNESTY INT'L (Sept. 17, 2016, 2:03 PM), <https://www.amnesty.org/en/latest/news/2016/09/egypt-asset-freeze-is-a-shameless-ploy-to-silence-human-rights-activism/>.

directors and senior staff sentenced to five years imprisonment.¹²⁷ The court also shut down several NGOs.¹²⁸

The court reopened the foreign funding case in March 2016 and ordered the asset freeze of several prominent Egyptian human rights defenders: the founder of the Egyptian Initiative for Personal Rights, the directors of the Arabic Network for Human Rights, the Cairo Institute for Human Rights Studies, the Hisham Mubarak Law Center, and the Egyptian Center on the Right to Education.¹²⁹ The authorities also imposed a travel ban on two of these activists, which the activists discovered when attempting to fly out of Cairo.¹³⁰ In September 2016, the Cairo Criminal Court upheld the validity of these asset freezes.¹³¹ It should be noted that courts impose punishments of travel bans and

¹²⁷ *Background on Case No. 173 – The “Foreign Funding Case” Imminent Risk of Prosecution and Closure*, EGYPTIAN INITIATIVE FOR PERSONAL RIGHTS (Mar. 21, 2016), <http://eipr.org/en/press/2016/03/background-case-no-173-%E2%80%9Cforeign-funding-case%E2%80%9D>.

¹²⁸ *Id.*

¹²⁹ *International Organizations Slam Egyptian Court Decision Against Human Rights Activists*, *supra* note 125.

¹³⁰ *Egypt Under Fire for Reopening NGO Trial Investigation*, EGYPTIAN STREETS (Mar. 20, 2016), <http://egyptianstreets.com/2016/03/20/egypt-under-fire-for-reopening-ngo-trial-investigation/>.

¹³¹ *International Organizations Slam Egyptian Court Decision Against Human Rights Activists*, *supra* note 125.

asset freezes without trials or convictions.¹³² These activists may subsequently face conviction and life in prison, which is equivalent to twenty-five years in Egypt.¹³³

NGO representatives expressed concern that, pursuant to the 2014 amended Article 78 of the Penal Code, authorities may consider producing a film about poverty or writing a report about protests, attacks on Copts, or human rights violations in Sinai to be destabilizing or harmful to national unity.¹³⁴ They further expressed that prosecutors and the police may take advantage of this law and arrest human rights activists under the pretense that their work harms the national interest.¹³⁵ Because the Penal Code already includes provisions for prosecuting individuals who violate national security, this law is an unjustified restriction on the efforts of CSOs and NGOs in Egypt.¹³⁶

A large number of civilians have been tried in military court in recent years. In 2015, a military court sentenced six minors to fifteen years in prison for illegal

¹³² See Bahaa-Eldin, *supra* note 69.

¹³³ *Egypt: Asset Freeze is a Shameless Ploy to Silence Human Rights Activism*, *supra* note 126.

¹³⁴ *Egypt: Presidential Decree Enhances Punishments Against Legal Persons and Individuals Receiving Foreign Funding*, *supra* note 103.

¹³⁵ *Id.*

¹³⁶ *Id.*

protesting and attacking public utilities in 2013.¹³⁷ Pursuant to a 2014 presidential decree, military court jurisdiction was expanded to attacks on public utilities secured by the army.¹³⁸ Because the minors attacked the utilities, they were tried in a military court, despite the fact that the attack occurred in 2013, prior to the military jurisdiction being extended to the utilities.¹³⁹ In 2014, a minor was arrested for illegal protesting and possessing grenades, and he was brought before a military court mere days before his hearing scheduled before a civilian judge.¹⁴⁰ Military prosecution charged him with belonging to a terrorist organization.¹⁴¹ Since the Revolution, approximately 12,000 civilians have been charged in military courts.¹⁴² Because the language of

¹³⁷ Nourhan Magdi, *Minors at Military Trials on 'Political Charges,'* THE CAIRO POST (June 4, 2015, 6:23 PM), http://thecairopost.youm7.com/news/153848/inside_egypt/minors-at-military-trials-on-political-charges.

¹³⁸ *Id.*; see also Jihad Abaza, *Alexandria Military Court Hands Sentences to 147 Defendants, Including Minors,* DAILY NEWS EGYPT (May 25, 2015), <http://www.dailynewsegypt.com/2015/05/22/alexandria-military-court-hands-sentences-to-147-defendants-including-children/> (noting that presidential decree expanded military jurisdiction to assault against "vital state properties").

¹³⁹ Magdi, *supra* note 137.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

Article 204 is ambiguous, children may be tried in military courts and may receive maximum prison sentences of fifteen years.¹⁴³

As of April 13, 2016, at least 7,420 civilians have been tried in military courts since October 2014, when President el-Sisi issued a decree further expanding military court jurisdiction.¹⁴⁴ Military courts sentenced a majority of these defendants at joint trials that violated due process rights because of the alleged threat to national security, “and some courts relied on confessions extracted under torture[.]”¹⁴⁵ Most of the civilians charged in military court, furthermore, did not commit crimes involving the armed forces—they were transferred there because the presidential decree essentially includes all public property under military jurisdiction.¹⁴⁶ A large number of civilians tried in military

¹⁴³ *Id.*

¹⁴⁴ *Egypt: 7,400 Civilians Tried in Military Courts*, HUMAN RIGHTS WATCH (Apr. 13, 2016, 12:00 AM), <https://www.hrw.org/news/2016/04/13/egypt-7400-civilians-tried-military-courts>; *see also* Presidential Decree No. 136 of 2014 (For the Securing and Protection of Public and Vital Facilities), *al-Jaridah al-Rasmiyah*, 27 Oct. 2014 (Egypt) (declaring that public and vital facilities, including electricity stations, gas pipelines, oil wells, railroads, road networks, bridges, and other similar state-owned property, are under military jurisdiction).

¹⁴⁵ *Egypt: 7,400 Civilians Tried in Military Courts*, *supra* note 144.

¹⁴⁶ *Id.*

courts were also charged with participating in illegal or violent protests.¹⁴⁷ Many of these civilians were “forcibly disappeared and tortured,” and several have been sentenced to death and hanged.¹⁴⁸ These few examples of how the government has applied various laws post-Revolution indicate that Egypt must undergo significant changes if citizens are to enjoy their constitutional rights and freedoms.

IV. HOW SHOULD THE GOVERNMENT BALANCE ORDER AND FREEDOM?

The Egyptian government ought to allow citizens to exercise their rights and freedoms under the law without fear of punishment, while simultaneously balancing this freedom against the need for national order and security. With new and old generations alike eager to live free of dictators, the approaches of the past used to “contain” the populace may no longer be effective. So how can this balance be achieved?

First, particular articles of the protest law must be repealed, or at least significantly amended. The protest law silences the most vocal sector of society, usually the youth.¹⁴⁹ Although the protest law’s stated purpose is to prevent violence and restore stability, it continues to facilitate the

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ See El-Din, *supra* note 78 (noting Egypt’s highest court has recently rejected challenges to articles 7, 8, and 19 of protest law).

suppression of political activism.¹⁵⁰ “Political activism” evokes images of large, organized groups with an explicit agenda seeking political change. But, in fact, most of the people affected by the protest law are common citizens who merely want to express their thoughts about the political and social climate, as they have a right to do under the constitution.¹⁵¹ The government sufficiently may provide for safety and security through ordinary criminal laws;¹⁵² it need not promulgate laws to suppress freedoms as the current provisions of criminal law already deter violence and sedition.¹⁵³

Even maintaining the requirement of permits, the law can be changed to grant less authority to the Ministry of Interior. For example, requests for permits should not be denied for vague reasons such as “interfering with citizens’ interests” or “affecting the course of justice.” The Ministry possesses significant discretion in determining what it considers to be a threat to security or public order. Why is a peaceful commemoration of Copts killed by government forces considered a threat to public order? The law needs to be amended to include precise, limited justifications for denying permits. Citizens still may be prosecuted under different laws for true threats to national security. The

¹⁵⁰ See *supra* Part III.

¹⁵¹ See *supra* Part II.B.

¹⁵² See Bahaa-Eldin, *supra* note 69.

¹⁵³ See *id.*

president should pardon or grant amnesty to those wrongfully prosecuted and convicted under the protest law—those who were merely expressing, without any violence, their political or social opinions.¹⁵⁴

There is no doubt that some form of the law must exist to regulate protests. The reasonable provisions prohibiting protestors from carrying weapons, ammunitions, or explosives¹⁵⁵ and prohibiting political protests inside houses of worship¹⁵⁶ serve the valid purpose of ensuring safety. But other provisions, such as prohibiting the hampering of citizens' interests or subjecting public or private property to danger,¹⁵⁷ are unreasonably vague. When a group of individuals is protesting, there likely will exist a significant amount of noise and disruption. Is this considered hampering other citizens' interests? The prohibition of endangering property, likewise, is vague because the government may consider groups to be a danger to the property around them, even without the use of weapons. Certain provisions of the protest law, therefore,

¹⁵⁴ *See id.*

¹⁵⁵ Law No. 107 of 2013 (For organizing the right to peaceful public meetings, processions and protests), *al-Jaridah al-Rasmiyah*, 24 Nov. 2013, art. 6 (Egypt), http://www.constitutionnet.org/sites/default/files/protest_law_issued_nov_24.pdf.

¹⁵⁶ *Id.* at art. 5.

¹⁵⁷ *Id.* at art. 7.

must be amended to provide for greater clarity and specificity regarding protestors' prohibited behavior.

Second, Egyptian citizens should more actively participate in politics to achieve the proper balance between order and freedom. A meager 46% of eligible voters participated in the 2014 presidential election—a lower percentage than the 52% turnout of the 2012 presidential election.¹⁵⁸ Considering the events surrounding the 2014 election, this is an extremely low percentage. The first day of elections saw, at most, a 20% turnout.¹⁵⁹ The government, in an effort to increase turnout, declared the second day of elections a national holiday.¹⁶⁰ Voters were permitted to ride trains and buses free of charge in order to travel to their polling stations.¹⁶¹ Finally, the election commission threatened to impose a fine, under a rarely applied existing law, on citizens who did not vote.¹⁶² Because voter turnout was still low, the election commission extended the

¹⁵⁸ See Youssef Hamza, *The Unexpected Twist in Egypt's Presidential Election*, THE NATIONAL (June 1, 2014, 12:26 PM), <http://www.thenational.ae/world/egypt/the-unexpected-twist-in-egypts-presidential-election#full>.

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.*

opportunity to vote for a third day, which only marginally improved turnout.¹⁶³

Egyptians are clearly capable of effecting political change, as evidenced by the tens of thousands of citizens who protested during the Revolution and, later, to depose Morsi. But the majority of Egyptians failed to take action at the most crucial time, thus facilitating the erosion of freedoms as a military-backed government gained control of the country. The parliamentary elections held during October and November 2015¹⁶⁴ provided citizens with another opportunity to effect change. Only 28.3% of eligible citizens voted, however – again, a significant decrease from the greater than 50% turnout in the 2011 parliamentary election.¹⁶⁵

Pursuant to Law No. 46 of 2014, a specified quota of parliamentary seats must be filled by youth, women, Christians, persons with disabilities, Egyptians residing abroad, and workers or farmers.¹⁶⁶ These quotas guarantee

¹⁶³ *See id.*

¹⁶⁴ *Egypt's Elections Committee Announces Final Parliamentary Results*, AHARAM ONLINE (Dec. 18, 2015), <http://english.ahram.org.eg/NewsContent/1/164/173877/Egypt/Egypt-Elections-/Egypt-elections-committee-announces-final-parliam.aspx>.

¹⁶⁵ *Id.*

¹⁶⁶ *See* Law No. 46 of 2014 (On Promulgating the Law on the House of Representatives), *al-Jaridah al-Rasmiyah*, 5 June 2014, art. 5 (Egypt),

adequate representation of members of society belonging to various social and economic groups and provide an incentive for citizens to participate in parliamentary elections. Despite these quotas, less than one-third of eligible citizens voted in the 2015 parliamentary election.¹⁶⁷ How, then, can citizens have a say in proposed laws guaranteeing freedom if they do not participate in electing individuals who represent their interests? Citizens should therefore take the initiative to participate in elections, where their expression of political views will surely result in change consistent with the opinions of various sectors of society.

Third, in order to maintain the proper balance between order and freedom, the government should not prosecute individuals for exercising their constitutional rights. A portion of the preamble to the 2014 constitution provides: "We are drafting a Constitution that maintains our freedom and protects our nation against any peril that threatens it or our national unity."¹⁶⁸ The constitution itself

https://www.elections.eg/images/pdfs/laws/HouseOfRepresentatives2014-46_en.pdf.

¹⁶⁷ See generally Abdullah Al-Arian, *Egypt's Hollow Parliament*, AL JAZEERA (Jan. 12, 2016), <http://www.aljazeera.com/indepth/opinion/2016/01/egypt-hollow-parliament-160112071640089.html> (noting that elected parliament now "consists mostly of former regime figures, Sisi allies, and business elites with strong economic ties to the regime").

¹⁶⁸ CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT 5, 18 Jan. 2014, <http://www.sis.gov.eg/Newvr/Dustor-en001.pdf>.

acknowledges the need to balance freedom and order. But, in Egypt's case, the government exercises its authority to protect the nation against perceived threats to "national unity" more willingly than it exercises its authority to protect the freedoms of its citizens.¹⁶⁹ Article 65, in theory, guarantees the freedom of opinion and the right to express one's opinion through any form of expression.¹⁷⁰ As mentioned previously, however, the government has provided other reasons, such as maintaining national unity or public order, to justify violating citizens' rights, as in the cases of the Coptic youth who were unjustly denied a protest permit and Ahmed Saied who was jailed and tortured for participating in a silent demonstration.¹⁷¹

Fourth, each branch of government must hold the others accountable for the gross violations of international law. The International Commission of Jurists found that the protest law, the law expanding military court jurisdiction, and the law amending the foreign funding article of the Penal Code, among other laws, are violations of Egypt's international law obligations.¹⁷² Pursuant to the

¹⁶⁹ See *Civic Freedom Monitor: Egypt*, *supra* note 98 ("The constitution contains numerous relevant rights protections, although most of these have yet to see significant enforcement in practice.").

¹⁷⁰ CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 18 Jan. 2014, art. 65, <http://www.sis.gov.eg/Newvr/Dustor-en001.pdf>.

¹⁷¹ See *supra* Part III.

¹⁷² *Egypt's New House of Representatives: Reform or Annul Presidential Decrees to Conform to International Human Rights Standards*, INT'L COMM'N

constitution,¹⁷³ the International Covenant on Civil and Political Rights has the force of law, and Egypt is bound by this Covenant because it ratified the covenant in 1982.¹⁷⁴ The protest law provides state officials with legal immunity for use of lethal force during the course of their official duties.¹⁷⁵ The aforementioned laws, furthermore, fail to provide victims with any type of remedy.¹⁷⁶

Freedom House, in its *Freedom in the World* 2016 publication, designated Egypt's freedom status as "not free" based on citizens' political and civil rights.¹⁷⁷ On a scale of one to seven, with one representing the most free conditions

OF JURISTS (Dec. 22, 2015), <https://www.icj.org/egypts-new-house-of-representatives-reform-or-annul-presidential-decrees-to-conform-to-international-human-rights-standards/> [hereinafter *Egypt's New House of Representatives*].

¹⁷³ See CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 18 Jan. 2014, art. 93, <http://www.sis.gov.eg/Newvr/Dustor-en001.pdf>.

¹⁷⁴ *Egypt's New House of Representatives*, *supra* note 172.

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ Arch Puddington & Tyler Roylance, *Freedom in the World* 2016, *Anxious Dictators, Wavering Democracies: Global Freedom Under Pressure* 21, FREEDOM HOUSE, https://freedomhouse.org/sites/default/files/FH_FITW_Report_2016.pdf (last visited Jan. 10, 2017).

and seven representing the least free conditions, Egypt's political rights are designated as "six" and civil liberties are designated as "five."¹⁷⁸ Egypt received an aggregate score of twenty-seven out of 100, with a larger aggregate score indicating a greater level of freedom.¹⁷⁹ The methodology consists of assessing how both state and non-state actors affect political rights and civil liberties.¹⁸⁰

In Freedom House's *Freedom in the World 2017* publication, which prescribes the same methodology as the 2016 publication, Egypt's aggregate score dropped to twenty-six.¹⁸¹ The political rights and civil liberties designations remained the same.¹⁸² The 2017 publication also notes that President el-Sisi employs a "feckless and thuggish security apparatus that has failed to quell the insurgency."¹⁸³ Under President el-Sisi's Administration, there remains corruption, economic mismanagement, ongoing violence,

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *Id.* at 2.

¹⁸¹ Arch Puddington & Tyler Roylance, *Freedom in the World 2017, Populists and Autocrats: The Dual Threat to Global Democracy 21*, FREEDOM HOUSE, https://freedomhouse.org/sites/default/files/FH_FIW_2017_Report_Final.pdf (last visited Apr. 23, 2017).

¹⁸² *Id.*

¹⁸³ *Id.* at 7.

and political repression.¹⁸⁴ It is clear, therefore, that all branches of the Egyptian government must take swift and thorough action to protect the rights and freedoms of its citizens, as guaranteed by the Egyptian Constitution and by international covenants.

V. CONCLUSION

Leading up to the Revolution, Egyptians hoped to enjoy greater freedoms facilitated by a new democratic government. Six years and three presidents later, Egyptians are suffering a significant increase in human rights violations, especially in the form of the government's suppression of political activists. Despite the fact that the 2014 constitution guarantees freedoms of opinion, expression, and association, the protest law and foreign funding law serve to silence individuals, CSOs, and NGOs opposing President el-Sisi's regime. The authorities often arrest and detain protestors and shut down human rights organizations under the pretext of maintaining public order or national security. The constitution and military jurisdiction law have expanded military court jurisdiction, which has led to the trial and sentencing of thousands of civilians, including children, in military court when they should have been tried in a regular court.

Every government rightfully needs to maintain security and public order of its nation. Egypt, however, exercises this authority at the expense of citizens'

¹⁸⁴ *Id.*

fundamental rights. Changes, therefore, need to be made to ensure the proper balance between freedom and order. The government should amend the protest law, encourage citizens to vote in elections, avoid wrongfully prosecuting citizens exercising their constitutional rights, and hold other branches of government accountable for violations of Egypt's obligations under international law. Egypt must undergo political reform so that Egyptians may enjoy the rights and freedoms that they dreamed of when they bravely decided to make their voices heard via the Revolution.