



**EMBASSY OF THE ARAB REPUBLIC OF EGYPT
PRESS AND INFORMATION BUREAU**

1666 CONNECTICUT AVE., NW, SUITE 440 WASHINGTON, D.C. 20009

TEL. (202) 667-3402/4 FAX (202) 234-6827

E-mail: egyprinfo@gmail.com

www.modernegypt.info

CONTACT:

Karim Haggag

TEL: 202-667-3402

EMAIL: karimhaggag@gmail.com

Egypt's Renewal of the State of Emergency

Over the years, Egypt has been repeatedly subjected to acts of terrorism, the most notorious of which was the assassination of Egypt's head of state, President Anwar Sadat, in 1981 by a group called the Egyptian Islamic Jihad, which was violently opposed to President Sadat's signing of a peace treaty with Israel two years earlier.

Following that tragedy, the government declared a "state of emergency", which granted the government the authority to monitor communications, censor media, detain persons deemed to be a threat to national security and freeze property.

In 2005, as part of his electoral platform for Egypt's first direct, multi-candidate presidential election, President Mubarak stated that he was committed to declaring an end to the state of emergency and replacing it with a much more limited counterterrorism law.

However, to date, the Government has not succeeded in arriving at a consensus, internally or with stakeholders, on the appropriate balance between the means needed to preserve the lives and livelihoods of the public and to ensure that fundamental rights are guaranteed. The challenge is not dissimilar to that faced by the Obama Administration with Guantanamo Bay and the issue of counter-terrorism. Though President Obama signed an executive order to close the facility by the end of 2009, the administration has been unable to do so due to the complexity of the two challenges faced by the Administration regarding this matter: What to do with dangerous detainees?, and Where to try them?

Egypt is by no means alone in maintaining an extended state of emergency, especially in the Middle East. Israel has operated under a state of emergency since its founding in 1948. Other countries which have decided to take such measures include Pakistan (1977-1985 among others instances), Syria (Since 1963), Algeria (Since 1992) and Turkey (1971-2002).

I. The Terrorist Threat to Egypt

Egypt faces a very real and serious threat of terrorism. Since the assassination of President Sadat, thousands of Egyptians have been killed by terrorist organizations in Egypt, including the murder of 60 tourists in Luxor in 1997. It has been targeted by groups opposed to its commitment to a civil state and its efforts to seek a negotiated settlement to the Arab-Israeli conflict, including its peace treaty with Israel, which has been in effect for over 30 years. This threat, and that posed by narcotics trafficking, are the exclusive reasons for the continued declaration of a state of emergency.

The Hizbullah Terrorist Cell

The most significant terrorist activity since the Sinai bombings of 2006 was the conspiracy of a Hezbollah terrorist cell to attack Egyptian tourist establishments and smuggle weapons into the Occupied Palestinian Territories.

On April 9th 2009, the Prosecutor General announced that, based on evidence provided by the law enforcement, he had begun an investigation of 49 persons suspected of establishing a terrorist cell in Egypt with the goals of:

- Attacking Egyptian tourist establishments in the Sinai, particularly those frequented by Israeli tourists.
- Monitoring the movement of Israeli and American vessels through the Suez Canal
- Smuggling weapons, including explosives and rockets, from Sudan for use in Egypt and the Occupied Palestinian Territories

Egyptian Security Services were able to uncover this conspiracy and abort its execution, which was due to take place in April 2009. The accused were tried before the Egyptian judiciary, and having been convicted the court imposed sentences up to life imprisonment.

Threats in Sinai and at the Gaza Border

- The most horrific terrorist attacks on Egypt, since the Luxor attacks of 1997, took place in July 2005 in Sharm El-Sheikh. Nearly 300 people were killed and wounded in these attacks on tourist establishments, and the industry, which supports hundreds of thousands of families, was greatly damaged.
- Less than a year later, in April 2006, terrorists attacked the Egyptian town of Dahab, also in the Sinai, with almost 100 killed and wounded.
- The situation on the border between Egypt and Israeli-occupied Gaza continues to be a threat to Egyptian and regional security.
- Egypt is working to bring an end to illegal smuggling of persons and contraband on its border with Gaza, which has included explosives used in terrorist attacks in Egypt via networks of tunnels dug under the border.

II. What is the Emergency Law?

- Article 148 of the Constitution grants the President of the Republic the authority to declare a state of emergency after seeking the advice of the Council of Ministers in cases where the security or public order of the Republic is endangered due to war, the threat of war, internal instability, disasters or epidemics. This declaration is subject to review by the People's Assembly within 15 days.
- When declaring the state of emergency, the President must define the reasons for the declaration, its geographic scope and the date on which the declaration goes into effect.
- The State of Emergency is NOT a state of martial law. All normal laws, procedures and courts remain in effect for non-terrorism cases.
- In order to renew the state of emergency, the Government must seek the approval of a majority of the members of Parliament.
- Authorities under the state of emergency are regulated by the Emergency Law.

Safeguards in the Emergency Law

- The authorities granted to the President under the State of Emergency are subject to judicial review.
- Persons detained under the Emergency Law, are guaranteed certain rights by the law:
 - Detainees must be immediately informed in writing of the reasons for their arrest and detention.
 - Detainees must be granted the right to contact whomever they choose.
 - Detainees have the right to legal counsel and representation.
 - Detainees may challenge their detention every 30 days from the date of their arrest or detention before the Emergency Supreme State Security Courts (ESSSC).
- The ESSSCs are composed of civilian judges. In exceptional circumstances, the President may appoint military judges to the court.
- Decisions of the ESSSC are subject to certification by the President, who may order a retrial or may reduce or replace with a lesser sentence any sanctions imposed by the court. In the case that a defendant is acquitted at a retrial, the ESSSC's decision is not subject to presidential certification.
- The Government's exercise of emergency authorities has been limited to arrest and detention orders, which, as noted above, can be challenged before the judiciary - as well as those measures necessary to monitor and investigate terrorist threats and narcotics trafficking.

Additional Safeguards: Legal Limitations on the Scope of Application of the Emergency Law

At the request of the ruling National Democratic Party, the resolution before Parliament extending the State of Emergency significantly curtails the special powers provided under the Emergency Law.

Henceforth, the government may not exercise the following extraordinary powers previously available under Paragraphs 2,3,4 & 6 of Article 3 of the Emergency Law, among them:

- The monitoring of all forms of communication

- The monitoring, censoring, and confiscation of media and publications, and the ordering the closure of publishing houses & broadcasters
- The confiscation of property
- The regulation of the hours of operation of commercial activities
- The evacuation and isolation of certain areas

Under the resolution before Parliament extending the Emergency Law, the Government would be legally limited to using only those authorities available under Paragraph's 1 & 5 of Article 3 of the Emergency Law for the purposes of countering the threats of terrorism and narcotics trafficking. These include:

- The arrest & detention of persons suspected of being involved in crimes of terrorism and narcotics trafficking
- The searching of persons or places suspected of involvement in such crimes
- The cancelation of licenses to bear arms or own explosive materials, and the right to confiscate them

III. The Limited Impact of the Emergency Law

- The narrow application of the law has allowed Egyptians to continue to enjoy a vigorous political life and civil society:
 - Demonstrations for a variety of reasons and causes take place in Egypt regularly. According to the Solidarity Center, there were almost 2000 labor protests alone between 2004 and 2008
 - Civil society organizations are extremely active in Egyptian society , organize public meetings and activities, demonstrate and lobby for changes to public policy or laws.
 - The International Center for Not-For-Profit Law, while it expressed reservations regarding Egypt' NGO laws, has stated that *"Egypt has one of the largest and most vibrant civil society sectors in the entire developing world."*
 - Political parties and independent candidates compete for elected office.
 - Freedom of expression and traditional and new media are thriving, with over 500 independent publications available, independent satellite broadcast reaching 70% of the population and over 160,000 bloggers active.

IV. Ensuring the Accountability of the Security Services

- Egypt is determined to ensure not only the efficacy of its security services, but also their accountability. There have been cases of abuse, and the Egyptian Government is committed to holding perpetrators responsible.
- The office of the Prosecutor General investigates every complaint filed, and when credible evidence of abuses is found, authorities prosecute the perpetrators to the full extent of the law. In 2008 and 2009, the Public Prosecutor referred 47 cases of cruel treatment and torture to the criminal courts and two to disciplinary tribunals. He also requested that administrative sanctions be imposed in 37 cases.
- The Ministry of Interior is implementing, with the United Nations Development Program, a human rights training program for nearly 12,000 police officers.

- The Government pledged during the Human Rights Council Universal Periodic Review to amend the definition of torture in the Egyptian criminal code to bring it in line with its international commitments.

V. The Counterterrorism Law

- The Government, most recently in its discussions with the UN Special Rapporteur on the Protection of Human Rights While Combating Terrorism, who was invited by the Government to Egypt for consultations last year, has expressed its commitment to include the following safeguards in any anti-terrorism legislation:
 - Pre-charge detention of terrorist suspects would be limited to a maximum of 29 days. Currently, the state of emergency does not limit detention times if the extensions are approved by the reviewing judge.
 - Detainees would have the right to challenge their detentions before a judge within 24 hours, rather than the current 30-day requirement under the Emergency Law.
 - Detainees would have the right to court review of their detention on a weekly basis, rather than only every 30 days as is now the case.
 - Any measures or authorities exercised to investigate or thwart terrorist attacks and conspiracies would be under strict judicial oversight.

Additionally, the following safeguards that exist under the emergency law would be retained in counter terrorism legislation:

- Detainees would have the right to be immediately informed of the reasons for their detention.
- Detainees would have the right to contact their families or any other parties.
- Detainees would have the right to legal counsel.

VI. The State of Human Rights In Egypt

The Egyptian Government's commitment to ending the state of emergency is part of its broader commitment to enhance the state of human rights in Egypt. While much remains to be done, the Government has made significant progress in a number of areas, including the following.

Promoting Freedom of Expression and Political Participation

- Freedom of the press has significantly improved with the success of independent and opposition newspapers, a variety of independent cable and satellite channels, and ever-expanding access to the Internet.
- The Egyptian cabinet's Information and Decision Support Center reported in 2010 that there were 14.5 million Internet users in Egypt, up from 300,000 in 1999. Egypt has the highest number of Facebook users among Arab nations and the second highest number of registered YouTube accounts. As of 2009, Egyptians have produced more than 160,000 blogs, which have become an important source of social networking and activity.
- Public demonstrations and protests are commonplace in Egypt for a variety of causes, ranging from women's rights to labor issues to political reform.

Entrenching Equal Citizenship and Promoting Freedom of Religion and National Unity

- In the referendum of 2007, Article 1 of the Egyptian Constitution was amended to underscore that the equal citizenship of all Egyptians is the basis of the Egyptian political system.
- The government has made efforts to ensure that Egyptians of the Christian faith are able to exercise all the rights and privileges of citizenship, such as working to develop a unified building code for houses of worship.
- The state authorized the construction of 138 new churches between 2005 and mid-2008 and has approved a total of 1,007 reconstruction and renovation projects to date.
- Ten synagogues are in the process of being renovated, thereby restoring an important part of Egypt's religious history.
- Bahais' concerns regarding the inclusion of religious affiliation on official documents were addressed in 2009 by the administrative courts which ruled that their religious affiliation can be left out if they so desire.
- Acts of violence against a specific religious group are taken very seriously by the government. In a recent speech on the subject of religious unity, President Mubarak stated that, *"We shall confront any sectarian crimes, acts or behaviors with the force and resolve of the law."*
- Currently, suspects charged with the Christmas eve murders in Naga Hammadi are being tried before Egyptian courts.

Empowering Women

- A National Council of Women was established to focus exclusively on women's rights issues.
- This Council counts among its successes a law passed in 2009 that introduced a minimum quota of 64 seats for women in the People's Assembly, Egypt's main legislative chamber, ensuring that women will have a permanent role to play at the highest levels of the Egyptian political system. Currently, 18.2% of deputy ministers in the government are women, and 3 women hold ministerial portfolios.
- Other measures enacted recently have allowed women married to foreign nationals to pass on their Egyptian citizenship to their children, granted women equal custody with men in issues of education and birth registration, and banned the practice of female circumcision.
- In Freedom House's most recent survey of women's rights issues in the Middle East, Egypt was found to have improved in all five categories considered by the organization and it was deemed one of the best protectors of women's rights in the region.
- According to the UNDP's 2008 Egypt Human Development Report:
 - There are now more girls than boys in secondary education.
 - The gap in primary education is almost completely bridged, and is on track to be eliminated by 2014.
 - The literacy rate for female youths rose from 67 percent in 1990 to 81 percent in 2005, and is expected to be more than 95 percent in 2015.

For more information, please visit www.modernegypt.info.