

**“Egypt at a Crossroads”
Testimony before the House Committee on Foreign Affairs**

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Chairman Ros-Lehtinen, Congressman Berman and Members of the Committee, thank you for the opportunity to testify once again on events in the Middle East and specifically, on Egypt. It was nearly [one year ago when I last appeared before the Committee](#) to discuss monumental changes occurring across the region.

As I said then and as we are witnessing today, events in countries experiencing the degree of tumult we are seeing in the Middle East are varied and unpredictable. Democratization comes many ways – slow and fast, civic and political, revolutionary and evolutionary – and precise trajectories are difficult to predict. A number of regional powers recognize this and are actively involved in promoting the types of outcomes they desire. The United States approaches assistance to bolster development and universal values of democracy and human rights. We must continue to stand up and represent these values lest the Middle East region fall prey to other designs.

THE ARAB SPRING, WHERE ARE WE – ONE YEAR ON?

I'd like to start today by stepping back for a moment and taking stock of where we are right now regionally. After more than five decades of autocratic rule, the Middle East has seen one whirlwind year of political upheaval. The changes are unsettling at a variety of levels but we must begin by recognizing that five decades of undemocratic rule are not conducive to one year democratic consolidations. This was certainly true in Eastern Europe after the fall of the Iron Curtain, where Bulgaria and Romania took seven years, Slovakia nine, and Serbia 10, before one could point to true democratic transitions. In those countries, the elderly could remember short periods of democracy before or immediately after World War II. No one in an Arab country can remember a period of thriving democracy. Most Middle Eastern countries instead are characterized by decades of one-party, and often one leader rule, that have seen institutions of state wither into instruments for preserving a kleptocratic status quo. Moderate voices of reason were routinely silenced as any secular challenge to the regime was deemed more threatening than an Islamist challenge. In the process, Islamist movements were able to capture the mantle of opposition, assisted by extensive networks of charity and patronage that helped them build strong grassroots movements.

The specter of a conservative Islamist wave sweeping the region is scary for those of us committed to democratic underpinnings of pluralism, human rights, women's rights and protection of minorities. But as we have seen with other democratic transitions around the world and as I continue to believe in the Middle East, one election does not a democracy make, and by no means signals an ultimate political course. Islamists capturing power through elections now will for the first time need to prove their capabilities on the issues citizens care most about. We

know from public opinion research and from the protests that mobilized mass audiences at this time last year that those issues are the economy, creation of new jobs, and greater dignity gained through accountable governments. I often say that the second and third elections in transitional countries are more important than the first, because voters have by then had a chance to judge their satisfaction with initial winners, and the political space begins to consolidate in a manner reflective of the new democratic environment. In the Middle East, it may take even more elections to get to this point, but the course of democratic change is inevitable, and something we must cultivate. One of the most important issues we and other democracies should focus on, therefore, is ensuring that there are additional democratic elections in Tunisia, Egypt and other countries of the region undergoing transition.

In Tunisia, where the Arab Spring began, a first election observed by the International Republican Institute (IRI) and other international observers produced a democratically elected National Constituent Assembly (NCA) in October last year. The Islamist Annahda party was the clear winner and has built a coalition of both Islamist and secular party representatives, with the Assembly's elected speaker a long-time secular opposition leader. The NCA's task of writing a new constitution is going slowly, but it is interesting that we have not seen a lurch toward ideology, or an effort to pull the NCA-appointed interim government away from the primary task of putting Tunisia's economy on track.

In Libya, IRI staff have found great receptivity to outside assistance including that of IRI's. The country is tentatively set to hold elections for a constituent assembly in June this year, but unlike Tunisia, which at least had sham elections under Ben Ali, the Libyans have no experience with democratic participation and have never organized an election. The challenges stemming from protracted conflict remain great and not all of the actors are those we'd like to see succeed in a democratic environment. However the ruling National Transitional Council has done better than most expected in keeping the country on a forward path, and the promise of elections as the means forward is widely supported by the Libyan people.

One year on, the region continues to experience dramatic upheaval with uncertain outcomes in places like Yemen and Syria. By and large, however, there is a process underway in which countries have moved on from conflict, in credible political processes characterized by democratic underpinnings.

EGYPT

This brings me to the topic of today's hearing. The transition in Egypt is for many reasons too important to ignore. In my testimony before the Committee last year I said that, due to the country's historical and cultural prominence, events in Egypt have great consequences for the pace of reform in the rest of the region. That remains true today.

Regrettably, those events are increasingly unsettling. After a successful referendum in March last year that altered undemocratic tenets of the constitution, Egypt appeared to be on a positive track, albeit a unique track with a military council running the country in stewardship. A long-awaited transition plan that shifted from presidential to parliamentary elections over the course of the summer months, however, produced growing polarization among civic forces demanding

civilian rule and the Supreme Council for the Armed Forces (SCAF) leadership. At times the SCAF appeared to not want to hand over power; one version of the SCAF's preferred roadmap would not have seen a full shift to a democratically elected president until as late as spring 2013.

Amid the power struggle over a transition plan, Egyptians watched as some 1,200 citizens appeared before military courts, including demonstrators and journalists critical of the SCAF. Meanwhile, a secretive "fact-finding" committee, launched with the encouragement of Mubarak hold-over Minister of International Cooperation Fayza Aboul Naga, to investigate the influences of "foreign funding," picked up steam. After a chaotic period to finalize election rules and register candidates, the situation came to a boil in late November 2011, when large numbers of protesters again returned to Cairo's Tahrir Square and to Alexandria to protest an attempted SCAF declaration of supra-constitutional principles. Spurred on by clashes that left several demonstrators dead, the protests were directed primarily at the SCAF plan to appoint most members of a constitution writing body and to place the military above civilian oversight once elections for the Egyptian parliament were completed.

Revolutions are indeed messy, but in no country in the region, and few elsewhere, has the post-revolutionary situation been as repressive as in Egypt.

WHERE IS EGYPT HEADED?

It is therefore vital, in examining the situation that IRI, the [National Democratic Institute](#) (NDI) and [Freedom House](#) find ourselves in today, to see it not in isolation but to understand it as just one symptom of increasingly troublesome developments in Egypt.

The conduct of Egypt's recent elections proceeded without structural flaws, but the record over the last year on other important components of democracy, such as the rule of law, freedom of expression, association and religion, is falling very much short of what we have seen in other democratic transitions, including in the region. I refer you to Human Rights Watch's February 11, 2012 report, [Egypt: A Year of Attacks on Freedom of Expression](#), but let me address three of those areas – free and fair elections, freedom of association and rule of law – by talking about the experience of Egyptians and of IRI in Egypt.

First, free and fair elections. After much resistance from Egyptian authorities over the summer months, IRI, NDI, and others were able to observe Egypt's three phased elections for the people's assembly at the official invitation of the Egyptian Ministry of Foreign Affairs. Egypt has experienced a flourishing of political parties and rapid growth of civil society organizations and activism since February 2011. This blossoming of civil society is common in transitional contexts we have seen elsewhere and has so far served as a bulwark against the silencing of the civil society sector. The elections, as IRI noted in statements circulated after each phase, were a step forward for the country with Egypt's Higher Elections Commission (HEC) and judges making every effort to administer a credible elections process.

In terms of freedom of association, on December 29 – just days before the third round of elections observed by IRI and NDI – not only were five foreign organization's offices (IRI, NDI, Freedom House, [International Center for Journalists](#) and the [Konrad Adenauer Stiftung](#)) raided,

but at least five Egyptian organizations received the same treatment. These actions were carried out by Egyptian security services, at the direction of the state public prosecutor. They included security forces armed with AK-47s storming offices, kicking down the door at one IRI office, detaining staff until the raids were complete and confiscating equipment, cash resources and a significant amount of financial and program documents.

Most important, the five foreign and handful of Egyptian organizations raided are just a fraction of those now under investigation by the authorities. Today more than 400 Egyptian non-governmental organizations (NGO) are under scrutiny, and many of their employees are being called in for questioning by authorities. Again, we are an example of what they are experiencing. Seventeen IRI expatriate and Egyptian staff have been called into the Ministry of Justice (MOJ) for “interviews” by the investigating judges overseeing the case. Some of these “interviews” have gone on for four hours or more, and at least three staff has been called back for follow-up inquiries. The questions themselves have been of a clearly political nature, and are not reflective of a real judicial process. The situation escalated on January 21 when IRI’s country director Sam LaHood was prevented from exiting Egypt on a routine trip out of the country. IRI and other organizations then learned that a number of American citizens and other nationalities had been placed on a “travel ban,” effectively detaining them in Egypt pending the outcome of the MOJ investigation.

Taken in total, the events we are seeing reflect not only an attack on American democracy implementers like IRI, but more importantly, are the tip of the iceberg in an ongoing effort to silence independent Egyptian civil society voices that have been under increasing assault since last fall. The rhetoric employed by Egyptian authorities in doing so is increasingly reminiscent of Mubarak-era propaganda. The narrative suggests certain Egyptian NGOs and activists such as the April 6 Movement and January 25 youth groups are undermining public order and are tools of foreign influence. I suspect you are all familiar with the negative Egyptian government reaction to Ambassador Anne Patterson’s Senate confirmation hearing wherein the redirection of funds to support democracy and human rights was announced. The prevailing Egyptian narrative about Ambassador Patterson’s hearing translates assistance into the distribution of funds by organizations to incite acts of vandalism and violence.

Of particular concern in the context of recent events is Egypt’s Law number 84, the Law on Associations. Another holdover of the Mubarak era, Law 84 severely restricts meaningful NGO work as it was used by the Mubarak government as a means to attack organizations engaged in politically salient work. Law 84 was subject to revision by a new draft law on associations that would have been even more restrictive, and would have effectively killed the ability of international and Egyptian organizations to engage in meaningful programs. The proposed law, which the government withdrew a few days ago, would have closed a loophole on registering Egyptian organizations as civil companies, a common practice previously since only groups favored by the Mubarak regime could be registered as NGOs. The draft law would also have retained prohibitions against Egyptian groups receiving foreign funding without explicit approval from Egypt’s Ministry of Social Solidarity (MOSS). Sweeping, vague language in Law 84 that prohibits activity that “threatens national unity” or “violates public order or morality” was also included in the draft NGO law. The draft law provides an insight into the mindset of those who proposed it.

Much has been made recently of IRI's registration status under Law 84. We have continuously attempted to obtain registration since first applying in 2006. In an effort to demonstrate transparency, IRI in the early fall of 2011, provided an unprecedented level of detail about program activities, the types of groups IRI works with, and our use of funding to the Egyptian authorities. Ironically, in the same week our offices were raided, and while we were observing the third round of Egypt's recent elections, we were invited by Egyptian authorities to update our 2006 registration application. We are told by Egyptian authorities that should our registration application ultimately be approved, the Institute will be required to accept permanent compliance with Law number 84. Egyptian authorities have likewise suggested that each grant accepted by IRI would require a separate and specific approval from the MOSS, which would also have the power to review finances and budgets, be notified of IRI staff changes, and be given details of planned activities in advance. Both NDI and Freedom House have been told they would only be able to "partner" with Egyptian organizations registered by the MOSS, meaning prior approvals for work and only with registered organizations just as during the Mubarak era. IRI remains very open to discussing with Egyptian authorities the terms of registration as the Institute wants to work in compliance with Egyptian law, and as we have sought to do since 2006. However, IRI cannot sign onto an agreement that would effectively kill its ability to engage in meaningful democracy assistance programs. Likewise we are concerned about the precedent setting nature of onerous registration terms for our activities in other countries.

It is critical that U.S. decision-makers speak loudly and with one voice against onerous civil society regulations on the basis that Egypt's law governing associations violates the country's obligations as a signatory to various international treaties. We recognize that authoritarian leaders in other nations are closely watching the outcome of the current standoff between civil society and Egyptian authorities with long term consequences.

In terms of rule of law, it appears that Egypt's judiciary once again is being used to silence opposition figures. Charges against Ayman Nour, who challenged President Hosni Mubarak in the 2005 presidential election, only to be tried and jailed, bar him from being a presidential candidate in the future. When Nour attempted to overturn the case in 2011, a court ruled there were no legal grounds for an appeal despite Nour's claim of new evidence. In January 2012, Nour was banned from travelling pending an investigation of charges that he paid thugs to carry out acts of violence in Tahrir Square in December 2011. In terms of freedom of expression, blogger Alaa Fattah provides another striking example. He was arrested in October 2011 on charges of inciting violence against the military during the Maspero demonstration that saw military police clash with Christian protesters. He was held for two months before the transfer of his case to a civilian court and was eventually released but a "travel ban" still remains in place against him. On January 3, four activists from the April 6 Movement were arrested for handing out flyers calling for a rally on the revolt's first anniversary. They were charged with tarnishing Egypt's reputation, disturbing the peace and distributing flyers without permission, beaten and forced to sign fabricated statement before being released.

The [U.S. State Department's latest Human Rights report](#) notes that, "Egypt's constitution provides for an independent judiciary, but in practice the judiciary was subject to executive influence and corruption." IRI's experience to date with Egypt's judiciary reflects these shortcomings. We have watched dissidents deal with Egypt's judicial system for many years,

and now have a much clearer understanding of the challenges they have faced. With respect to due process of law, [IRI has already noted](#) that the ongoing investigation and charges against IRI and other organizations, “reflects a politically motivated assault as opposed to a legitimate judicial process.” Most recently, the situation became yet more severe with a statement circulated by the investigating judges on February 6 and a press conference on February 8 that lists 43 persons to be charged under the penal code, including 19 Americans. The primary charges are operating without registration, which I have addressed, and unauthorized use of foreign funding, meaning the U.S. foreign assistance funding authorized by Congress which supports IRI’s program in the form of grants.

In IRI’s experience to date, the Egyptian Ministry of Justice and investigating judges leading the investigation are not even following their own legal standard, as none of the 43 persons implicated in the investigation and now facing charges has ever been provided with the investigative report that precipitated legal actions being undertaken as per the law. In fact, no legal document pertaining to charges or reflecting the scope of the investigation against civil society groups has ever been shared with anyone at IRI. IRI through legal counsel has made repeated attempts through formal legal actions to unseal IRI’s offices, lift the travel ban on staff, and obtain official charging documents in defense of IRI. All of these actions have either been ignored or rejected. Likewise, the announcement of evidence against those implicated in the investigation by the judges and public statements made by Egyptian decision-makers including the Minister of Justice and Minister of International Cooperation Aboul Naga, appear to be a direct violation of Egyptian law. Trial with the possibility of prison time for our staff appears the most likely outcome at present.

IMPLICATIONS FOR U.S. ASSISTANCE TO EGYPT

The United States and Egypt have enjoyed a longstanding strategic partnership that has benefitted both countries for more than three decades. Given the country’s size as the most populous Arab country and its cultural and historical influence in the Arab world, the U.S. can ill afford to let the alliance unravel, especially at a time of momentous political upheaval across the region. For the alliance to persevere, however, the United States must have a willing partner in Egypt. Regrettably, actions of the past several months raise serious questions about whether the partnership is as important to Cairo.

The Obama administration, prior to events of the last year, had accepted Mubarak sign off requirements on democracy assistance leaving it with few options and fewer friends from civil society at the moment demonstrations against the regime gained critical mass. To overlook or work around the current assault on democracy in the interest of maintaining relations with only the Egyptian government would send an equally wrong minded message at a moment when the need to support moderate forces is more urgent than ever. We are dangerously close to a slide back to the days when Egyptian authorities presented options in terms of undemocratic leaders versus the Muslim Brotherhood. The United States cannot afford to let this threat again define our options as it would amount to a significant setback to Egypt’s long-term democratic development.

The United States must strongly and consistently support popular demands for transparency, accountability and freedom at this critical crossroad in Egypt if the U.S.-Egypt relationship is to be successful in the new Middle East being built. American decision-makers in the administration and Congress must be steadfast in providing an enabling environment for political parties and civil society to build democratic societies. We are only at the beginning of an epoch of change in the Middle East. After decades of autocratic rule when little seemed to change, the coming years will see many twists and the changes will not always look like progress. Nonetheless, and as we have seen in democratic waves previously sweeping Latin America, Eastern Europe and Southeast Asia, the move away from one party autocratic rule in the Arab world has started, and the United States must be engaged and persevere if we are to eventually reach the democratic and human rights standards we hold dear.

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