



30 January 2012

Mr.  
Member of Parliament

Dear Sir,

We congratulate you on your election as a representative of the people. We have all vested great hopes in you in this decisive period in Egypt's modern history.

Regarding the speech made by Field Marshall Mohamed Hussein Tantawi, the Head of the Supreme Council of the Armed Forces (SCAF), on Tuesday, 24 January 2012, we wish to bring your attention to the following:

Field Marshal Tantawi declared that it had been decided to lift the State of Emergency all over the Republic, except in cases of crimes of thuggery; the decision entered into force on morning of 25 January 2012. This speech recalls the claim commonly made by deposed president Hosni Mubarak that the State of Emergency was necessary to combat the dangers of terrorism and drug trafficking. This claim, as we all know, was a pretext for his regime to use the State of Emergency to make a show of force and strike fear into the hearts of Egyptians. This persisted until the beginning of last year's Revolution, one of the prime objectives of which was to end the State of Emergency and the practices of the police state that were a defining feature of the Mubarak regime.

Today, the State of Emergency continues in Egypt and for the same purposes, although now it is claimed that it is necessary to combat so-called crimes of thuggery. These crimes were removed from the Penal Code in 2006 pursuant to a ruling of the Supreme Constitutional Court, but the SCAF reintroduced them to the code in March 2011. The statutes criminalizing acts of thuggery are unconstitutional and violate constitutional principles, which state that criminal statutes must be "narrowly defined and unambiguous."

Egypt has repeatedly declared its compliance with the international conventions it has signed, and they are considered – by virtue of constitutional principles - an integral part of Egyptian law after approval by the Parliament. Yet, the decision by the Head of the SCAF to apply the State of Emergency in cases of crimes of thuggery clearly contravenes Article 4 of the Covenant on Civil and Political Rights. That article allows Member States to take exceptional measures infringing on basic liberties, such as those detailed in Egypt by Law 162/1958 on the State of Emergency, but the covenant only permits this "in time of public emergency which threatens the life of the nation." Crimes referred to generally as thuggery do not under any circumstances constitute such a public emergency and do not threaten the life of the nation. Indeed, these crimes exist in all societies at all times, and are combated by these societies using ordinary criminal law.

Confronting these crimes requires a police force capable of operating without recourse to exceptional measures. The provisions of the Egyptian Penal Code and the Code of Criminal Procedure are sufficient to combat these crimes: they criminalize acts of murder, assault, weapons possession and organized crime, and they give police forces the authority to search or arrest suspects in such crimes or those apprehended in the act. The two principle outcomes of the perpetuation of the State of Emergency are to maintain the police's ability to detain individuals without bringing them before the prosecutor simply on suspicion of involvement in a crime—in contrast to arrest procedures under ordinary law, which guarantee due process—and to maintain the (Emergency) State Security Courts as an exceptional judiciary that does not meet due process standards. Both of these outcomes are enough to keep any society subordinate to the dictates of the police state.

We urge you and all members of the People's Assembly to take the following steps:

- Immediately draft a decree to lift the State of Emergency in its entirety and bring it up for a vote in the People's Assembly.
- Take rapid action to review all laws issued by the SCAF to the present day, and abolish Law 10/2011 which added provisions to the Penal Code criminalizing intimidation, terrorization and the infringement of security (“thuggery”).
- Make the amendment of the State of Emergency Law, the Penal Code and other laws that infringe on public and personal liberties a priority on the legislative agenda of the People's Assembly.

Egyptians elected the current People's Assembly after a revolution that was primarily motivated by the brutality of the executive, acting based on corrupt or outdated laws. The People's Assembly has a serious responsibility to review and purge laws that give law-enforcement authorities prerogatives that are ill suited to preserving the security of society, in contrast to the protecting the regime. We ultimately trust that the current People's Assembly will not allow the opportunity to pass to inaugurate a state defined by the rule of law, public liberties and social justice, for these are basic guarantees for the establishment of a new regime to which all Egyptians aspire and which they will help to build.

Sincerely,

Hossam Bahgat  
Executive Director, Egyptian Initiative for Personal Rights