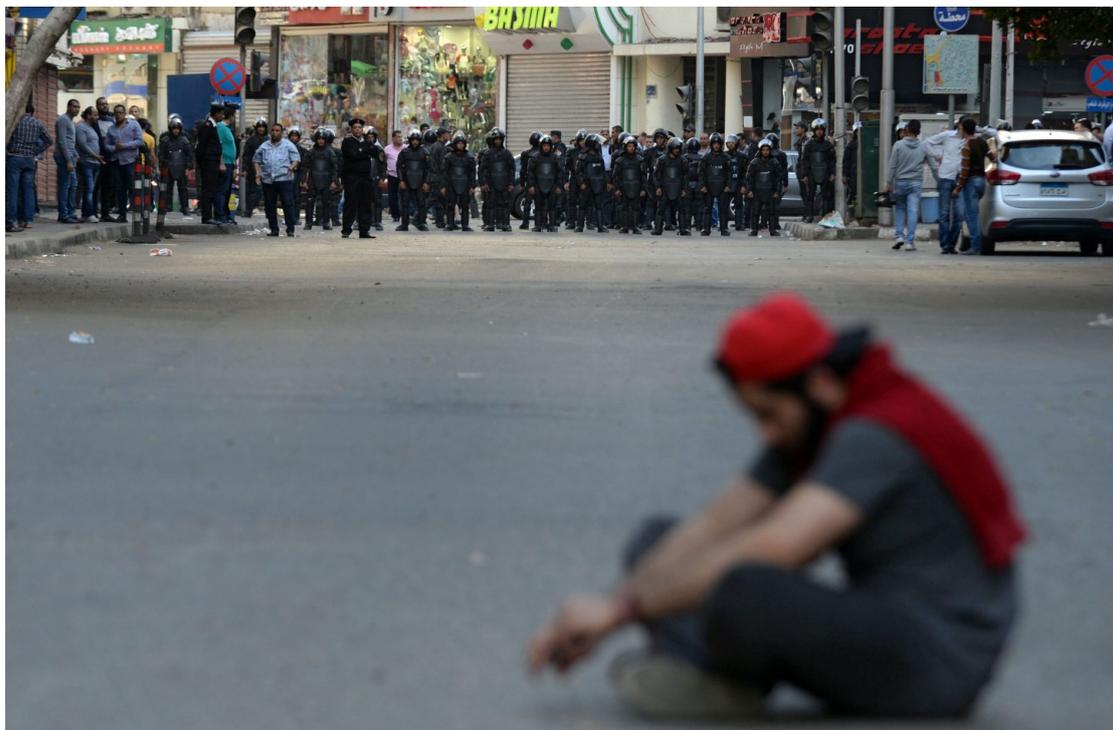




Policy Alternatives, 10 August 2017

# Egypt's Unexceptional State of Emergency

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Security forces stand near a protester in central Cairo, Egypt, 2016. © EPA



On 09 April 2017, Egyptian President, Abdel Fattah al-Sisi imposed a three-month state of emergency across the nation. This was in immediate response to two significant bombings targeted at St. George's Church in Gharbia Governorate and St. Mark's Church in Alexandria, for which the Egyptian branch of the Islamic State of Iraq and Syria (ISIS) claimed responsibility. While such a decision generally heralds important differences in the functioning of executive, legislative, and/or judicial branches as well as the margins of maneuver of citizens in the public sphere, the current state of emergency adds nothing new to the framework that has been governing Egypt since July 2013 (and indeed much farther back in its history, since the republic was established in 1952). Governance had already been dominated by exceptional measures legitimizing human rights violations under the pretext of fighting terrorism, despite the failure of such measures to address these issues. Indeed, exceptional security measures are being exhausted, while on the ground armed violence has yet to de-escalate. ISIS has continued to expand the scope of its operations, from the recent strikes in central Sinai to cities such as Tanta. Alexandria has been faced with bomb attacks since before the revolution began, namely the Two Saints Church bombing in 2010. More recently, at least 26 people were killed in an armed assault on a bus carrying Christian citizens in Minya Governorate on 26 May 2017.

The state of emergency neither proffers effective solutions nor creates a context for the development of tools and strategies needed to confront the threat of terrorism in the region. It merely represents the desire of a forceful and repressive regime to maintain its rule. In fact, the threat has spread by an unprecedented degree since July 2013, and has been exploited to close off political horizons, defeat the revolution, and turn dozens of young men toward violence.<sup>1</sup> Nonetheless, the possibility that the state of emergency will be extended beyond its initial three-month period should not be disregarded. Precedent exists: al-Sisi has imposed a state of emergency on some areas of northern Sinai for over two and a half years (starting October 2014), despite a constitutional stipulation limiting such action to three months, with a single purview for renewal.

## From Undeclared to Declared Emergency



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Even before the official blanket state of emergency was declared in 2017, there was writing on the wall in the counterterrorism laws enacted by the regime. In a joint statement made August 2015, a number of independent rights organizations in Egypt described al-Sisi's draft counterterrorism law as “establishing an undeclared state of emergency and enshrining it under the pretext of protecting society and national unity,” while encouraging extrajudicial killings and promoting impunity, in addition to “bolstering the motives for extremism and terrorism and contributing to the collapse of the pillars of the state and its institutions.” These objections failed to deter the regime. On the contrary, at the funeral of the Public Prosecutor, who had been assassinated by a bombing of his convoy near his home in Cairo on 29 June 2015, the President declared, “The hand of justice has been shackled by the laws.” Despite a law stipulating a specific period of validity of two years from October 2014, al-Sisi issued a decision to renew it for an additional five.

As a result, thousands of civilians have been tried in military courts. Some have been tried retroactively, although the incidents they were accused of occurred before the law was issued. In one case, unjust death sentences were carried out against seven young men, at least two of whom were proven to have been in custody in the Arab Sharkas area of the Qalyubia Governorate, when the incident they allegedly perpetrated occurred.

Under Emergency Law during the Mubarak era, hundreds of civilians were detained without arrest warrants. Sometimes detainees' defenses were accepted and people were released. There were even rulings in favour of victims who suffered from preventative detention periods, torture, or other violations. The al-Sisi regime, on the other hand, has adopted a series of exceptional measures whose powers and overall impact on a broad section of society exceed those allowed during Mubarak's era. There are many examples of this, but one of the most prominent is the “Protection of Public and Vital Facilities Law” (Law No. 136), issued by al-Sisi in 2014. This allows for the armed forces to assist the police in securing “public and vital facilities” and legitimizes putting civilians on trial before military courts — an even larger expansion than permitted by the amended constitution of January 2014. The action has been opposed by a number of demonstrators, NGO campaigns and human rights initiatives.

It can be argued that Egypt has been subject to a state of emergency for more than



53 years, while certain geographical sectors have been subject to states of emergency in partial form (Sinai in the al-Sisi era, and the Suez Canal governorates of Ismailia, Port Said, and Suez in the Morsi era). This has not prevented authorities from attempting to legitimize past violations and to continue carrying them out under the pretext of an imposed state of emergency; an unexceptional state of emergency is here used as the context for unexceptional violations.

History of the State of Emergency in Egypt	
The Republic of Egypt is established: Historically, Egypt has spent more time under a supposedly exceptional state of emergency than it has under the standard rule of law since the Free Officers organization took power on 23 July 1952 and transformed it from a monarchy into a republic controlled by soldiers.	1952
Gamal Abdel Nasser imposes a state of emergency during the Tripartite Aggression	1956
The state of emergency is repealed	1964
Abdel Nasser reinstates the state of emergency after defeat in the war with Israel	1967
President Anwar Sadat lifts it on 15 May 1980	1980
Acting President Sufi Abu Taleb declares a state of emergency on 07 October 1981 after Sadat's assassination	1981
The Supreme Council of the Armed Forces decides to end the state of emergency on 25 January 2012	2012
Interim President Adly Mansour restores it from August 2013 to November 2013 after the events of Raba'a al-Adawiya, when almost 1,000 civilians, mostly Muslim Brotherhood supporters, were forcibly dispersed from their protest centre by security forces	2013
President Abdel Fattah al-Sisi restores it throughout Egypt on 09 April 2017	2017

## Just Another Tool for Suppressing the Public Sphere?

In the weeks following the implementation of the April 2017 state of emergency, civilians were subject to waves of arrests and other rights violations. Dozens of



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activists were taken into custody, in some cases as part of their roles in political parties, in addition to former activists who had already distanced themselves from political life when al-Sisi assumed the presidency. In this manner, the state of emergency has become a major weapon in the regime's war against opposition and democratic voices. On 23 May 2017, renowned rights lawyer and former presidential candidate, Khaled Ali, was detained for a full day. He was only released after being transferred to the Urgent Matters Court under charges of "violating public morals." This came after some news reports indicated his intention to run in the May 2018 presidential election. The following day, many Egyptians were surprised to find a number of independent local news sites blocked, as well as Al Jazeera and some of its subsidiary channels. Hours later, the Middle East News Agency (the official news agency) published confirmation of the ban, with a statement from a "high-level security source," saying: "Twenty-one websites have been blocked in Egypt for containing content that supports terrorism and extremism and deliberately propagating lies." Strangely, this source added, "legal action has been taken regarding these sites," — a clear example of the use of legal frameworks to legitimize violations rather than calm tensions between opposing parties and achieve justice. This new authoritarian approach was further confirmed when access to two additional Egyptian news sites, Daily News Egypt and Al Borsa, was blocked days later. No other government source commented on the ban over the following 48 hours, except a statement from an official of the National Telecom Regulatory Authority, who neither confirmed nor denied the news, but said: "I don't have any information, but what if it [the news] was true? What's the problem?"<sup>2</sup> Officials in the Egyptian regime do not understand the problem inherent to banning websites and carrying out violations against citizens. They consider these to be entirely normal practices.

Incredibly, Egyptian authorities have also rejected a number of requests to demonstrate in solidarity with the victims of the Tanta and Alexandria church bombings, in accordance with the new protest law (Law No. 106 of 2013). This law allows the Minister of Interior or the relevant security authorities to forbid public gatherings or demonstrations after its organizers submit written notification to the police in whose jurisdiction the site of the public gathering or beginning of the demonstration falls. Despite the efforts of organizers to adhere to the law by holding solidarity vigils in Cairo with the victims of the bombings, and their



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submission of written notification, they were denied permission, and security officials cancelled the vigils before they were held.

According to interviews with two youth and culture centres in Alexandria and Cairo, the state of emergency has had a major impact on their work, including significant fears of harassment from security forces. These are places where youth gather, making them a source of concern for the regime. Although the centres distance themselves from politics and focus instead on education, workshops, and cultural and literary forums, a constant sense of danger and the possibility of arrest is very real. This comes in the wake of a considerable decline in these types of youth organizations from July 2013 to the end of 2015, compared with unprecedented levels after the first days of the revolution and the end of the Mubarak era.

Within the first moments of the state of emergency declaration, the Interior Ministry Prisons Authority prohibited family visits to relatives and children in the high-security Tora Prison, known as the “Scorpion Prison” (*segn al-‘aqrab*). This prohibition has continued for over two months. On 18 April 2017, in one of the court sessions in the assassination of Public Prosecutor Hisham Barakat case, the family of one defendant carried out a small celebration for his engagement, through the glass cage where detainees were held.<sup>3</sup> This sparked the ire of pro-regime media, expressed by television personality Ahmed Moussa:

“An engagement in the court, and the girl is rejoicing with a terrorist — one of the terrorist traitor members of the terrorist Brotherhood. They chant and ululate because there is no one there to stop them. The least the security officials could have done was take these people and throw them on the street by the backs of their necks! If we had rule of law, all these people would have to be tried because they violated the hall. With all due respect to the judiciary, if we had executed these terrorists, we would not have witnessed this scene that gives offense to every honorable person in this country.”

Ahmed Moussa contacted Judge Hassan Fareed, in charge of the case, who confirmed in a phone interview that the celebration occurred after the conclusion of the session. Still, the family was banned from entering the courtroom for two consecutive sessions because Moussa had inflamed the issue, according to an



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interview with relatives of one of the defendants. He has previously criticized a family for expressing joy at seeing their relatives in court, questioning why they would celebrate, and how parents who had a terrorist for a son — as he put it — could even leave their homes.

It is difficult to say if the imposition of a state of emergency has had a direct effect on the escalation of this fascist trend, which enjoys two-way influence with the ruling regime that feeds it with one hand and obeys its hysterical demands with the other. However, it is clear that this trend may also witness relative escalation, with the increasing wave of bombings and armed attacks in Cairo and the Al-Wadi Al-Gedid Governorate since the St. Mark's Cathedral bombing in Cairo, in addition to increasing security agency arrests.

The state of emergency has interestingly, not been framed as a tool for silencing opposition voices, in condemnatory statements from either political parties or civil society organizations. This is not because it is untrue, but rather because the state of emergency has been normalized in Egypt. A statement issued by six political parties, seven political and rights groups, and 155 public figures underscored that the recent campaign disclosed “lies regarding the claims that the legislations which had been passed and the measures which have been taken come within the framework of confronting terrorism. Rather they come in the framework of the desire of the authorities to impose their total dominance over all society's existing forces, silence any dissimilar or opposition voices, and abort any opportunities or possibilities to provide space for political and social mobilization, particularly as the presidential election of 2018 approaches.” The statement did not refer to the state of emergency imposed across Egypt.

This inattention throws into harsh relief the fact that many Egyptians, including, in this case, some of the most prominent opposition voices, are aware that imposing a state of emergency has become an unexceptional measure on the part of the ruling regime, especially given that the pace of its human rights violations has already far exceeded those legitimized in the past. Indeed, the state of emergency has not been used as the main argument for silencing opposition voices, as had been the case under the deposed President Mubarak.



### A Constitution on Paper Only

Astonishingly, rights violations are multiplying at a time when the Egyptian constitution, newly minted in January 2014, is considered highly progressive in relation to rights and freedoms. Article 52 criminalizes torture and classifies it as “a crime not subject to statute of limitations” in all its forms and manifestations. It also stipulates that “personal freedom is a natural right and shall be protected and may not be infringed upon.” Article 54 further sets parameters for arresting and searching someone and states, “an investigation may not start with the person unless his/her lawyer is present” and that he or she “shall be brought before the investigation authority within twenty-four (24) hours as of the time of restricting his/her freedom.” Yet while the letter of the law provides the means for the protection of citizens, the gap between the text and its implementation has widened, as many independent Egyptian and international rights organizations have documented the arrest of thousands of citizens in contradiction to the guarantees granted by the constitution.

In an Amnesty International report titled *Egypt: ‘Officially, You Do Not Exist’ – Disappeared and Tortured in the Name of Counter-Terrorism*, the organization confirmed the existence of “a trend which has seen hundreds of students, political activists and protesters, including children as young as 14, vanish without trace at the hands of the state. On average three to four people per day are seized according to local NGOs, usually when heavily armed security forces led by National Security Agency officers storm their homes. Many are held for months at a time and often kept blindfolded and handcuffed for the entire period.”<sup>4</sup>

Neither the state nor its security and judicial agencies have acknowledged their responsibility for these detentions. This reached unprecedented levels in 2015 when Interior Minister Magdy Abdel Ghaffar took over the ministry’s portfolio following his predecessor Mohamed Ibrahim, who carried out the bloody dispersal of the Raba’a al-Adawiya and al-Nahda sit-ins as well as many other sit-ins and demonstrations during his tenure. This has slowed in 2016 and 2017, but has not stopped entirely. According to one rights lawyer, a security campaign following the imposition of the state of emergency has targeted about 28 activists and young people from diverse political parties across ten governorates.<sup>5</sup> This is of course in



addition to the prosecution of dozens of politically inactive citizens.

## Conclusion and Recommendations

A state of emergency has been imposed in Egypt for more than five intermittent decades since the Free Officers group took power in July 1952 and transformed the country's political system from a monarchy to a republic. The state of emergency is thus the rule rather than the exception. This structure has not succeeded in preventing the wave of armed violence the country has witnessed, including before the revolution in the 1990s, during the 2004 Taba and Nuweiba bombings, during the 2005 Sharm el-Sheikh bombing, and throughout the major surge in violence after July 2013. Likewise, the state of emergency did not prevent the revolution from erupting in January 2011, despite being leveraged as a mechanism to nip political dissent and protests in the bud. It is unclear how the current authorities will use the system to combat terrorism and armed violence, aside from the exceptional measures it has implemented whose contents exceed the provisions of the original state of emergency. However, it is clear that their strategy has strong roots in violence, with, amongst others, the counter-terrorism law establishing a path for impunity and the encouragement of extrajudicial killing.

Although the state of emergency in itself is not exceptional for Egypt, the current context in which it is being imposed is the most exceptional Egypt has experienced in decades. Violations have exceeded those of the Mubarak era before the revolution, by several degrees. Yet it is impossible to offer recommendations solely around particular legal features and amendments. The issue goes well beyond that, and the solution cannot be limited to a number of legislative amendments to the articles related to counter-terrorism, emergency, and other laws. On the contrary, it is clear that if decision-makers had a true desire to fight terrorism, they would refrain from abusing opposition voices and restricting them in the context of efforts against terror, as well as using this as a pretext to entrench its power. Restructuring security forces, activating the principles of accountability, and putting an end to systematic impunity are at the forefront of this effort. There is no way to rebuild Egypt without working in accordance with a transitional justice system which is not restricted or politicized to eliminate and isolate political rivals.





## Endnotes

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4. Amnesty International, *Officially, You Do Not Exist – Disappeared and Tortured in the Name of Counter-Terrorism*, 2016. Statement available at [www.amnesty.org/en/latest/news/2016/07/egypt-hundreds-disappeared-and-tortured-amid-wave-of-brutal-repression/](http://www.amnesty.org/en/latest/news/2016/07/egypt-hundreds-disappeared-and-tortured-amid-wave-of-brutal-repression/)
5. Statistics gathered in May 2017.



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