



Freedom House UPR Stakeholder Submission - Egypt

Introduction

This report is submitted by Freedom House to the Office of the High Commissioner for Human Rights (OHCHR) to be considered for inclusion in the summary of stakeholder submissions for the Universal Periodic Review of the Arab Republic of **Egypt**, scheduled to take place in February 2010.

Executive Summary

1. The submission is focused primarily on the long-standing emergency status in Egypt and its implications for political rights and civil liberties within the country. In addition to the recommendations contained in the final section, this submission makes the following key points:
2. For 40 years, the Egyptian government has imposed a perpetual state of emergency, which makes it one of the longest standing “permanent emergencies” in the world. The state of emergency is continually renewed despite unfulfilled promises by senior government officials that it will be replaced by new constitutional measures, prompting the conclusion that it is a policy motivated solely by the desire to stifle peaceful and democratic opposition.
3. Emergency status has been a primary obstacle to democratic progress in the Arab Republic of Egypt. It is used as a pretext for a litany of human rights violations against political activists, human rights defenders, and ordinary citizens, and has stifled the development of electoral democracy in both name and practice.
4. While Egypt is heading for parliamentary elections in 2010 and presidential elections the following year, there is an urgent need to abolish the emergency status law in order to restore credibility to the election process and lend legitimacy to the results.

Permanent Emergency Status Is a Violation of International Law

5. Egyptians have been living under an Emergency Law (provided for by Law No. 162 of the Constitution of 1958) since 1967, when it was imposed during the Arab-Israeli War. The law was later cancelled for an 18-month period in 1980, but reinstated following the assassination of President Anwar Sadat. The law has been continuously extended every three years since 1981.
6. Egypt is a state party to the International Covenant on Civil and Political Rights (ICCPR), which commits countries to allow for basic freedoms of association and expression. However, these and other fundamental rights are effectively suspended under the state’s emergency

legislation. For state parties that are signatories to the ICCPR, Article 4 permits states to derogate from certain rights guaranteed by the covenant only in "times of public emergency." Any measures derogating from obligations under the convention, however, must only be to the extent required by the exigencies of the situation, and must be announced by the state party to the Secretary-General of the United Nations. Neither of these conditions have been met by the Egyptian Emergency Law.

7. Every three years, President Hosni Mubarak asks the Egyptian parliament for its rubber stamp approval in order to extend the Emergency Law. Most recently, the Emergency Law was renewed in April 2008, despite President Mubarak's 2005 promise that it would be replaced with specific, focused, antiterrorism legislation. In December 2006, President Mubarak did propose thirty-four amendments to the constitution, and in March 2007 each one was ratified by parliament, effectively "constitutionalizing" the state's emergency legislation. The amendments to the constitution enshrine many controversial aspects of the Emergency Law—such as the president's authority to transfer civilians suspected of terrorism to military courts—using the sweeping, highly suspect justification of "counter-terrorism measures." The new language strengthens the government's hand by precluding three other constitutional articles from hindering Egypt's domestic antiterrorism campaign: Article 44 (protection of home from unwarranted search), Article 45 (privacy and security of communications), and Article 41 (freedom from arbitrary arrest or detention). The definition of "terrorism" used by the Egyptian government is sufficiently vague as to include numerous activities that pose a threat to the regime.

Emergency Status Is the Main Pretext for Serious Human Rights Abuses

8. According to *Freedom in the World*, Freedom House's annual survey of political rights and civil liberties, Egypt has denied its citizens a wide range of fundamental political rights and civil liberties guaranteed under international law ever since the survey was initiated in 1972. The Emergency Law has served as the primary justification for the denial of these basic rights in Egypt.
9. For example, the Emergency Law empowers the government to tap telephones, intercept mail, search persons and places without warrants, and indefinitely detain without charge suspects deemed a threat to national security. The Emergency Law gives the security apparatus, in particular the secret police (*Amn al-Dawla* and *Mukhabarat*), special powers to prevent the exercise of political rights and civil liberties. These violations include the documented use of arbitrary detention, harassment and ill-treatment of attendees at public rallies, and torture of those in custody.

Use of Arbitrary Detention and Torture

10. The Emergency Law provides for the arbitrary and open-ended detention of political prisoners. The Egyptian Organization for Human Rights (EOHR) has reported that as many as 16,000 people are currently being detained without charge for security-related offenses, while thousands of others have been convicted and are serving additional prison time in excess of their original sentences. Conditions in Egyptian prisons are very poor; prisoners are subject to torture, overcrowding, abuse, and a lack of sanitation, hygiene, and medical care.
11. Accountability for human rights violations is rare but does sometimes occur in instances such as the widely publicized video from 2007 of an individual being sodomized while in police

custody. Egyptian blogger Wael Abbas obtained footage of the torture, and by posting the video on his YouTube channel, was able to assist in the eventual prosecution and conviction of several police officers.

Violations of Freedoms of Association

12. While the Egyptian Constitution itself provides for personal freedom in Article 41, the inviolability of private homes in Article 44, and freedom of movement and residence in Article 54, in practice these freedoms are restricted by the Emergency Law. The Emergency Law grants to the Egyptian police apparatus the power to impose restrictions on freedom of assembly, movement, and residence; the power to arrest and detain indefinitely suspects deemed “dangerous;” and the power to search individuals and places without the need to follow the regulations of the Criminal Procedure Code (by virtue of Article 3 of the Emergency Law). The Emergency Law gives security forces the power to prevent and disrupt peaceful opposition demonstrations, arrest participants, and physically abuse them on site and while in custody.
13. In addition to circumventing constitutional protections, these emergency powers also disregard many rights and safeguards stipulated in the International Convention on Civil and Political Rights such as Article 9’s assurance of personal freedom, Article 12’s guarantee of freedom of movement, and Article 21’s protection of the right to peaceful assembly. On April 6 and 7, 2008, security forces used the powers accorded them by the Emergency Law to prevent textile workers from striking in the Nile Delta city of Mahalla. The security forces violently dispersed protesters who were peacefully demonstrating against the rising cost of food and basic goods, detaining scores, including many of the online activists who had promoted the strike. When Egypt’s prosecutor-general ordered the release of 20 Mahalla detainees a week later, the Interior Ministry invoked the Emergency Law to re-arrest them.

Violations of Freedom of Speech

14. The Emergency Law allows arrest for innocuous acts such as insulting the president, blocking traffic, or distributing leaflets and posters. Many of the state’s agents are perceived to be acting within the bounds of domestic law (although in violation of international norms) or carrying out official orders, and thus escape criminal or other sanction. In cases of physical abuse and mistreatment of journalists, security forces rarely face repercussions. Many journalists also admit to a degree of self-censorship, toning down articles in which they would otherwise prefer to convey more critical views of the government or merely report on objective realities. In essence, every written word must pass screening by a government censor.
15. Internet freedom came under government attack in early 2007 as, for the first time, an Egyptian blogger was sentenced to a prison term for offenses related to public order, presidential insult, and incitement against Muslims. The blogger, Kareem Amer, continues to be incarcerated for charges of “insulting religion” and the president. The United Nations Working Group on Arbitrary Detention recently released a report concluding that Amer is being detained arbitrarily by the Egyptian authorities for his online critique and for exercising his right to freedom of expression.¹

¹ UN experts conclude blogger Kareem Amer is being arbitrarily detained, a violation of international human rights standards: http://www.ifex.org/egypt/2009/03/25/un_experts_conclude_blogger_kareem/

16. Another activist, Mosad Suleiman, known by his pen-name Mosad Abu Fagr, was arrested at his home in Ismailiyya on December 26, 2007. Abu Fagr is a novelist, a social activist for the Bedouin community in Sinai, and a blogger who writes about social and political issues on the site *Wedna N'ish* ("We Want to Live"). He was arrested following demonstrations in Sinai against the razing of homes on Egypt's border with the Gaza Strip, according to local and international human rights reports. During the course of investigations, Abu Fagr faced various charges such as, "inciting riots, possessing a weapon without a license, and driving without a license." Although there have been multiple judicial orders from the administrative courts for his release, the Ministry of Interior has refused, according to the Hisham Mubarak Law Center, which has represented him throughout his proceedings. The Law Center has reported that after the repeated judicial orders calling for his release, the Ministry of the Interior began holding Abu Fagr under the Emergency Law, depriving him of most of his due process rights. Abu Fagr, who has been moved frequently from one holding place to another, went on hunger strike at least once in 2008 to protest mistreatment. In December 2008, an administrative court ordered the Ministry of the Interior to release Mosaad Abu Fagr after it reviewed an appeal of his case. Following the orders of the Ministry, state security forces removed Mosaad from prison and sent him to the local precinct where he was originally arrested. He was released and immediately rearrested on-site. To date, this cycle of Mosaad's "release" and re-arrest has occurred 13 times.

Violations of Rule of Law and Independence of the Judiciary

17. Egypt lacks an independent judiciary. The Justice Ministry controls judicial promotions and compensation packages, giving it undue influence over the courts. The 2006 Judicial Authority Law offered some concessions to judicial independence, but fell short of comprehensive reforms advocated by the Judges' Club, a national, independent syndicate of Egyptian judges who have attempted to free the judiciary from control by the state. Furthermore, provisions included in the Emergency Law undermine the integrity of Rule of Law. As provided for in the Emergency Law, Egypt operates two types of exceptional courts: state "security courts" and the military courts. In the past, both court systems have been used interchangeably to prosecute both civilian and military critics of the state, and have at times been shut down, only to be revived once more. Additionally, one of the March 2007 constitutional amendments allows the state to refer defendants to any judicial body authorized under law. The government has been able to try, without judicial review, civil rights and democracy activists, Islamist and secular political opponents, as well as homosexuals and feminists in whatever venue they desire. Arrested political activists are often tried under the Emergency Law in military courts.
18. Further, under the Emergency Law, any cases vaguely categorized as "security" cases are usually placed under the jurisdiction of exceptional courts that are controlled by the executive branch and deny defendants many constitutional protections, like the right to independent litigation. The special courts issue verdicts that cannot be appealed and are subject to ratification only by the president. Although judges in these courts are usually selected from the civilian judiciary, they are appointed directly by the president.

Recommendations

- The government of Egypt should suspend the Emergency Law and return to the 1971 constitution.

- The emergency court system should be fully and publicly disbanded.
- The government of Egypt should acknowledge and investigate prior violations of political freedoms, civil liberties, and human rights.
- The government of Egypt must embrace international standards on human rights and allow for better public monitoring as well as the independent and impartial review of complaints.
- The government of Egypt should ensure freedom of belief, thought, conscience, and religion by comportsing with international treaties to which it is a state party.

Attachments

Freedom in the World 2009: Egypt

Freedom of the Press 2009: Egypt

Freedom on the Net 2009: A Global Assessment of Internet and Digital Media – Egypt