

# Egypt: how a new Protest Law is used to silence opponents (1)

Under the supervision of President ElSisi, a former military officer, Egyptian counter-revolutionary government promulgated a new law governing the right to protest. Not only is this legislation severely restricting the freedom of demonstration, but it is also used to arrest, prosecute and jail opponents through controversial trials. Young revolutionaries and human rights defenders are particularly targeted.

In this first part, we are discussing the provisions of the freedom-destroying law.

Over one year ago, on 24 November 2013 precisely, Egyptian authorities promulgated the first significant legislative document after the ouster of Mohamed Morsi, Islamist President of Egypt, in the summer of 2013. In the absence of a Parliament, the new Protest Law (Law 107 'for organizing the right to peaceful public meetings, processions and protests'), was promulgated by Interim President Adly Mansour. A first draft was submitted to political parties for comment, and suggested amendments were sent. Although minor adjustments were done, the final version of the law immediately gave rise to discontent among opponents and human rights defenders.

The Protest Law “seeks to criminalize all forms of peaceful assembly, including demonstrations and public meetings, and gives the State free hand to disperse peaceful gatherings by use of force”, 19 local Egyptian NGOs wrote in a common press release. Expressing also concerns, American-based NGO Human Rights Watch noted that the law was characterized by an “overall repressive character” and went “well beyond the limitations permitted under international law”, including the International Covenant on Civil and Political Rights. As for the British NGO Amnesty International, it vigorously condemned the new legislation: qualified as “a serious setback”, the Protest Law “grants the Ministry of Interior wide discretionary powers over protests and lays out broad circumstances in which demonstrators can be found to

violate the law”, the organisation wrote in a statement.

What are the main reproaches directed to the new legislation on protests by human rights defenders? First of all, experts consider that the right granted to the Interior Ministry to ban demonstrations or public meetings goes too far. While Article 1 states that “citizens have the right to hold and join public meetings, marches and peaceful protests”, article 10 indicates that the Interior Minister or the Security Director may “prohibit” a public meeting, a march or a protest “if serious information or evidence of threats to security or peace are obtained by them”.

### **A legislation far too restrictive**

According to NGOs, the latter constitutes “vague” or “loose” grounds, which authorities may use to “not only (...) prevent or forcibly disperse protests by supporters of the Muslim Brotherhood, but (also) essentially (...) ban all opposition protests.”. While the law allows in theory peaceful assemblies, it sets actually a range of situations that may be deemed to be violations of its provisions. Article 7 enumerates them: “disrupting public security”, “obstructing production”, “hampering citizen’s interests”, “affecting the course of justice, public utilities”, “cutting roads or transportation, or road, water, or air transport, or obstructing road traffic or assaulting human life, or public or private property.”

These terms are “particularly vague”, Human Rights Watch says, and would “allow the authorities to criminalize a range of legitimate peaceful public meetings and demonstrations”. For example, a strike in a factory, a protest in front of a court or a march on a large avenue could be prohibited on the basis of the new law. In addition, article 5 bans also protests in places of worship, or their arena, or their annexes, a provision that was largely considered to be tailor-made to prevent Muslim Brothers from demonstrating.

Because of these numerous restrictions, international and local NGOs believe that the Protest Law is not in line with the International Covenant of Civil and Political Rights, which Egypt signed in 1967 and ratified in 1982. Its Article 21 dictates indeed that “no restrictions may be placed on the

exercise of [the] right [of peaceful assembly] other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”

### **Custodial sanctions and “hyperbolic” fines**

Sanctions or punishments for violations of the Law’s provisions are also deemed particularly problematic. Anyone who organizes a protest without prior notification to a police station (article 8) will be punished by a fine comprised up to 30,000EGP (3,470EUR, article 21), which is a quite high sum in Egypt. Moreover, the law allows prison sentence in several cases: for those found to violate provisions of Article 7 (obstruction of production, cut of roads, etc.), which is punished by a jail sentence comprised between 2 and 5 years (and a fine up to 100,000EGP – 11,500EUR -, article 19). In addition, those who wear a mask “hiding their facial features” during a protest may be condemned to a jail sentence of up to one year, and a fine up to 50,000EGP (5,700EUR, article 20)!

Egyptian Human rights NGOs denounced these custodial sanctions and “hyperbolic fines”, that are “incompatible with the nature of the punishable act, (...) a matter which contravenes the most basic international principles and standards”. Far from this repressive approach indeed, UN Special Rapporteur on the rights to freedom of peaceful assembly and of association recently recommended establishing an enabling legal environment for peaceful assemblies, through implementation of a set of best practices. Country laws should not only state clearly their “presumption in favour of holding peaceful assemblies”, but also “facilitate and protect” them.

UN Special Rapporteur believes also that States have a positive obligation to actively protect peaceful assemblies, especially “from individuals or groups of individuals, including *agents provocateurs* and counter demonstrators, who aim at disrupting” protests. He adds that “Assembly organizers and peaceful participants should not be held responsible and liable for the violent

behaviour of others". By doing so, the Special Rapporteur places the responsibility for peaceful assemblies on States, and not on protesters alone. And when it comes to the use of force in case of an incident during a demonstration, UN Special Rapporteur recommends that "wherever possible, law enforcement authorities should not resort to force". He refers to Human Rights Council's resolution 19/35 and makes it clear that "where force is absolutely necessary", authorities should ensure that "no one is subject to excessive or indiscriminate use of force".

### **Security forces may use lethal weapons against protestors**

These recommendations are not reflected at all in the new Egyptian Protest Law. On the contrary, it permits the use of an excessive force, according to human rights defenders. They particularly incriminate article 11, that allows the forcible dispersal of a protest by security forces, and article 13, that lists allowed means that security forces can resort to in case of a failure in dispersing a demonstration. These means include rubber bullets and "non-rubber bullets". Egyptian NGOs firmly opposed to these provisions, since "such ammunition may lead to death". Amnesty International added that as a result of them, security forces are provided with "a legal framework for the use of excessive force against any protestors".

Circumstances where firearms can be used are also widely criticized. According to the law, the police can use lethal force in legitimate self-defence (Article 13), "which under Egyptian law is broadly defined to grant police discretion to include circumstances other than those strictly necessary to protect life", Human Rights Watch remarked. Article 13 also states that firearms can be used in case of a "danger posed against life, money, or property"; yet, the inclusion of money and property in this provision "contravenes international law and standards", Amnesty International notices, since firearms should be only used when they are "the sole means of defence against an imminent threat of death or serious injury".

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In this second part, we are reviewing several famous trials that highlight the use of the law for repressive purposes.

Restrictions of the right of assembly, deterrent sanctions, excessive use of force against protesters: for all these reasons, the new Protest Law was explicitly rejected among those who are committed to fundamental freedoms. They were afraid that Government uses it to establish legal basis for repression. "Instead of using the opportunity to break the pattern where the security forces repeatedly kill protesters with no consequences, the new law will further entrench abuse," Hassiba Hadj Sahraoui – Middle East and North Africa Deputy Director at Amnesty International – said.

In fact authorities immediately used the new legislation as an effective tool to repress opponents. Two days only after its promulgation, in November 2013, "No to military trials", a group that was formed in the aftermath of the revolution, organized a demonstration in front of Shura Council, the Egyptian Lower House, against provisions of the new Constitution allowing for military trials of civilians. It was immediately dispersed by security forces and resulted in the arrest of tens of demonstrators. In addition, two prominent activists were arrested, though they were not present at the demonstration's place: Ahmed Maher, 34 years old, one of the founders of 6th of April Youth

Movement, and Ahmed Douma, 29 years old, a member of the Egyptian Popular Current – a nasserist party -, and a famous youth movements' activist.

While they were being questioned within Abdeen Court, in Cairo, clashes erupted in front of the court and resulted in the arrest of two other renowned revolutionary leaders: Mohamed Adel, 26 years old, Media Representative of 6th of April Youth Movement, and Alaa Abd ElFattah, 34 years old, awarded blogger and member of a family of highly respected human rights defenders. All four men were subsequently tried in two different cases: the "Shura Council case" for Ahmed Maher, Mohamed Adel and Ahmed Douma, and "Abdeen case" for Alaa Abd El Fattah. Accused of organizing a demonstration without prior notice and attacking central security forces' officers, the former were sentenced to 3 years in prison and fined 50,000EGP each (5,700EUR). As to the latter, he was indicted for breach of the Protest Law, illegal gathering, theft and attacks of officials on duty, and condemned to 15 years' imprisonment, a fine of 100,000EGP (11,500EUR) and further 5 years of police surveillance after his release.

### **Young revolutionaries are particularly targeted**

With these sentences, Egyptian authorities attacked the most popular symbols of the Egyptian Revolution. Ahmed Maher and Mohamed Adel are both leaders of 6th of April Youth Movement, a very large group that gathers nearly one million Facebook fans and contributed to a large extent to the anti-Mubarak demonstrations in January 2011 and consecutive attempts to set up a new democratic regime in the country. Established in Spring 2006 to support El-Mahalla's workers – a huge and traditionally seditious industrial city -, who planned a politically and socially motivated strike on 6 April 2006, the movement also helped to organize a protest against Khaled Saeed's brutal murder by Alexandria's police forces, in June 2010, a tragic event that caused tremendous turmoil among young people and is regarded as a triggering factor of the revolution.

Ahmed Douma, 29 years old, is also to be counted among major opponents to the current regime. A journalist, writer and poet, he joined Kefaya ("Enough!")

ten years ago, one of the early movements whose purpose was to challenge Mubarak's power. Founding member and/or member of a number of youth movements, including the Coalition of the youth for the Revolution, which tried to federate the numerous youth groups that took part to the revolution of 2011, Douma is famous for its high number of political incarcerations: no less than 17 times, from Mubarak's era to Morsi's rule to Sisi's one!

As for Alaa Abd ElFattah, he and his family symbolize the fight for human rights. His late father, Ahmed Seif, was a human rights attorney who was arrested, tortured and imprisoned in the 1980's. His sister, Mona, is a founder of the "No Military Trials for civilians" group, while his wife Manal, an activist as well, is Bahi ElDin Hassan's daughter, an initiator of the contemporary human rights movement in Egypt. A software developer by trade, Abd ElFattah established with his wife Manalaa, the first blog aggregator that did not restrict the inclusion based on the content of the blog. Manalaa was given a Special Award by the French NGO Reporters Without Borders in 2005. Abd ElFattah was first arrested in 2006 while he was demonstrating for an independent judiciary and subsequently, he was repeatedly jailed for his political activities.

In addition to Shura Council and Abdeen cases, the new Protest Law was also used to arrest and imprison renowned members of the Revolutionary Socialists party, including a young human rights lawyer, Mahienour ElMasry, 28 years old. On 2 December 2013 – about ten days after the law's promulgation -, ElMasry and her colleagues took part in a demonstration in front of the court where murderers of Khaled Saeed (see above) were being tried, in Alexandria. According to [a press release published by 20 NGOs](#), demonstrators were beaten with batons and given punches by police officers, and random arrests took place. Accused of demonstrating without permit and assaulting security forces, Mahienour El-Masry and seven other activists were condemned to a two-year sentence and a fine of 50,000EGP (5,700EUR).

With this trial, Egyptian authorities silenced one of the Alexandrian icons of the revolution. A left-wing lawyer, Mahienour ElMasry is a defender of workers. While she was imprisoned, her friend Rasha Abdullah, an Associate

Professor at the American University of Cairo, shared on Internet [a text asking for her release](#) and depicting her noble character. “The beauty of Mahienour (...) is that she does not just go to a workers’ sit-in – she actually knows many of the workers by name and personal story”, she says. Moreover, she is a fierce opponent of the military regime. Her friend Rasha recalls that “one of the clips that went viral after the revolution on Egypt’s popular evening talk showed her at the second ever Khaled Said protest in Alexandria, shouting off the top of her lungs, ‘Unite ye people, shoulder to shoulder; Down down with Hosni Mubarak.’ That was months before January 25, 2011, long before “Down down with Hosni Mubarak” became a popular chant.”

### **Human rights defenders also in the eye of the storm**

A more recent case shows that Protest Law is not only used to repress political opponents, but also to threaten human rights organisations. On 26 October 2014, Heliopolis Misdemeanour Court sentenced 22 persons to three years in prison, three additional years on probation and a fine of 10,000EGP (1,194EUR) for breaching the Protest Law and other charges, including damaging property and displaying force. Among the defendants was an awarded lawyer, Yara Sallam, transitional justice officer at the Egyptian Initiative for Personal Rights (EIPR), an active local NGO. All of them were arrested three months before, while they were participating to a march heading to the Presidential Palace in Cairo to demand the release of prisoners of conscience and the repeal of the Protest Law. In a common press release, [EIPR and 12 other NGOs report](#) that the march was dispersed by security forces using teargas and protesters were arrested with the help of “individuals in civilian apparel”.

Yara Sallam, who received the Pan-African Human Rights Defenders Network’s award in 2013, was asked questions about her work at EIPR, the organisation’s management and its activities. While her cousin, arrested with her, was released without charge, Yara Sallam was kept in custody and referred to the public prosecution. All detainees were also interrogated about their political affiliations, their opinions on the Protest Law and their choice of

candidate during the presidential elections.

### **A travesty of justice**

Trials of these activists and human rights defenders (6th of April's leaders, Alaa Abd ElFattah, Mahienour ElMasry, Yara Sallam) all share commonalities. They follow the same pattern characterized by a range of rights infringements and result in what should be called a travesty of justice. First of all, protestors were beaten, and/or insulted, and/or assaulted during their arrest and custody. Mohamed Adel and Ahmed Douma showed marks of beatings on their hands, legs and stomach during their appeal hearing, Amnesty International said.

Though Alaa Abd ElFattah announced its intention to give himself up to the public prosecution, policemen broke into his house, raided it, seized the laptops and beat him and his wife. Security forces also used a cancelled order of arrest against 6th of April's leader Mohamed Adel to raid a NGO, the Egyptian Center for Economic and Social Rights (ECESR), where Adel served as a volunteer. Five staff members were arrested, brought to an unknown place, blindfolded and beaten for over 9 hours.

Charges brought against these activists are also similar to each other. They include demonstration without a permit or prior notice; attack on security forces (Maher/Adel/Douma, Mahienour ElMasry); illegal gathering, theft and attacks on policemen (Alaa Abd ElFattah). According to lawyers, the authorities did not choose to prosecute the activists for the sole charges of protesting without a permit, but added extra charges to justify a custody. In a joint press release issued after the arrest of Yara Sallam and 22 other protesters, 13 Egyptian NGOs wrote that "the penalty for protesting without a permit is a fine which makes it illegal to hold suspects in pre-trial detention [...] the Ministry of Interior resorts to fabricating other charges for protesters such as assaulting establishments and individuals in order to turn the charge to either a felony or a misdemeanour that mandate pre-trial detention."

### **Long months behind bars**

Actually, the majority of arrested activists remained behind bars for several months. With the exception of Ahmed Maher, Ahmed Douma and Mohamed Adel, whose trial – the first of its kind after the enforcement of the law – was disposed of in less than one month after their arrest, other protesters were illegally detained for several months before being judged – over 100 days for Alaa Abd ElFattah, over 5 months for Mahienour ElMasry.

Moreover, analysis of their trials brings to light the absence of proofs and fake investigations. Ahmed Maher and Ahmed Douma were questioned within the court when demonstrations they were alleged to have taken part in occurred, according to Amnesty International. Similarly, Yara Sallam and other defendants were accused in a police report of damaging a police vehicle, whereas they were arrested before the time the incident took place.

Judges were also unable to produce credible evidence of the offences. In all cases, proofs that were presented were linked to assertions of security forces' members. According to local NGOs, in Abd ElFattah's lawsuit, "the prosecution's case solely rests on police investigations and witnesses, including some five or six police officers carrying out the arrests". Likewise, 6th of April's leaders Maher and Adel, and Ahmed Douma, were also sentenced on the basis of proofs provided by non-neutral parties, i.e. "police officers, the general investigations office and National Security Office".

In addition, judges neglected exculpatory evidence and witnesses for the defence, according to Amnesty International, including videos screened during the trial, showing Mohamed Adel helping a police officer who was suffering from the effects of tear gas, and testimony of a police officer who claimed during the trial that Mohamed Adel tried to calm the protestors and did not take part in the clashes. The case of Yara Sallam and other defendants also shows a lack of convincing evidence: according to the Observatory for the Protection of Human Rights Defenders, two videos were shown during the hearing, but the judge failed to identify the defendants on them.

Finally, all these trials showed a contempt for the rights of the defence.

Lawyers were disdained and prevented from doing their job. In Mahienour ElMasry's case, they were unable to present their defence either before the court or the prosecution. Alaa Abd ElFattah's lawyers could not defend their clients either: according to a press release issued by 16 local NGOs, "defence did not have the chance to call in witnesses, cross-examine prosecution witnesses, examine video evidence or plead their case". Moreover, the public prosecution demonstrated clearly their will to laugh at them: while the trial was planned to start at 9am, the lawyers were waiting outside the court when they learned by chance that the trial already ended and the verdict was handed down *in absentia* without any hearing!.

Similar disrespect to rights of defence was noticed throughout investigations and trial of Yara Sallam and other human rights defenders. In addition to the ban put on contacts between arrested protestors and lawyers, no information was provided about the whereabouts of the former. Location of the trial was also modified at the last minute, forcing lawyers to rush across the city to join the new location. With all these infringements, both of defendants' rights and lawyers' dignity, Protest Law proves to be tailor-made with the aim of quelling any dissenting voice.