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# **LEGISLATING AUTHORITARIANISM**

## **Egypt's New Era of Repression**

Amr Hamzawy

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## About the Author

**Amr Hamzawy** studied political science and developmental studies in Cairo, The Hague, and Berlin. He was previously a senior associate in the Middle East program at the Carnegie Endowment for International Peace between 2005 and 2009. Between 2009 and 2010, he served as the research director of the Carnegie Middle East Center in Beirut, Lebanon. He has also served on the faculty at the American University in Cairo, Cairo University, and Stanford University.

His research and teaching interests, as well as his academic publications, focus on democratization processes in Egypt, tensions between freedom and repression in the Egyptian public space, political movements and civil society in Egypt, contemporary debates in Arab political thought, and human rights and governance in the Arab world.

Hamzawy is a former member of the People's Assembly after being elected in the first parliamentary elections in Egypt after the January 25, 2011, revolution. He is also a former member of the Egyptian National Council for Human Rights. Hamzawy contributes a weekly op-ed to the Egyptian independent newspaper *Shorouk* and to the All Arab daily *al-Quds al-Arabi*.



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## Summary

Egypt's new authoritarian regime is rapidly closing the public space—cracking down on autonomous civil society and independent political parties, asphyxiating the practice of pluralist politics, and thwarting citizens' peaceful and active engagement in public affairs. The government's primary strategy is to institute wide-scale repression through lawmaking and justify its behavior through conspiratorial and populist narratives. With unprecedented resolve, it has passed new protest and terrorism laws, introduced legal amendments targeting nongovernmental organizations, and extended the military court's jurisdiction. Essentially, the regime is adapting lawmaking for its own purposes. To fight against the tide, those challenging the system need to fully understand how.

### The Strategy

- Egypt's government is institutionalizing its new authoritarian doctrine as part of the state apparatus, thereby empowering the military and intelligence and security services to control civil society with little oversight.
- Undemocratic laws are being used to rescind established notions of the rule of law and denigrate trust in the impartiality of public institutions.
- Vague, broad language in new and amended laws—such as the Protest Law, NGO Law, Penal Code, Terrorism Law, and Military Court Law—is enabling the regime to arbitrarily prohibit or criminalize activities without definition, make accusations of terrorism without legal restraint, and transfer civilians to military courts.
- With legal backing, scare tactics and police brutality are being used regularly to deprive citizens of their freedoms of expression and association.
- To justify its policies, the regime is propagating conspiracy theories, the defamation of opponents, and hate speech directed at voices of dissent.
- The government is also using religious and nationalistic narratives to elevate its ruler to the level of a moral paragon and savior and to counteract dissatisfaction with Egypt's deteriorating conditions.
- This approach allows Egypt's generals to claim that their policies are aligned with national interests and national security.



### **The Effects**

- Debates about public affairs and politics have become permeated with incorrect information, fake news, and outright lies.
- Liberal and leftist parties have been once again either domesticated or marginalized in a formal political arena controlled by the security services.
- Viable opposition movements and civic activism have been severely hindered. Islamist movements, in particular, have been weakened.
- Human rights defenders and nongovernmental organizations have been pushed to the edge of extinction, in constant fear of government sanctions.
- Tens of thousands of people have been detained, imprisoned, tortured, or killed by the security and intelligence services in the name of protecting the country's stability.

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## Introduction

After a brief democratic opening, a new authoritarian regime has emerged in Egypt. The military establishment, security services, and intelligence agencies now rule the country and have managed to reintroduce fear as a daily constant in a nation still in dire straits. This stands in stark contrast to the period following the 2011 revolution, which fostered the activity of civil society and political parties and encouraged citizens to freely express their opinions and engage in the political process.

Once again, power is held by a military officer who was pushed into the presidential palace after elections that lacked any measure of democratic competition.<sup>1</sup> Images of peacefully protesting masses and citizens waiting in long lines to cast ballots have been replaced by scenes of police units rounding up young Egyptians after attempted peaceful demonstrations, confirmed reports of torture in places of custody, and forced disappearances.<sup>2</sup>

Using undemocratic legal and judicial tools with a zeal unmatched even during the long authoritarian rule of former president Hosni Mubarak (1981–2011), Egypt's generals are closing the public space by cracking down on autonomous civil society and independent political parties, asphyxiating the practice of pluralist politics, and pushing citizens away from peaceful and active engagement in public affairs. Scare tactics and police brutality are being used for wide-scale repression. Key opposition groups such as the Muslim Brotherhood, a small number of political parties, human rights defenders, and young activists are under immense pressure and struggling against the yoke of the government. The military, as well as the security and intelligence services, are institutionalizing this new authoritarianism as part of the state apparatus. The generals are denying Egyptians the right to a representative and accountable government. Further, according to popular opinion, the generals are ridiculing any serious search for democratic alternatives. Against a background of growing economic and social crises, rising political tensions, and failed policies, the new authoritarian regime is propagating conspiracy theories and populist narratives as a prime strategy for maintaining its control of society.

This is Egypt's current reality. And while this is not the country's first contemporary encounter with undemocratic rule, what is new is the tenacity with which the generals are eliminating human rights and freedoms, threatening

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**The new authoritarian regime is propagating conspiracy theories and populist narratives as a prime strategy for maintaining its control of society.**

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Egypt's fragile social fabric, and monopolizing the state apparatus. They are resorting to repression in direct response to a brief democratic opening and a period of citizen activism that challenged the pillars of authoritarianism.

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**Egypt's new government is essentially using lawmaking to legalize its behavior and guarantee impunity for its generals.**

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Also notable is the central tool in their efforts—a new series of repressive laws and amendments that have largely gone undiscussed in international discourse. Egypt's new government is essentially using lawmaking to legalize its behavior and guarantee impunity for its generals. Civil society, opposition parties, and pro-democracy groups will need to continually adapt their strategies to fight against

this normalization of repressive action through laws and amendments. To do so, however, first requires an awareness and understanding of both the regime's tools and the evolving legal landscape.

## Deteriorating Conditions

Soon after the 2013 military coup, state-sponsored violence and human rights abuses began to shake Egyptian society. The regime attempted to rationalize them using a claim that they themselves propagated: that the new authoritarianism would save the most populous Middle Eastern country from a civil outbreak, terrorism, and economic decay. President Abdel Fattah el-Sisi, a former army chief during the 2013 coup, initially portrayed his ascendancy to power as the only way to end the threat of terrorism—which was blamed on Egypt's overthrown president, Mohamed Morsi, and the Muslim Brotherhood. Sisi also made it clear that he had the backing of the military establishment as the ultimate guarantor of restoring stability and improving the living conditions of the majority. It was in this context that wide segments of the population, especially those opposed to the democratic opening, supported the coup and saw Sisi as a savior in uniform.

The generals continue to espouse these promises, even while the situation on the ground deteriorates further. The generals have failed to improve the societal landscape, which continued to worsen when they stalled the democratic opening and asserted their control over state and politics. The threat of terrorism, predominantly in Sinai and to a lesser extent in the Egyptian mainland, has not diminished.<sup>3</sup> A growing portion of the population doubts whether the government's so-called war on terror is being pursued efficiently. The continuation of terrorist attacks since 2013 and the involvement of the military and security forces in indiscriminate killing and other human rights abuses in Sinai are pushing many Egyptians to question official measures.<sup>4</sup> The implementation of forced evacuation policies targeting some communities in Sinai, along

with dramatically deteriorating living conditions, have created a local environment defined by grievances, radicalization, and readiness to violence, which undermines the government's counterterrorism efforts.<sup>5</sup> Aside from Sinai, the reported rise of radical sentiments among thousands of young Egyptians detained in prisons or harassed outside of them has stirred up violence,<sup>6</sup> most significantly in small groups splintering from the Muslim Brotherhood and other Islamist movements.<sup>7</sup>

Meanwhile, the country's economic and social conditions have remained poor. The government has been pursuing a reform program that the International Monetary Fund (IMF) approved and that is designed to address structural issues such as the huge budget deficit, official overspending, state subsidies, and currency floatation.<sup>8</sup> However, this long-term program is not expected to improve economic conditions in the near term or lessen the social suffering resulting from high poverty and unemployment rates—27.8 percent and 12.6 percent, respectively, in 2016.<sup>9</sup> Indeed, the IMF-approved program has hit hard the poor and vulnerable segments of the population, as well as the middle class. Inflation rates are high—reaching 25 percent in December 2016 and January 2017<sup>10</sup>—and the local currency has been devalued by almost 50 percent.<sup>11</sup> Adding to the economic malaise, the financial support that Kuwait, Saudi Arabia, and the United Arab Emirates have extended to the government since the 2013 coup has been declining since 2015.<sup>12</sup> Also, due to the unstable security and political situation in the country, Western investments have only increased slightly.<sup>13</sup>

Many of the government's economic, social, and developmental policies have proven unsuccessful. These policies include investing public resources in mega-construction projects with uncertain returns and without any public scrutiny or oversight. Particularly problematic is that some projects such as the second Suez Canal and the New Administrative Capital are managed directly by the economic arm of the military establishment,<sup>14</sup> which is not subjected to effective transparency and accountability measures from other official institutions or from civil society.<sup>15</sup> The government's policies also stretch to promises of "upcoming achievements beyond imagination" (phrasing frequently used by the current president) that will not be objectively assessed and suffer from a lack of government-provided facts and information.<sup>16</sup> Only a few programs implemented to help the poor (a third of the population)—most notably the cash payment program named Solidarity and Dignity (Takaful wa Karama), which the Ministry of Social Solidarity oversees—have been rated successful by independent sources.<sup>17</sup>

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**Many of the government's economic, social, and developmental policies have proven unsuccessful.**

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## The State's Conspiracy Theories, Defamation Campaigns, and Populist Narratives

The government recognizes that it cannot rely only on the promise of restoring security and improving the living conditions of the majority to justify its closing of the democratic opening and its heavy-handed ruling techniques. Therefore, it is also using a web of alternative narratives to justify its approach and is spreading these messages using security-controlled public and private media institutions. Conspiracy theories, defamation campaigns, and hate speech against voices of dissent have assumed central positions in this web. In

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**Nationalistic populism is used to justify the generals' monopoly on power by allowing the ruling general to claim to be aligning with national interests and national security.**

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the official discourse, the government's failures are blamed on opposition movements and pro-democracy groups to divert attention from the negative consequences of repression and failed policies employed by the generals.<sup>18</sup>

Conspiracy theories accusing autonomous civil society of serving foreign governments' agendas and defamation campaigns depicting young activists and voices of dissent as forces of chaos discourage the development of viable

opposition movements and limit the popular appeal of dissenting voices.<sup>19</sup> In a public space in which free speech about the failures and transgressions of the government is not allowed, these narratives amount to a systematic effort to brainwash the population and permeate debates about public affairs with incorrect information, fake news, and outright lies.<sup>20</sup>

Increasingly, Egypt's generals are also depending on notions of religious and nationalistic populism to tighten their grip on many aspects of societal life—under the pretense that they are ruling on behalf of ordinary citizens and attending to their needs.<sup>21</sup> Religious populism elevates the ruler to the level of a moral paragon who has the right to speak in the name of religion—not just in the public and political spheres but also in terms of citizens' private lives and ethics. The new authoritarian government is using official Islamic and Christian institutions to impose its own interpretations of religion on Egyptian society. These interpretations appear in four interrelated ways. First, the government frames obedience to the ruling general and the approval of its policies as a religious duty.<sup>22</sup> Second, the generals claim that the government-promoted understanding of religion is moderate, so anything that goes against it can be labeled extremist. This extends from the religious-based platforms of non-violent opposition movements, such as the Muslim Brotherhood, to violent jihadist groups.<sup>23</sup> Third, they depict the ruling general as a protector of dignified morals and values, so divergent moral conceptions can be denounced as inappropriate for Egypt—a denunciation frequently addressed to human rights activists and pro-democracy civil society organizations.<sup>24</sup> And fourth,

the generals use religious symbols and statements in the public space to rationalize repression and human rights abuses and to demand popular support for the messiah in uniform.<sup>25</sup>

Nationalistic populism is used to justify the generals' monopoly on power by allowing the ruling general to claim to be aligning with national interests and national security.<sup>26</sup> The savior role of the generals, as foster parents to an infant nation,<sup>27</sup> is juxtaposed with a widespread stigmatization of supporters of pluralism, civilian institutions, and civilian politicians that deems them incapable of providing security and stability.<sup>28</sup> The generals characterize civilians as not having the capacity to safeguard the nation and provide for the real welfare of the country or as insular groups that seek only to further their own interests. As politics and politicians are derided, the new authoritarian regime justifies filling the void in the executive and legislative branches of government with military, security, and intelligence officers by portraying them as true nationalists and members of the only institutions capable of promoting stability and prosperity.<sup>29</sup> The end objective is to make Egyptians believe there are no credible alternatives to the generals, despite their violence and failed policies.<sup>30</sup>

The government has been drawing on a reliable set of notions commonly employed throughout the long history of Egyptian authoritarianism and easy to adapt to the current authoritarian moment. These notions are best captured by phrases such as “the president is working, but some institutions and agencies limit the success of his policies”; “if it were not for the continuous intervention and guidance of the president, the economic and financial situation of the country would be disastrous”; and “the president is the only one aware of the real magnitude of the responsibility placed on his shoulders, and that is why he does not sleep except for a few hours daily.”<sup>31</sup> The phrases are repeated often in security-controlled public and private media outlets, along with other general and romantic statements about the savior president that are meant to glorify his role and build a personality cult around him. A second set of notions is tailored to promote the military establishment and, to a lesser extent, the security and intelligence services as spearheading the efforts to save Egypt, to fight corruption in civilian institutions and guide their policies toward greater efficiency, and to provide for citizens' basic needs (from milk formula for children to medication).<sup>32</sup>

These notions have been coupled with the frequent employment of statements that ridicule civilian politics, describing it as sophistry. Civilian officials and politicians have been frequently portrayed as giving in to the lure of private interests and rewards. Other times, they have been labeled incapable of familiarizing themselves with the requirements of “national salvation.” They have been accused of making wrong

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**Civilian officials and politicians have been frequently portrayed as giving in to the lure of private interests and rewards.**

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decisions that fall on the president to correct, including drafting a constitution that “is full of good intentions, but is not attentive enough to the requirements of defending the state and national security.”<sup>33</sup>

Nationalistic populism, further, has enabled the creation of a governing framework that is in clear contradiction with the principles of the rule of law and good governance. The military establishment and the security and intelligence services—which benefit from such populism—obtain constitutional, legal, and political immunity from all forms of accountability.<sup>34</sup> The 2014 constitution enshrines a special status for the military establishment. Its bud-

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**The government has introduced under this nationalistic populist guise various legal changes that contradict basic notions of justice and equality.**

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get cannot be discussed in a transparent manner, mechanisms for oversight of the armed forces are eliminated, and civilians face military courts whenever the generals decide such action is appropriate.<sup>35</sup> Capitalizing on this special status, the military establishment has increased its economic and social role.<sup>36</sup> The number of military and security generals appointed to key executive positions or promoted to positions in Parliament has also been on the rise.<sup>37</sup> Indeed, the promotion of retired military and police officers in the parliamentary elections of 2015 was a key step in further militarizing the formal political arena. In Parliament, retired officers have been positioned at the heads of blocs and subcommittees,<sup>38</sup> and their dominance—among other factors—has led to the adoption of repressive laws and antidemocratic measures.<sup>39</sup> This setup undermines the power of the legislative and judicial branches of government and therefore limits the checks and balances in the political system and neutralizes governmental monitoring agencies such as the Central Auditing Organization.<sup>40</sup>

In the public space, nationalistic populism silences voices of dissent and pro-democracy groups. The new authoritarian government has sought to discredit these voices and groups to break any conceptual link among democracy, human rights, and the interests of ordinary people. The same techniques are used to discredit student activists critical of wide-scale human rights abuses and industrial workers demanding legitimate wage increases. They too are accused of corruption, treason, and conspiracy.<sup>41</sup> As security-controlled media outlets tell it, local and international reports documenting human rights abuses and narrating the personal tragedies of labor activists are outright lies. For these outlets, statements issued by Egyptian and Western nongovernmental organizations detailing the government's repressive policies are all manifestations of grand conspiracies against the country. Nationalistic populism often allows regimes to dismiss universal standards of democracy and the rule of law as Western practices pushed by “enemies of the nation” that do not apply to Egypt and are not binding to the government.<sup>42</sup> Police brutality and violations of basic rights and freedoms are mere propaganda claims disseminated by

“traitors” of the military establishment that has saved Egypt from slipping into chaos and destruction.<sup>43</sup> Forced disappearances, torture, extrajudicial killings, and various rights abuses are all committed under the banner of protecting the nation and defending the interests of ordinary Egyptians.<sup>44</sup>

The readiness of the media to use denial tactics, hate speech, and negative collective labels to justify abuses has made it easier for the military establishment and security services to systematically violate citizens’ rights and freedoms.<sup>45</sup> It has led within the Egyptian state apparatus to the predominance of the military establishment and security and intelligence services—institutions that are in a position to unleash excessive force on citizens and society. This has greatly diminished any potential for civilian politics or for balancing civil-military relations in post-2013 Egypt.<sup>46</sup> Furthermore, the government has introduced under this nationalistic populist guise various legal changes that contradict basic notions of justice and equality. The military and security forces, claiming to wage a just war on terror, have engaged in unlawful and unchecked surveillance while threatening citizens’ rights and freedoms.<sup>47</sup>

In sum, instead of implementing sound economic and social policies or developing counterterrorism measures that avoid human rights abuses, the new authoritarian government has exploited nationalistic populism to ignore the realities of repression and deny the free flow of information. The generals have convinced large segments of the population that others are to blame for the growing crises in Egypt and have suggested that a citizen’s duty is to support the government and obey the generals. But saving the country will be nearly impossible as long as human rights abuses, the excessive economic role of the military establishment, and the lukewarm fight against corruption continue.<sup>48</sup>

This is an Orwellian paradox. In the name of the people, Egypt’s generals have effectively engaged in behavior directed primarily against the people.

## **Lawmaking in Service of New Authoritarianism**

To carry out these efforts, the regime is using legal measures to pull citizens away from the public space, close it off, and prosecute opponents (see table 1). Little local and global attention has been paid to the details surrounding the introduction of new laws and various amendments—and even less to the implications they have for citizens’ rights and freedoms, the rule of law, notions of justice, and popular trust in the impartiality of public institutions. This oversight may be due to the technical nature of these laws and legal amendments and the rapid rate at which they are being introduced. A thorough analysis of how the ruling generals are subjugating Egypt’s society is of paramount importance to understanding the mechanics of the country’s new authoritarianism.



Table 1. Legalizing Authoritarianism in Post-2013 Egypt

Law	Date Enacted	Date Amended	Characteristics	Effects
Protest Law	November 2013	December 2016	<p>Gives the security services the right to prohibit, cancel, postpone, or move a demonstration based on undefined security threats or set "secure zones"; as well as the authority to "disperse by force"</p> <p>Bans any activities that are "disturbing the peace"</p> <p>Outlaws peaceful rallies, strikes, and sit-ins that could damage state-owned means of production or individual businesses; enables financial sanctions and imprisonment</p> <p><b>Amendment:</b> Obliges the security services to ask the court to apply restrictions, but use of force and other repressive articles still remain</p>	<p>Empowers the security services</p> <p>Bars demonstrations from occurring near public offices</p> <p>Criminalizes demonstrations</p> <p>Inhibits freedom of expression</p>
NGO Law	June 2002	November 2016 (not yet enacted)	<p>Restricts the establishment of NGOs, subjecting them to bureaucratic control and funding limitations</p> <p>Gives the security and intelligence services tools for surveilling, interfering with, and disrupting civil society activities</p> <p><b>Amendments:</b></p> <p>Gives the Ministry of Social Solidarity the power to decline registration without judicial approval</p> <p>Bans organizations in the domains of labor and trade unions and professional syndicates, as well as any other areas "harmful" to the nation</p> <p>Regulates doing work with and receiving funding from foreign NGOs</p>	<p>Enables full-scale security control over NGOs</p> <p>Cuts off coordination among NGOs</p> <p>Allows for steep penalties, fines, and imprisonment for unspecified violations</p> <p>Perpetuates fear of being targeted</p> <p>Inhibits freedom of association</p>
Penal Code Amendment	October 1937	September 2014	<p><b>Amendments:</b></p> <p>Without legal definition, criminalizes individual or organization acts of hostility, acts that could harm the nation's interest, and acts that breach public peace and order</p> <p>Criminalizes the receipt of funds, equipment, and "other things" if there is intent to harm the country's security</p> <p>Institutes harsh penalties for those who mediate harmful acts, without defining what constitutes mediation</p>	<p>Empowers the security services</p> <p>Subjects NGOs to the same surveillance and criminalization as terrorists and spies</p> <p>Perpetuates fear due to vague language</p> <p>Inhibits freedom of expression</p>

Terrorism Law	February 2015	NA	<p>Broadly defines a terrorist entity</p> <p>Allows for the placement of individuals and organizations on a terrorist list with little guidance on required paperwork and few judicial proceedings</p> <p>Prohibits appeals until after being listed, with no specified time period for decisions; while consequences begin immediately after listing</p>	<p>Subjects the judiciary to executive hegemony</p> <p>Facilitates the confiscation of assets and barring of political and civic engagement</p> <p>Inhibits the freedoms of expression and association</p>
Military Court Law	October 2014	NA	<p>Mandates that the army assist the police force in securing public institutions, offices, and facilities during an unspecified protection period</p> <p>Allows civilians to be referred to military tribunals</p>	<p>Extends the military courts' jurisdiction</p> <p>Conflates peaceful protest activities with acts of violence</p> <p>Deprives citizens of rights and freedoms under civilian litigation</p>

NA = Not applicable.

### The Protest Law

On November 24, 2013, Egypt's interim president, Adly Mansour, used his temporary legislative prerogatives to issue a law titled Organizing the Right to Public Meetings, Processions, and Peaceful Demonstrations.<sup>49</sup> This measure, known locally as the Protest Law, should be scrutinized not only because it usurps the freedom of many Egyptian youth, students, workers, Muslim Brotherhood members, and others, but also because it has created a citizen diaspora—a chased community outside of the public space, pursued by a government that does not shy away from sponsoring violence and legalizing repression.<sup>50</sup>

The Protest Law recognizes citizens' right to "organize a meeting, or conduct a procession or protest."<sup>51</sup> It requires notification to be given at least three days and no more than fifteen days in advance of such actions. Yet, the law as originally drafted gives the security services absolute power to cancel or postpone a demonstration, change its location, and modify its path based on "serious information or evidence" regarding threats against security and peace. In its tenth article, the law effectively eliminates citizens' rights of peaceful assembly and demonstration. It also does not include any guarantees that demonstrators will not be surveilled or subjected to threats.

This setup makes the security services the proverbial judge, jury, and executioner. It essentially allows police forces to conduct themselves—potentially committing abuses—without any oversight, control, or framework for objective evaluation of their actions. The only check on the security services in the law is weak. Article Ten, as originally drafted, allows citizens to air their grievances concerning the prevention of demonstrations or the delay of decisions in front of a judge. This just means, however, that citizens can file a complaint, with no indication of the potential outcomes.

In another stipulation, the law essentially gives the security services and other executive-affiliated bodies the capacity to bar civilians from protesting in front of public offices. It endows the security services with the authority to delineate “secure zones” surrounding public institutions and facilities, in which demonstrations and rallies are prohibited. The security services have expanded their use of the term secure zone to prevent any protest against legislative, executive, and judicial institutions that are responsible for public actions—institutions that across the world draw the attention of citizens with grievances and of constituencies harmed by public policies. The same stipulation has also been employed to disperse marches on police stations, governors’ offices, and municipalities that have quotidian interactions with the public and often marginalize society’s weakest groups.

The most serious of these measures is a draconian ban imposed in Article Seven on various types of protests. It prohibits participation in meetings, rallies, marches, and demonstrations that the government classifies as disturbing societal peace and as potentially resulting in the damage of public and private property, road blockages, and the prevention of other citizens from exercising their rights. Article Seven also outlaws peaceful rallies, strikes, and sit-ins that could damage state-owned means of production or individual businesses. This ban negates the constitutionally enshrined and internationally sanctioned right

to peacefully protest in streets and squares and to conduct strikes and sit-ins at work sites.

Articles eleven through thirteen also provide tools for the security services to virtually abolish citizens’ rights to protest. They grant police forces the authority to use batons as well as rubber and nonrubber bullets to disperse meetings, rallies, marches, and demonstrations that they deem unpeaceful. The law does not include an adequate definition

of what constitutes a “departure from the peaceful nature.” It authorizes “dispersion by force,” which has led to a massive increase in the use of violent dispersal tactics.<sup>52</sup> Moreover, the law outlines a range of financial sanctions, as well as imprisonment, for those who violate its rules.

There has been some movement against this law since it was passed. As a result of human rights defenders, young activists, and the few remaining opposition parties continually demanding that it be annulled, the Supreme

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**The [protest] law essentially gives the security services and other executive-affiliated bodies the capacity to bar civilians from protesting in front of public offices.**

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Constitutional Court (SCC) struck down Article Ten on December 3, 2016.<sup>53</sup> The court ruled that granting the security services the power to regulate and prevent demonstrations was unconstitutional. The demonstrators' constitutional rights and the principle of separation of powers oblige that the security services' demands regarding restricting demonstrations and other protest activities are referred to a court to adjudicate the matter.

Notably, the SCC stated that the requirement for citizens to notify the security services of their intentions to demonstrate is not designed to empower the government to restrict a constitutional right. The ruling says that only a competent court in accordance with due process could apply such a restriction. This could have implications in areas other than demonstrations, particularly nongovernmental organization (NGO) registration. It could force the government to go to court to prevent an organization from gaining official status rather than the current practice of rejecting registration applications and forcing applicants to engage in lengthy litigation to reverse the decisions.

If the security services are determined to restrict demonstrations, however, the surviving articles of the Protest Law give them wide-ranging legal powers to do so. For instance, they can still ask a court to ban peaceful demonstrations in squares, roads, and work sites and close to state buildings and public offices. And the provisions regarding the use of force still stand.<sup>54</sup>

### The NGO Law

Since 2013, the Egyptian government has been characterizing civil society actors, especially human rights organizations and legal assistance organizations, as seditious elements. The aim is to curb public awareness, keep people from listening to those who are not under the regime's direct control, and justify referring civil society actors to trial for their actions. To that end, legal tools have been adapted extensively.

In 2002, an NGO law was enacted that essentially allowed the government to restrict the establishment of NGOs, subject them to heavy bureaucratic control (represented by the Ministry of Social Solidarity), and limit their funding—thus generally compromising the independence of civil society. The law also endowed the executive authority—represented by the security and intelligence services—with extensive tools for surveilling, interfering with, and disrupting civil society activities. Following their coup, the generals initially made no attempt to amend this law.

In the winter of 2016, however, the legislature—the House of Representatives—replaced this NGO law with a new piece of legislation targeting civil society.<sup>55</sup> The draft legislation was put forward by a pro-government member of Parliament, few adjustments to the draft were made,<sup>56</sup> and virtually

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**This [article seven] ban negates the constitutionally enshrined and internationally sanctioned right to peacefully protest in streets and squares and to conduct strikes and sit-ins at work sites.**

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no debate about it in Parliament took place. This has reemphasized the rubber-stamp role of Parliament as an enabler of the new authoritarianism in Egypt and is yet another attempt to eliminate the freedom of association enshrined in the constitution. Upon the president's final approval and subsequent enactment of the law,<sup>57</sup> this legislation will enable the government to apply more pressure on civil society.

The legislation acknowledges the right of NGOs to register with the Ministry of Social Solidarity by notification. However, it also gives the ministry the power to decline registration without judicial approval for a litany of reasons.

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**These [legal] stipulations aim to separate NGOs from labor and trade unions in need of civil society support to defend the rights and freedoms of their members.**

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Some of these reasons are technical, such as the lack of application data pertaining to the founders. Others, however, are malleable, such as the "involvement of founders in prohibited or punishable activities," according to the Penal Code or any other law.

The new legislation adds other restrictions as well. NGOs that engage in activities reserved for political parties have traditionally been banned; such activities include

encouraging citizens to join a specific political party, promoting a certain candidate in an election, or raising funds for a specific election campaign. The new legislation also includes a ban on organizations that intrude on the domains of labor and trade unions and professional syndicates. Moreover, it bars organizations from forming in areas that are labeled harmful to the nation. These stipulations aim to separate NGOs from labor and trade unions in need of civil society support to defend the rights and freedoms of their members. They leave the unions more vulnerable to repressive measures if they oppose official policies.<sup>58</sup> Furthermore, civil society actors are not permitted to engage with professional syndicates, such as the journalists' and doctors' syndicates, that resist the grip of the new authoritarianism; this action is criminalized in the new legislation. The NGO legislation effectively undermines opportunities for rights groups such as the Egyptian Center for Economic and Social Rights and the Center for Trade Union and Workers Services to register as NGOs and operate legally.<sup>59</sup>

Violations come with hefty administrative penalties, fines, and periods of imprisonment; and they remain legally unspecified—as is the case with engagement in so-called harmful activities. The lack of objective legal definitions creates additional avenues for repression and subjects civil society activists to permanent threats of bans, criminalization of their practices, and other punishments. All of this contributes to a prevailing fear of being targeted.

Additional articles are designed to eliminate the autonomy of NGOs and subject them to full-scale security control. These efforts have pushed civil society in Egypt to the brink of extinction, with some organizations closing or leaving the country.<sup>60</sup> The legislation includes a new governmental body called the National Agency for Organizing the Operation of Foreign NGOs.

This agency is dominated by high-profile ministers, including the ministers of defense, interior, justice, and foreign affairs, as well as other potentially concerned ministries. A number of high-profile organizations also have representatives in the agency, including the General Intelligence Directorate, the Egyptian Central Bank, and the Administrative Control Authority. The agency has jurisdiction over approving the establishment of foreign NGOs in Egypt or authorizing their activities, and it could be on the way to becoming the government's most important body in administering the affairs of both domestic and foreign NGOs.

The agency's jurisdiction extends beyond domains related to foreign NGOs and their cooperation with domestic counterparts. It oversees all the financial transactions of both domestic and foreign NGOs. The agency monitors the transfer of funds from international NGOs to their offices in Egypt, the receipt of foreign funds by domestic NGOs, and donations to NGOs from groups and individuals both in Egypt and abroad. It requires NGOs to provide a confirmation of expenditure to ensure that approved funds are spent for the approved purposes. This adds a second layer of financial scrutiny because NGOs are already overseen by the Central Auditing Agency.

The government seems to have invented the National Agency for Organizing the Operation of Foreign NGOs to legally enshrine full-scale security control over NGOs. It also serves to concentrate the government's administration of NGOs in the hands of this security-dominated agency and thus sidelines bureaucracies such as the Ministry of Social Solidarity. Among other things, the Ministry of Social Solidarity must notify the agency of foreign and domestic NGOs' requests to receive funding. The agency can veto these requests outright, and if it approves the requests, it retains the right to retract the approvals later, ensuring the full control of funds both retroactively and proactively.

Because of these gatekeeping roles, the agency has become a rogue authority—one that will likely discourage Egyptian citizens from donating to Egyptian NGOs. In this way, the new authoritarian regime can diminish the funds that domestic NGOs use to perform the economic, social, developmental, and charitable functions on which many people depend. The agency threatens NGOs with surveillance, penalties, and criminalization at all levels: registration, planning and execution of activities, domestic and foreign fund raising, and the collection of donations. NGOs can be targeted at any level if their actions do not align with the interests of the security services.

The NGO legislation virtually eliminates freedom of association and threatens the survival of civil society as a foundational pillar of stability and prosperity. It also is on track to drive the few foreign NGOs that remain out of Egypt and constrict any cooperation left between them and their domestic counterparts.

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Compounding the pressure on civil society is a bundle of legal and administrative measures enacted prior to the new NGO legislation. These measures allow the government to revoke NGOs' licenses to operate based on dubious claims of violating administrative terms and conditions. For example, the government revoked the license of the Nadeem Center for the Rehabilitation of Victims of Violence and Torture—one of the most active rights groups in Egypt—citing administrative violations.<sup>61</sup>

### The Penal Code

Of all the presidential decrees established since 2013, the amendment of Article 78 of the Egyptian Penal Code carries the most indiscriminate implications.

On September 21, 2014, Sisi amended Article 78 using his interim legislative prerogative in the absence of Parliament.<sup>62</sup> The amendment essentially criminalizes the public and peaceful activities of individuals and NGOs that the new authoritarian regime classifies as enemies and conspirators, thereby commandeering their freedom of association and right to operate legally.<sup>63</sup>

The article of concern is vague, stipulating the criminalization of specific acts without defining them in an objective legal manner. The first paragraph provides an example:

She/he who requests for her/himself or another or who accepted, even through a medium, from a foreign country or those who are working for its benefit, from an individual or a recognized legal entity, from a local or foreign organization, or from any other entity not affiliated with a foreign country and does not work in its favor liquid or transferred money, hardware/machinery, equipment, weapons, or ammunition or the like or other things, or promised something similar—to intentionally commit any act that harms the national interest or jeopardizes the independence of the country or its unity or the safety and security of its lands or to commit any acts of hostility against Egypt or to breach public peace and order—is penalized with life imprisonment and a fine of not less than 500,000 pounds and not more than what she/he was given or promised.<sup>64</sup>

The criminalization of the receipt of funds, hardware/machinery, equipment, weapons, and ammunition is both normal and expected if these items are collected with the intent of jeopardizing the security of the country or carrying out hostile acts (though further discussion would be needed about the legal definition of jeopardizing security and committing hostile acts). However, the same cannot be said when the amended text criminalizes acts that “could harm the nation’s interest” or “breach public peace and order.” These concepts are inherently undefinable in an objective manner and result in legal ambiguities that the government uses as a tool of repression.

Equally unorthodox in legal terms is the lack of an objective, substantive definition of the contraband addressed in Article 78. Instead, the legislation relies on ambiguous phrasing, such as “or other things.” Terms that allow for a wide range of interpretations by the government are codified throughout

the amended text in additional vague statements, such as “the same penalty shall apply to her/him, who gave or offered or promised something with the intention of committing a harmful act”; and in the third paragraph, harsh penalties—including the death penalty—are imposed in cases of “mediating in harmful acts,” without any definition of what constitutes mediation.

Article 78 blurs the lines in many ways. It subjects NGOs working on rights and freedoms to the same surveillance and criminalization as proven participants in acts of terror, violence, and espionage. There are no clear-cut and substantial differences between acts of terrorism and violence rightfully classified as hostile acts on the one hand and the legitimate activities of rights groups documenting human rights abuses and defending victims on the other.<sup>65</sup> The lines between the criminal receipt of weapons and ammunition with the purpose of committing acts of violence and the receipt of computers and printers that NGOs need to manage their activities have disappeared.

### **The Terrorism Law**

The government’s adoption and subsequent exploitation of laws did not stop with the Protest Law and the Penal Code. A terrorism law was also issued, in addition to several amendments designed to augment the jurisdiction of the military court system in a manner that undermines the rule of law and threatens the safeguards of basic rights and freedoms. On February 24, 2015, Sisi issued a decree known as the Law of Organizing the Lists of Terrorist Entities and Terrorists (known as the Terrorism Law). This law further enables the government to legally surveil and penalize those individuals and organizations who peacefully oppose official policies and practices.

The law creates an environment in which accusations of terrorism can be used without legal restraint against opponents of the new authoritarianism. This is because the law encompasses the same vague terms and concepts that have come to be the main feature of lawmaking since the 2013 coup. Such language and notions systematically conflate crimes committed by violent groups with citizens’ and NGOs’ activities when their use of freedom of expression and freedom of association collide with official policies. The phrasing “breaches to public order” is used to describe these inherently different acts, and the classification of so-called hostile entities as terrorist entities does not use violence as a defining benchmark. The law defines a terrorist entity in Article 1:

The associations, organizations, groups, gangs, cells, or other formations, whenever they exercised or intended to call for the harm of individuals and the spreading of panic among them; to put their lives, freedoms, rights, or security in danger; to harm the environment, natural resources, monuments, or communications or land, air, or sea transportation or public and private properties; to occupy or prevent or obstruct state institutions, municipalities, houses of

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worship or hospitals, scientific institutions or other public facilities, diplomatic and consular missions, or regional and international organizations in Egypt from carrying out their work and exercising some or all of their activities, or are engaged in resisting them, or disrupting public or private transportation; or intended to call by any means for the breaching of public order, endangering social peace and national security, resisting constitutional and legal provisions, preventing any state institution from carrying out its activities, or threatening individual freedoms or public freedoms enshrined in the constitution.<sup>66</sup>

Additionally, the law regulates the procedures for placing individuals on terrorist lists. Article 3 includes a provision delegating jurisdiction over this process to one or more criminal circuit courts in Cairo's Court of Appeals, following a formal request by the state prosecutor. The criminal circuit courts are required to adjudicate requests within seven days of the state prosecutor filing the necessary paperwork.

Notably, the Terrorism Law does not require the government's accusations of terrorist involvement to be proven through transparent judicial proceedings before individuals are placed on the list. Rather, the listing process has become a kind of cooperative administrative effort between the state prosecutor's office and the criminal circuit courts.

The law also does not clearly identify the paperwork necessary for requesting the classification of an entity or individual as a terrorist. Further, it does not allow concerned entities and individuals to appeal their classification until after their listing, and it designates the Court of Cassation (the court's criminal circuit) the responsibility for adjudicating appeals without specifying a time

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period for issuing decisions. This deprives the listed entities and individuals of their constitutional and legal right to a fair trial prior to conviction.

Listed entities and individuals can experience a wide spectrum of potential effects: the confiscation of organizational and financial assets, the revoking of NGO licenses; the banning of enrolled individuals from travel and seizing or annulling of their passports; the stipulation that these individuals have legally lost the good reputation necessary to hold office; and based on that, the barring of them from running for public and parliamentary positions. The law mandates that these actions be taken immediately following placement on the terrorist lists.<sup>67</sup>

### **The Military Court Law**

Another law has led to an unprecedented expansion of the role of the military court system and the referral of civilians to military tribunals.<sup>68</sup> Sisi issued the Military Court Law by presidential decree in 2014. The law stipulates that the army shall assist the police force in securing and protecting public institutions, offices, and facilities. It justifies this mandate by stating that these

sites—including public universities and government-owned industrial facilities—and all the activities unfolding in and around them fall under the jurisdiction of the military court system for the duration of the protection period, which is left unspecified and can therefore be extended endlessly.

The main mechanism of intimidation associated with the law has been civilian referrals to military tribunals, which are infamous for their lack of transparency and safeguards for fair litigation. The government has systematically conflated peaceful public assemblies, rallies, demonstrations, sit-ins, and other protest activities occurring at public sites protected by the army with acts of violence.<sup>69</sup> And this conflation has provided grounds for the referral of university students, industrial workers, and labor activists participating in peaceful protest to military tribunals.

This contradicts the constitutionally enshrined right of each citizen to be tried by his or her natural judge—that is, in a civilian tribunal. There is no judicial body that can rein in military jurisdiction, so prosecuted individuals are deprived of the safeguards of their rights and freedoms that are part of litigation in civilian tribunals.

More than 7,000 civilian cases were referred to military courts between 2014 and 2015.<sup>70</sup> This is a drastic increase from the already elevated rates of such referrals from 2011 to 2014, which amounted to approximately 11,000 cases; and it is evidence of how lawmaking has been adapted to the needs of the new authoritarian government.<sup>71</sup> Similar to the Protest Law, Penal Code, and Terrorism Law, the expansion of the jurisdiction of the military court system subjects citizens and NGOs to the constant threat of surveillance and punishment. It adds to the government's legal tools for closing the public space and implementing repressive policies.

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## The Role of the Elected Legislature

From early 2016 to September 2016, the House of Representatives ratified the protest and terrorism laws; the amended military court law; and the amended Penal Code, including Article 78. In fact, the House of Representatives approved without revision or even substantial discussion 342 out of 343 presidential decrees issued by interim president Adly Mansour and the current president, Sisi. These acts of submission to the executive branch of government run counter to the spirit of the oversight prerogatives bestowed upon the legislature in the 2014 constitution, which calls for serious deliberations prior to the ratification of presidential decrees.<sup>72</sup>

The only law rejected by a majority of the legislature was the 2015 presidential decree on civil service.<sup>73</sup> Even in this case, the law was amended slightly and passed at the end of Parliament's first session,<sup>74</sup> again with little

consideration given to details. These moves indicate that the legislature is loyal to the executive, a loyalty that was imposed by the dominant role the military establishment and security and intelligence services played in managing the parliamentary elections in 2015 and manipulating their results.<sup>75</sup>

What is more, the unwillingness of the legislature to exercise its constitutional right to legislative review demonstrates the House's complicity in curtailing the rights and freedoms of Egypt's citizens. The speaker of the House of Representatives—a legal expert by training—lauded parliamentarians for ratifying 342 presidential decree laws in record time, not exceeding fifteen days per law.<sup>76</sup> Further undermining any notion of legislative autonomy, he praised the House for its “high care” for presidential preferences.<sup>77</sup>

## The Realities of Repression

These government tactics and efforts amount to an unprecedented crackdown. According to various human rights organizations, the number of those detained and imprisoned between 2013 and 2016 is almost 60,000.<sup>78</sup> To accommodate them, the Egyptian authorities have begun construction work on more than ten new prisons.<sup>79</sup> Local and international human rights organizations have thoroughly documented forced disappearances, estimating the rate to be, on average, three to four cases per day.<sup>80</sup> There have been mass killings,<sup>81</sup> and local human rights organizations reported 326 extrajudicial killings committed by the security and intelligence services in 2015—a number that rose to 754 cases in the first half of 2016 alone.<sup>82</sup> In August 2016, the Egyptian Coordination for Rights and Freedoms released a report on prison conditions in Egypt, documenting 1,344 incidents of torture (including direct evidence of torture and intentional medical neglect) in detention facilities and prisons between 2015 and 2016.<sup>83</sup> Several international human rights organizations have confirmed the findings.<sup>84</sup>

The government is using its new legal tools to achieve these ends; and the circle of enemies subject to these tactics includes actors considered long-time adversaries as well as new opposition voices.

### Targeting Islamists

The Muslim Brotherhood has been one of the new authoritarian regime's prime targets for some time. In the summer of 2013, the Muslim Brotherhood was at the core of what the government designated enemies of the nation. A few hours before the July 3, 2013, military coup that overthrew an elected president from the ranks of the Muslim Brotherhood, several leaders of the Brotherhood were imprisoned. The list included former president Morsi, his aides, high-ranking

members in the Brotherhood and its Freedom and Justice Party, and leaders and high-ranking members of other like-minded movements and political parties. Leaders of the Salafi groups that opposed the coup and demanded Morsi's return to office were also imprisoned. The large number of arrests, which continued after the coup,<sup>85</sup> has been a key component of the government's systematic repression of Islamists.

Arrest warrants for Islamist leaders continue to be issued, with the objective of weakening the movements and discouraging recruitment.<sup>86</sup> The security services have repeatedly violated the rights and freedoms of the Muslim Brotherhood's rank and file. State-sponsored extrajudicial killings occurred several times, most notably with the murders of former Freedom and Justice Party parliamentarian Nasser al-Hafi in the summer of 2015 and of Mohamed Kamal, a member of the Muslim Brotherhood's Guidance Office, in the fall of 2016. The security services have tortured some Islamist prisoners and detainees and neglected the medical needs of others, leading to their deaths in places of custody.<sup>87</sup>

Mass killings and the violent dispersal of the Brotherhood's sit-ins are arguably the most tragic of these transgressions. After the coup, the military and the security services used excessive force to end protests by Brotherhood supporters and did not shy away from shedding blood.<sup>88</sup> And on August 14, 2013, police units accompanied by military reinforcements moved to disperse the Brotherhood's sit-ins in the Rabaa and Nahda squares in the Cairo and Giza governorates. They used armored bulldozers and snipers, shooting protesters with live ammunition in their heads, necks, and chests. The terrifying result has been labeled a massacre in which almost 1,000 Egyptians were killed. Neither the police, nor the military, nor government decisionmakers were held accountable for the massacre, criminally or politically.<sup>89</sup>

Alongside state-sponsored violence and brutality, the new authoritarian government has used various legal and judicial instruments to repress the Muslim Brotherhood and opposition Salafi groups. In September 2013, a court ordered the movement banned and its financial assets frozen.<sup>90</sup> In October 2013, the government created an executive commission outside of the judiciary to confiscate the financial assets of the Brotherhood and its members.<sup>91</sup> This was followed by executive decisions to seize the assets of a diverse array of individuals—some of them known to be members of the Muslim Brotherhood, others not.<sup>92</sup> The government declared the Muslim Brotherhood a terrorist organization in December 2013, mandated its dissolution, and reasserted the policy of confiscating its financial assets.<sup>93</sup> In August 2014, the administrative court system revoked the license of

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the Freedom and Justice Party and mandated its dissolution.<sup>94</sup> Court proceedings were rapidly initiated against Islamist leaders as well as against thousands of members of and sympathizers with the Muslim Brotherhood. Harsh prison sentences, including mass death sentences, have been issued without adherence to the principles of the rule of law and fair trials.<sup>95</sup>

The sustained use of both state-sponsored violence and systematic repression has weakened considerably the Brotherhood and other Islamist groups in the opposition. It also has resulted in a wave of mass migration of Brotherhood members to regional and other international destinations.<sup>96</sup>

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**Nearly every failure of official economic and social policies has been attributed to the Brotherhood through fabricated conspiracy theories.**

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All this has been unfolding in a public space void of freedom of expression and injected with government-backed hate speech and hysterical hostility toward the Muslim Brotherhood.<sup>97</sup> Charges of undermining Egypt's stability, sabotaging the national economy, and disrupting developmental efforts have been leveled against the Brotherhood.<sup>98</sup> Indeed, nearly every failure of official economic and social policies has been attributed to the Brotherhood through fabricated conspiracy theories.<sup>99</sup> The Brotherhood, conceptualized in the government's discourse and in the public space permeated with hate speech as the archetypal "other,"<sup>100</sup> is depicted as fighting foreign investments and destroying the economy with terrorist attacks,<sup>101</sup> interfering with foreign currency exchange rates, and devaluing the Egyptian pound through the activities of its exchange companies.<sup>102</sup> According to official statements issued by the security services, to discredit the government and deepen social crises, the "Brotherhood and other rogue elements" have campaigned to undermine the delivery of basic services and incited citizens to avoid paying their cost.<sup>103</sup> The government has also intentionally conflated the Brotherhood's and the Salafi opposition's agendas with those of jihadi groups to stigmatize them with labels of extremism and terrorism.<sup>104</sup>

State-owned newspapers have consistently described the 2013 coup as a "revolution" and a "national victory over the Muslim Brotherhood's conspiracy to overthrow Egypt."<sup>105</sup> Private newspapers, which are controlled by the security and intelligence services, have been citing identical accusations against the Muslim Brotherhood as a group "conspiring with foreign actors, engaged in violence and terrorism, and seeking to destroy the state."<sup>106</sup> Public and private media outlets have escalated their dissemination of mostly anonymous reports from so-called security and intelligence sources concerning the Brotherhood's alleged criminal schemes.<sup>107</sup> These reports have framed the Brotherhood as spreading chaos through continuous protests, sit-ins and strikes, lockouts of governmental institutions, disruptions of economic activity, and terrorist attacks on military and police facilities.<sup>108</sup>

## Targeting Civil Society Activists

Gradually, the new authoritarian government has widened its repression of the opposition to targets beyond the Islamist spectrum.

Using the media, the government has placed under the umbrella of enemies a number of human rights activists and pro-democracy civil society leaders who have been trying to draw attention to the deteriorating human rights situation in Egypt since 2013.<sup>109</sup> They have been accused of constituting a so-called fifth column, of attempting to threaten national security and destroy the military establishment and security services through the “propagation of false claims” regarding human rights abuses,<sup>110</sup> and of conspiring in favor of foreign actors.<sup>111</sup> They have also been accused of conspiring to carry out what have been termed Brotherhood schemes,<sup>112</sup> receiving foreign funds to spread chaos and fragment the country and exhausting state and society through continuous internal conflicts.<sup>113</sup>

The government has used punitive litigation under the auspices of its many new laws to surveil and stifle individual voices of dissent in civil society. In October 2015, for example, state security forces arrested journalist and chairman of the Mada Foundation for Media Development’s board of trustees, Hesham Gaafar, because of his organization’s concern for media freedom issues and its role in fostering community dialogue designed to prevent violence.<sup>114</sup> He was charged with affiliation with the Muslim Brotherhood. These charges allowed him to be punished under the Terrorism Law. Gaafar was also charged with receiving international bribes, which qualifies him for punishment under Article 78 of the Penal Code.<sup>115</sup> He was sentenced to time in prison—originally until autumn 2015, but the term was extended until autumn 2016. Gaafar remains in custody as of late 2016; his bribery case is pending investigation.<sup>116</sup>

Similarly, lawyer Negad El-Borai was summoned for questioning before multiple judicial bodies in 2015 and 2016 because of his involvement with Egyptian judges and lawmakers in the drafting of an anti-torture law.<sup>117</sup> He was accused of a wide range of violations, mostly related to his management of an “unlicensed group.”<sup>118</sup> According to state security services, Borai, through his organization, incited resistance against the authorities, engaged in human rights activities without a license, received illicit funds, and deliberately broadcasted false news with the intent of disturbing public order and security and harming the public interest.<sup>119</sup>

Security forces also arrested lawyer Ahmed Abdallah, chairman of the board of trustees of the Egyptian Coordination for Rights and Freedoms,<sup>120</sup> on April 25, 2016, after he called for a peaceful demonstration to protest the agreement of demarcation of the maritime borders between Egypt and Saudi Arabia

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(known in the media as the agreement of Tiran and Sanafir). The agreement ceded sovereignty over the islands to Saudi Arabia, after being managed for decades by the Egyptian authorities. The state prosecutor made myriad accusations against Abdallah, ranging from “incitement to use force to overthrow the ruling regime” and conspiring to overthrow the constitution and the public to “broadcasting news and statements and false rumors that are likely to disturb public order and security and to cause damage among people and the public interest.” Criminal courts ruled to renew his detention on multiple occasions between April and September 2016.<sup>121</sup>

The government’s practice of judicially sanctioned surveillance of civil society actors is not limited to the cases of Gaafar, Borai, and Abdallah. It includes other

individuals who defend human rights and freedoms, such as the lawyers Malek Adly and Haitham Mohamadein.<sup>122</sup>

Nor is the siege of civil society judicially limited to tracking individuals. It also extends to collective judicial proceedings against NGOs.<sup>123</sup> Case number 173 of 2011, popularized in the media as the case of civil society organizations’ funding, most clearly demonstrates the surveillance practices and methods of collective punishment utilized by the regime to pressure civil society. The case

began in December 2011, when the state prosecutor accused forty-three individuals of managing “unlicensed organizations” and “obtain[ing] funds from foreign governments and parties” without the regulatory approval of the proper authorities.<sup>124</sup> The accused parties included both Egyptian and foreign NGO workers. In June 2013, a criminal court sentenced all defendants to prison terms ranging from one to five years. The largest number of sentences were issued in absentia because the majority of the defendants were not present in Egypt. The court also has sanctioned the closure of foreign NGOs, including the International Republican Institute, the National Democratic Institute, Freedom House, the International Center for Journalism, and the Konrad-Adenauer-Stiftung foundation.<sup>125</sup>

In 2014, through so-called investigation judges, the state prosecutor filed a similar set of charges aimed at several Egyptian NGOs involved in human rights advocacy and the general push for liberties. In 2014 and 2015, the state prosecutor imposed several travel bans on human rights defenders and actors in organizations such as the Egyptian Democratic Institute, the Cairo Institute for Human Rights Studies, the Hisham Mubarak Law Center, the Arabic Network for Human Rights Information, and the Egyptian Initiative for Personal Rights. Court proceedings against various NGO workers began in 2016.<sup>126</sup>

In their decisions, the state prosecutor and the courts use a biased legal framework built around the NGO Law to restrict the right of civil society organizations to obtain official licenses, forcing them to register as private nonprofit

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companies. NGOs' lack of formal government recognition gives the regime an opportunity to press charges against potentially dissenting organizations as so-called nonlicensed organizations that oppose the laws of the country.

The decisions make use of the ambiguous language in the Egyptian legislative framework regarding the right of civil society actors to receive external funds and the conditions applied to their dispersal. Moreover, the transfer of all funds to civil society actors is conducted through Egypt's Central Bank, which requires civil society organizations to register as nonprofit groups, submit additional legal paperwork, and disclose details of their funding, eliminating any sense of privacy.<sup>127</sup>

With these measures, the Egyptian authorities disregard the fact that the administrative court system (in defiance of the NGO Law) approved the right of "NGOs to receive grants and foreign funds to contribute to developmental issues" in 2016.<sup>128</sup>

Other NGOs faced dissolution due to unsubstantiated accusations that they are affiliated with the Muslim Brotherhood.<sup>129</sup> Organizations charged with Brotherhood connections had their funds and financial assets confiscated in accordance with a 2014 law that established a Committee for the Confiscation and Management of the Muslim Brotherhood's Funds.<sup>130</sup>

### **An Ever-Widening Circle of Enemies**

Other voices of dissent have been targeted, including businesspeople whose refusal to provide financial support to the government's mega-construction projects has led to the confiscation of their assets and other abuses and also journalists whose independent reporting has resulted in accusations of terrorist affiliations and mock trials.<sup>131</sup> Student protests on university campuses and labor protests in industrial facilities have been met with excessive force, and protesters have been subjected to various kinds of state-sponsored violence, including long provisional detention, dismissal from universities, and ready-made prison sentences.<sup>132</sup> Labor activists have been sent to military trials and have faced disciplinary sanctions.<sup>133</sup>

The ever-widening circle of enemies includes groups of young citizens who spearheaded the 2011 revolution, opposed the 2013 coup, and have continued to peacefully protest repressive policies.<sup>134</sup> Capitalizing on their strong presence in social media networks, young Egyptians have refused to bow to the new authoritarian regime's demands for obedience, and they succeeded as early as 2013 in challenging the government's denial that it has committed human rights abuses.<sup>135</sup> In response, the government has attempted to increase its surveillance of social media networks, detained and imprisoned several young bloggers, and imposed a new cybercrimes law that is tailored to repress independent bloggers and curtail freedom of expression.<sup>136</sup>

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Public and private media outlets controlled by Egypt's security forces have denied any government involvement in violence and abuses and accused human rights activists and pro-democracy groups of propagating false claims. When the documentation of abuses and violations has been impossible to deny, public and private media outlets have justified them by promoting hate speech directed toward the victims and the government's opponents in general. This happened in the case of the murder of leftist activist Shaimaa al-Sabbagh, who was shot in 2015 during a peaceful march to commemorate the fourth anniversary of the 2011 revolution. Her killing was first denied by the security forces, and media outlets followed suit, leveling a range of accusations against the victim. Later, security forces and media outlets acknowledged that she was killed by rubber bullets fired to disperse the march and falsely blamed the demonstrators for inciting violence.<sup>137</sup>

Sometimes, victims of state-sponsored violence are labeled collectively as terrorists, and killing them indiscriminately is justified as the legitimate right of the government. Since 2013, the military and security forces operating in Sinai have been announcing the deaths of scores of alleged terrorists almost daily. Their identities are rarely revealed, their personal stories are never discussed, and the coverage of public and private media outlets is confined to proclaiming continuous government successes in fighting terrorism.<sup>138</sup> Other times, the victims are defamed with arbitrary accusations of involvement in inciting violence or extremism. Here, also, the pro-government media has branded human rights activists and pro-democracy groups with false criminal identities, such as "evil people" and the "forces of chaos," and in doing so, has defended repressive measures against them as legitimate tools to safeguard the country.<sup>139</sup>

## Reflecting on the Crackdown and the Closure of Public Space

Contrary to the baseless accusations leveled against human rights activists and pro-democracy groups, it is the new authoritarian government, through continuous abuses and violations, that undermines stability and security. Sharp conflicts between the government and various local communities and growing grievances among wide segments of the embattled population have eroded social cohesion. Injustices and repressive policies have diminished popular trust in the government, and the civil-military imbalance and absence of accountability have considerably weakened the state apparatus.<sup>140</sup>

The government has promoted the labeling of opponents as enemies, terrorists, and violent actors with little concern for the dangerous repercussions such arbitrary labels have on Egypt's societal fabric. And it has done so without appreciating the negative impacts on notions of justice and the rule of law and

without realizing the correlations between all this and the spread of radical ideas among the constituencies of excluded movements and groups. What is more, the government's dependence on repressive policies and security measures marred with state-sponsored violence to fight terrorism has transformed some local environments—especially in Sinai—into “incubators” of violence.<sup>141</sup>

In the security-controlled public space and formal political arena, officials who adopt the most extreme versions of hate speech and vengeance have enjoyed a broader presence.<sup>142</sup> Television presenters, journalists, opinion makers, and pundits who have come to prominence after the coup are those who defame the victims of the new authoritarianism and pressure citizens into acquiescence in the face of wide-scale repression and growing human rights abuses. To them, facts are of no value and baseless accusations are the best tools to silence opponents and critics. The murders of innocent citizens are either labeled legitimate counterterrorism measures or legitimate law enforcement efforts; forced disappearances of young activists are acts of containment targeting dangerous terrorists.<sup>143</sup>

The government has implicated the long list of enemies and conspirators—the “evil people” per the current president<sup>144</sup>—in alleged plots and conspiracies that aim to undermine the nation's stability and security, to impose chaos and destruction, and to fragment the state and the army.<sup>145</sup> These people have been indiscriminately, and without any solid proof, accused of committing acts of violence, receiving foreign funds illegally, and serving the interests of hostile regional and other external powers.<sup>146</sup>

Fundamental to these efforts has been the legal system. The new authoritarian regime is using lawmaking to besiege the opposition and civil society and to curtail peaceful activism.<sup>147</sup> It has thus far acted methodically, as demonstrated by the broad targeting of Islamists, those voicing dissent, human rights activists, pro-democracy student groups, labor activists, and NGOs. Imprisonment, detention, displacement of individuals and organizations, forced disappearances, and extrajudicial killings have become the price for not acquiescing to the injustice and oppression that form the bedrock of Egypt's new authoritarianism.

There is no denying that the new authoritarian formula of repression, hate speech, and the elimination of basic rights and freedoms using lawmaking has been effective in curtailing resistance to Egypt's ruling generals. Islamist movements have been weakened, while liberal and leftist parties have been once again either domesticated or marginalized in a formal political arena controlled by the security and intelligence services. Human rights defenders and independent NGOs have been pushed to the edge of extinction, engaged in an existential struggle against government sanctions and repression.

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**The murders of innocent citizens are either labeled legitimate counterterrorism measures or legitimate law enforcement efforts.**

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In sum, Egypt's reality since 2013 is characterized by the success of the new authoritarian approach in closing the public space and pushing out pluralist politics. However, an embryonic resistance seems to be emerging in key sectors of society. Seeing both movements and parties weakened and civil society besieged, pro-democracy groups and young activists have mobilized using alternative ideas and platforms. For an analysis, see the author's complementary paper, *Egypt's Resilient and Evolving Social Activism* (forthcoming, 2017).

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Tarek al-Zomor. See, Yosry Badry, “Masdar amny: al-Qabd ‘Ala Sa‘ad al-Katratny wa Rashad Bayoumy” [Security source: Sa‘ad al-Katratny and Rashad Bayoumy have been arrested], *al-Masry al-Youm*, July 4, 2013, <http://www.almasryalyoum.com/news/details/230709>; Samy ‘Abdel Rady and Mahmoud al-Jarhy, “al-Neyaba Towajeh ‘al-Katratny wa Bayoumy’ be-Tohmet Qatl 22 wa al-Shorou‘ Fey Qatl 211 Fey ‘Majzarat Bayn al-Sarayat” [Prosecutors accuse al-Katratny and Bayoumy for the murder of 22 individuals and the attempted murder of 211 in the massacre of Bayn al-Sarayat], *al-Watan*, July 6, 2013, <http://www.elwatannews.com/news/details/219702>; “al-Qabd ‘Ala Khayrat al-Shater al-Rajel al-Qawy Fey Jama‘at al-Ikhwan” [The arrest of Khayrat al-Shater the strong man in the Muslim Brotherhood], BBC, July 5, 2013, [http://www.bbc.com/arabic/middleeast/2013/07/130706\\_ikhwan\\_shater\\_arrest](http://www.bbc.com/arabic/middleeast/2013/07/130706_ikhwan_shater_arrest); al-Walid Isma‘il, “al-Watan’ Tanfared be-Nashr Nas al-Tahqeeqat ma‘a Khayrat al-Shater Fey Qadeyet ‘Majzarat al-Irshad” [al-Watan publishes the official text of the Interrogation of Khayrat al-Shater in the Irshad Massacre], *al-Watan*, August 18, 2013, <http://www.elwatannews.com/news/details/266413>; “al-Qabd ‘Ala ‘Essam Soltan wa Abou al-‘Oula Mady wa Tarhelahoma le-Tora” [The arrest of ‘Essam Soltan and Abou al-‘Oula Mady and sent to Tora Prison], *al-Arabiya*, July 29, 2013, <https://www.alarabiya.net/ar/arab-and-world/egypt/2013/07/29/القبض-على-عصام-سلطان-وأبو-العلا-ماضي-وترحيلهما-لطره>.html; “al-Azma Fey Masr: al-Qabd ‘Ala Mohamed Badei’ al-Morshed al-‘Aam lel-Ikhwan al-Moslimeen” [Crisis in Egypt: The arrest of Mohamed Badei’, the general guide of the Muslim Brotherhood], BBC, August 20, 2013, [http://www.bbc.com/arabic/middleeast/2013/08/130820\\_egypt\\_badie\\_arrest](http://www.bbc.com/arabic/middleeast/2013/08/130820_egypt_badie_arrest); “Iteqal Mohamed al-Beltajy al-Qeeyady Fey al-Ikhwan al-Moslimeen” [The Arrest of Mohamed al-Beltajy Leading member of the Muslim Brotherhood], BBC, August 29, 2013, [http://www.bbc.com/arabic/middleeast/2013/08/130829\\_egypt\\_beltagi\\_arrested](http://www.bbc.com/arabic/middleeast/2013/08/130829_egypt_beltagi_arrested); Mohamed Sharqawy, “Masder Qada‘ie Yakshef La‘ehet al-Itahamat al-Mowajaha lel-Beltajy...al-Neyaba Tatahemohu bel-Tahreed bel-‘Amr al-Mubasher ‘Ala A‘amal ‘Onf Fey Ahdath ‘Rab‘a al-‘Adaweya’ wa ‘al-Nahda’ wa ‘al-Haras al-Jumhoury’...wa al-Takhabor le-Saleh Jehat Ajnabeya” [A judicial source reveals the list of accusations directed at al-Beltajy, inciting violence in Rab‘a, Nahda, and the Republican Guard Incidents], *Al-Youm Al-Sabe’*, August 29, 2013, <http://www.youm7.com/story/2013/8/29/مصدر-قضاي-يكشف-1226351/لاحة-الاتهامات-الموجهة-للبناتجى-النباية-تتهمه-بالتحريض>; “Ilqa’ al-Qabd ‘Ala al-Qeeyady al-Ikhwany ‘Essam al-‘Eryan bel-Qahera” [The arrest of Muslim Brotherhood leader ‘Essam al-‘Eryan], *Al-Arabiya*, October 30, 2013, <https://www.alarabiya.net/ar/arab-and-world/egypt/2013/10/30/اللقاء-القبض-على-القيادي-في-الإخوان-عصام-الريان>.html; al-Maseryoon “Ayna Ikhtafa Mahmoud ‘Ezzat?” [Where did Mahmoud ‘Ezzat disappear?], *Al-Mesryoon*, February 4, 2014, <https://almesryoon.com/-/دفتر-أحوال-الوطن-/814677-أين-اختفى-محمود-عزت-؟>; Adel ‘Abdel Rahman, “Mahmoud Hussein al-Ameen al-‘Aam lel-Ikhwan al-Moslimeen... le-Madha Istahadafahu be-Hadhahy al-Sharasa” [Mahmoud Huseein the secretary general of the Muslim Brotherhood... Why did they pursue him with such vengeance?], *Klmtly*, June 9, 2015, <http://klmtly.net/379319-محمود-حسين-الأمين-لماذا-استهدفه-بهذه-الشراسة-؟>; Mostafa al-Maghreby, “Mohamed Mahsoub Yakshef Tafaseel ‘Ard al-Sisi lel-Ikhwan Qabl Bayan 3 Youlyou” [Mohamed Mahsoub reveals the details of the deal Sisi gave the Muslim Brotherhood prior to the July 3 statement], *Masr Al-Arabia*, July 2, 2016, <http://www.masralarabia.com/سوشيال-ميديا-/1136121-محمد-محسوب-يكشف-تفاصيل-عرض-السيبي-للإخوان-قبل-بيان-3-يوليو>; Magdy ‘Abdel Rasoul, “Masder le-Veto: Horoub Tarek al-Zomor wa ‘Essem ‘Abdel Majed be-Mo‘awanet Ajheza Seeyadeya... al-Amn Sa‘edohoma Fey al-Khorouj Men Masr Tajanoban lel-Sedam ma‘a al-Jama‘at al-Islameya... al-Qeeyadeyan bel-Jama‘a al-Islameya Harba Taht She‘ar al-Hejra al-Mou‘qata” [Source to Veto: The escape of Tarek al-Zomor and ‘Essem ‘Abdel Majed in cooperation with high-ranked leaders... Security officials helped them to leave Egypt to avoid clashing with Islamist groups... The leaders escaped under the guise of “temporary immigration”], *Veto Gate*, December 2, 2013, <http://www.vetogate.com/725701>.

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89. Ibid. After two days of the violent dispersal of the sit-ins, a number of Muslim Brotherhood’s members and supporters marched in a Cairo neighborhood to protest the mass killings. Police units once again opened fire on the protestors claiming that they were violent and committed acts of aggression. The claim of the police was never verified independently. According the Governmental Forensic Medicine Department, the renewed use of excessive force resulted in the killing of 120 civilians. See, “All According to Plan,” Human Rights Watch.
90. Mohamed Hamama, “Lajnet al-Tahafoz ‘Ala Amwal al-Ikhwan Fey Mowajhet al-Qada’” [Commission on Freezing and Managing the Assets of the Muslim Brotherhood confronting the judiciary], *Mada Masr*, November 24, 2016, <https://www.madamasr.com/ar/2016/11/24/feature/سياسة-الجنة-التحفظ-على-أموال-الإخوان-في-مواجهه>.
91. Mohamed al-‘Alem, “Ba’d ‘Aam Men Ta`seesaha...Lajnet ‘Hasr wa Idarat Amwal al-Ikhwan” Tosayter ‘Ala 80% Men al-Amwal...wa Tatahafaz ‘Ala 1033 Jam‘eya wa 544 Sherka...Tahafozateha Tat‘ada Nesf Millyar Jeneih...wa Tokhateb Sitat Dowal le-Tajmeed Amwal Qeyadat al-Jama‘a” [After a year of its founding...the Commission on Freezing and Managing the Assets of the Muslim Brotherhood controls 90% of the money...freezes over 1,033 charities and 544 companies...controls half a billion pounds...Talking to six countries to freeze the assets of members of the Muslim Brotherhood], *al-Youm Al-Sabe’*, October 29, 2014, <http://www.youm7.com/story/2014/10/29/9217291/بعد-عام-من-تأسيسها-الجنة-حصر-وإدارة-أموال-الإخوان-تسيطر>.
92. “Lajnet Hasr Amwal al-Ikhwan” [The Commission on Freezing and Managing the Assets of the Muslim Brotherhood], *Al-Masry Al-Youm*, <http://www.almasryalyoum.com/news/tag/218966>. Also, media corporations affiliated with or loyal to the Muslim Brotherhood were ordered closed by the government. Judicial provisions safeguarding media freedoms were ignored completely. See, “Ighilaq al-Qanawat al-Deeneya: Intihak le-Horeyet al-Ra`y am Daroura Amneya?” [Shutting down of religious channels: A breach of civil liberties or a necessary security measure?], BBC,

- July 9, 2013, [http://www.bbc.com/arabic/interactivity/2013/07/130709\\_commnets\\_religinus\\_tv\\_closer](http://www.bbc.com/arabic/interactivity/2013/07/130709_commnets_religinus_tv_closer).
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  94. Mohamed al-’Omda, “Haytheyat Hal ‘al-Horreya wal-’Adala’: al-Ikhwan Asha’ou al-’Onf wal-Fawda... wal-Hezb Onshe’a be-Takleef Men ‘al-Tanzeem al-Dawly” [Merits of dissolving the Freedom and Justice Party: The Brotherhood incited violence and chaos... The party was established by an the “international organization” of the Brotherhood], *al-Watan*, August 10, 2014, <http://www.elwatannews.com/news/details/536077>.
  95. “An Tamout Beselah al-Nesyane Fey al-Sejoun’... Resala Men Motahmeen Fey Qadeyeyt Fad Rab’a [“To die by the weapon of oblivion in prison”... A letter from the ccused in the Rab’a Massacre], *Mada Masr*, May 9, 2016, <http://www.madamasr.com/ar/2016/05/09/feature/سياسة/أن-تموت-بسلاح-النسيان-في-السجون-رسالة>.
  96. “Erdogan: Turkeya Satorahab be-Qeyadat al-Ikhwan” [Erdogan: Turkey will welcome the leaders of the Muslim Brotherhood], BBC, September 16, 2014, [http://www.bbc.com/arabic/middleeast/2014/09/140916\\_turkey\\_qatar\\_muslim\\_brothers](http://www.bbc.com/arabic/middleeast/2014/09/140916_turkey_qatar_muslim_brothers); Emil Amin, “al-Shetat al-Ikhwany Men London Ila Graz” [The Muslim Brotherhood diaspora from London to Graz], *al-Bayan*, April 21, 2014, <http://www.albayan.ae/opinions/articles/2014-04-21-1.2105892>; “The Brotherhood Diaspora,” *Mada Masr*, September 30, 2014, <http://www.madamasr.com/en/2014/09/30/feature/politics/the-brotherhood-diaspora/>.
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  99. Mohamed ‘Abdel Haleem, “Ilaqeha Men Turkeya... Khetat al-Ikhwan al-Irahebya le-Darb al-Iqtasad al-Masry” [Launched from Turkey... The Brotherhood’s terrorist plan to target the Egyptian economy], *Dot Masr*, August 28, 2016, <http://www.dotmsr.com/details/أطلقتها-من-تركيا-خطة-الإخوان-الإرهابية-لضرب-الاقتصاد-المصري>.
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- They Are a People”], YouTube video, posted by “Mac Sharkawy,” July 6, 2013, <https://www.youtube.com/watch?v=C3ILiv66GJo>; “Gamal Bakheet-Qaseedet ‘Deen Abouhom Esmo Eih?’” [What is their true religion], YouTube video, 8:58, posted by “afaheem10,” May 25, 2011, <https://www.youtube.com/watch?v=xlzN59zd-3Q>.
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