



The Tahrir Institute
for Middle East Policy



LEGISLATION TRACKER REPORT

Extraparliamentary Laws Passed by President Sisi



The Tahrir Institute
for Middle East Policy

THE TAHRIR INSTITUTE FOR MIDDLE EAST POLICY

The Tahrir Institute for Middle East Policy (TIMEP), a nonpartisan and nonprofit organization, is dedicated to understanding and supporting Middle Eastern countries undergoing democratic transitions and committed to informing international policymakers and the public of developments in these countries.

TIMEP is fully registered and acknowledged under Section 501(c)(3) in the District of Columbia. For more information about TIMEP's mission, programming, or upcoming events, please visit www.timep.org.

CONTENTS

Introduction	4
Economy and Resources	5
Political and Social Rights	7
Military and Security Affairs	9
Foreign Affairs	11
Administrative and Appointments	13
Conclusion	15
Methodology	16

INTRODUCTION

In the absence of a parliament, Egyptian President Abdel-Fattah El Sisi has enjoyed both executive and legislative powers since his inauguration on June 8, 2014. The Tahrir Institute for Middle East Policy has been recording Sisi's use of this temporary legislative power in its Legislation Tracker. According to this project, Sisi has used this power to issue at least 263 laws and decrees; of these, 49 concerned the economy and the allocation of resources, 34 related to political and social rights, 32 governed military and security affairs, 32 concerned foreign policy, and 116 were appointments or decisions on administrative matters.

As Egypt's House of Representatives prepares to sit for its first session, Article 156 of the Constitution mandates that the parliament will have 15 days to discuss and approve all presidential decrees having the force of law passed in its absence. If the decrees are neither presented nor discussed, their force of law is to be revoked. Most analysts have predicted that, rather than intricately debate and research each decree in question, the parliament is likely to approve the president's laws in a single, swooping motion, raising serious questions on the balance of powers and possible constitutional violations.

Under normal circumstances, the Constitution envisions a lengthy legislative process. Article 121 states that an absolute majority of the House of Representatives members present is necessary to approve laws and that laws deemed complementary to the Constitution are to be issued by a majority of two-thirds of the House. The Constitution also lays out an extensive process by which to propose legislation, guaranteeing that numerous voices are incorporated into the production of legislation and that the process is not dominated by a single party. Article 122 grants the president, the cabinet, and any representative the right to propose draft legislation. Thereafter, every bill presented is then approved by a committee responsible for the primary review of proposals and then referred to a specialized parliamentary committee for review.

In the absence of a parliament, there is no doubt that the Constitution authorizes the president to fulfill legislative duties by issuing legislation to ensure Egypt's development and success. At the same time, however, the president must remain cognizant of the spirit of the Constitution and the importance of the balance of powers; he is to invoke his legislative authority via limited means, and such legislation must be of an exceptional nature to accomplish what is absolutely necessary for the nation's well-being.

This report is a summary of the most notable laws issued by Sisi since his inauguration. Each section—Economy and Resources, Political and Social Rights, Military and Security Affairs, Foreign Policy, and Administrative and Appointments—lists the most important laws for that topic and describes them briefly, followed by a short discussion on the constitutionality and appropriateness of the laws passed.

ECONOMY AND RESOURCES

Since his inauguration on June 8, 2014, Sisi has issued at least 49 decrees governing the economy and resources, including the following:

- Tax Law (July 1, 2014): established a number of taxes, including an income tax that would apply to professionals, including accountants, doctors, engineers, and teachers who have earned income through providing services in Egypt and abroad. The law also established a tax on all revenue generated by commercial and industrial transactions both within and outside Egypt, carried out by ordinary Egyptian citizens. New taxes established by the law also cover intellectual property rights, capital gains for transactions on the stock market, and dividends.
- Maximum Wage Law (July 3, 2014): established a maximum wage in the public sector, set at 42,000 Egyptian pounds (LE) monthly.
- Amendment to Real Estate Law (July 5, 2014): established new regulations governing mortgage companies, the provision of low-income housing, and punishments for those who work in real estate matters without a license.
- Amendment to Property Tax Law (August 20, 2014): modified the tax exemptions, granting Armed Forces-affiliated properties, among other residential properties of certain values, tax-exempt status.
- Microfinance Law (November 13, 2014): established a new law to govern microfinance services and attempted to attract investors by establishing a supervisory system, outlining rules to manage risk and protect participants, and laid out the requirements for financial solvency and disclosure requirements for licensing.
- Renewable Energy Law (December 22, 2014): attempted to facilitate the creation of electricity from renewable energy sources.
- Law Granting Preference to Egyptian Goods in Government Contracts (January 21, 2015): granted preference to local and domestic goods and services within government contracts in an effort to promote local investment efforts.
- Amendment Raising Cigarette Tax (February 22, 2015): raised the sales tax on both local and imported cigarettes, bringing imported cigarettes to LE23 and local cigarettes to LE9-13.
- Amendment to Investment Law (March 12, 2015): amended the Investment Law to facilitate investment procedures for companies and to bolster incentives for investments to take place.
- Creation of Assets Recovery Committee (June 25, 2015): established a committee dedicated to the recovery of assets and property abroad.
- Amendment Extending the Power of the Suez Canal Authority (July 16, 2015): enabled the Suez Canal Authority to establish its own private shareholding companies.
- Amendment to the Illegal Gains Law (August 23, 2015): required the presence of a guardian to preserve the value of confiscated illegal assets and established a process to handle the interest made on illegal gains.

- Amendment to the Law on the Protection of the Nile River (October 8, 2015): mandated a one-year prison sentence and/or LE50,000-200,000 fine for specific types of environmental pollution harming the Nile River.

The presidential decrees related to the economy fell largely within the spirit of the Constitution and the president's grant of authority and included a number of important decrees recommended by the international business community and were arguably necessary to pull the country out of severe economic stagnation, including the Microfinance Law and the Investment Law.

However, there were some general concerns on the expertise and research necessary to legislate significant economic changes including modifications to the taxing system and thus, questions on whether such changes would have been best introduced by an elected body.

In light of Sisi's former affiliation with the Armed Forces, there were also concerns regarding legislation like the Property Tax Law which grants the Armed Forces tax-exempt status.

POLITICAL AND SOCIAL RIGHTS

Since his inauguration on June 8, 2014, Sisi has issued at least 34 decrees governing political and social rights, including:

- Amendment to University Law (June 24, 2014): mandated that university heads and department heads be appointed by the president. The amendment also allows the president to terminate university heads upon approval of the Supreme Council of Universities, “if he violates his duties towards the university and/or his presidential responsibilities.”
- Amendment to Penal Code (September 21, 2014): penalized the receipt of foreign funding, arms, or equipment with life imprisonment and a fine. A death sentence may also be issued if the accused in question is a civil servant.
- Al-Azhar Law (October 23, 2014): established punishments that include expulsion and removal of students and teachers at al-Azhar University if they are found to impede the educational process or detract from the institution’s prestige.
- Extradition Law (November 12, 2014): granted the president the authority to transfer non-Egyptian defendants, on trial or after their conviction, to their countries in order to be tried or to serve their sentences. The prosecutor-general must submit the extradition request and it must be approved by the cabinet.
- Amendment to Criminal Procedure Code (November 18, 2014): set a six-month maximum on work conducted by investigative judges in criminal cases.
- Decree on Discipline for University Professors (January 16, 2015): gave university presidents the power to refer professors to disciplinary committees for investigation if they participate in, incite, or help others commit violence on university premises; if they participate in political activities in universities; or if they bring weapons on campus.
- Amendment to Child Law (February 8, 2015): changed the age for penal provisions in the Child Law from 21 years to 18 years.
- Amendment to Criminal Procedure Code (March 12, 2015): extended the statute of limitations for bribery and embezzlement. Statutes of limitation are now counted from when the state employee committing the crime was removed from his post, rather than from the time when the crime was actually committed.
- Papal Elections Law (March 23, 2015): effectively canceled the previous 1957 law governing the election of the Coptic Pope. The law allows for the election of an interim pope who then establishes a committee that is composed of 10 percent of the Holy Synod to choose the pope via lottery. The law widened the voter base compared to the previous 1957 law.
- Approval of Church License (April 6, 2015): approved the building of an Evangelical Church in Maadi, Cairo.
- Electoral Districts Law (July 9, 2015): delineated 205 electoral districts for individual candidates and four electoral districts for party lists for the 2015 parliamentary elections.

- Cancellation of Supreme Constitutional Court Decree (July 28, 2015): repealed an earlier decree ratified by former interim President Adly Mansour that required the Supreme Constitutional Court to rule on the constitutionality of election laws within five days of a challenge.
- Amendment to the Political Rights Law (August 1, 2015): updated the law to set maximum campaign spending limits to LE2.5 million for 15-member lists (plus an additional LE1 million for runoffs, if necessary) and LE7.5 million for 45-member lists (LE3 million for runoffs).
- Amendment to the House of Representatives Law (August 1, 2015): updated the law to allow the incoming parliament to be made up of 120 members elected via party lists, 448 members elected as independents, and 28 appointed members.
- Pardon on the Occasion of Eid al-Adha (September 23, 2015): pardoned 100 detainees, among them Sanaa Seif and Yara Sallam, detained under the Protest Law, and the Al Jazeera journalists detained in the Marriott Cell case.
- Punitive Measures for Exam Leaks (October 7, 2015): set a one-year prison sentence and a LE20,000-50,000 fine for persons who print, publish, broadcast, or promote the questions or answers to school exams with an intent to cheat on or disrupt exams.
- Amendment to Prison Law (October 25, 2015): extended basic solitary confinement from one week to 15 days, stipulated that visits by the National Council for Human Rights require the approval of the prosecutor-general, legalized the use of force by prison authorities to ensure that prison regulations are met, and allowed mothers to keep their children with them until the age of four.

Some of the presidential decrees on political and social rights were immediately necessary for the country's transition, including the Electoral Law and the Political Rights Law. However, the majority of laws in this category were controversial and not urgent, and should have been the products of a democratic and parliamentary debate, rather than executive decision-making, no matter how consultative.

Additionally, many of the decrees in this category placed severe constraints upon the rights to due process, assembly, and expression, and potentially violated Egypt's constitutional and international legal obligations. Thus, they should have been the result of a well-researched and lengthy legislative process.

MILITARY AND SECURITY AFFAIRS

Since his inauguration on June 8, 2014, Sisi has issued at least 32 decrees governing military and security affairs, including:

- Border Tunnel Ban and Police Identification Law (July 3, 2014): criminalized the digging and use of tunnels at the country's border areas to contact foreign entities or organizations or to smuggle persons or goods. The law also included two provisions that criminalize the forging of police and military identification cards and the imitation of their uniforms.
- Amendment to Armed Forces Act (July 10, 2014): raised military pensions by 10 percent without a minimum or maximum pension rate and amended other provisions of the Armed Forces Act that pertain to insurance and retirement benefits.
- Amendment to Weapons and Ammunition Law (September 30, 2014): made the approval of the Ministry of Defense mandatory for all weapons deals.
- Amendment to Police Authority Law (October 9, 2014): made the Military Judiciary the only body with authority to try crimes committed by police recruits.
- Declaration of State of Emergency (October 24, 2014): declared a state of emergency in the north and center of the Sinai Peninsula for three months, with a curfew in place between 5 p.m. and 7 a.m. every day. The decision also authorized the army and police to take all necessary measures to tackle the dangers of terrorism and terrorist financing in the region. The decree has been renewed every three months as required under Egyptian law, most recently in October 2015; in November 2015, the curfew hours were decreased to 11 p.m. to 6 a.m.
- Military Judiciary Decree (October 27, 2014): allowed military forces to join the police in securing public institutions for a period of two years. The decree stated that all attacks on public institutions will be considered attacks on military institutions and will thus be tried before a military court.
- Appointment of National Security Advisers (November 5, 2014): appointed former Planning and International Cooperation Minister Fayza Abou el-Naga as Presidential Advisor for National Security and former Interior Minister Ahmed Gamal al-Din as Presidential Advisor for Security Affairs.
- Decree Creating New Police Rank (December 15, 2014): created a new police rank with arrest powers; policemen in this rank will be between the ages of 19 and 23 and must have completed middle school.
- Creation of Crisis Cell (January 5, 2015): established a "crisis cell" to respond to the escalated situation regarding the kidnapping (and later murder) of Egyptian Copts in Libya.
- Terrorist Entities Law (February 24, 2015): granted the public prosecution the authority to issue both a terrorist entities list and a terrorist list, which designate organizations and individuals, respectively, per previous criminal verdicts or as determined by the court system. The decree also granted "competent state bodies" the authority to dissolve a terrorist entity, freeze its activities, close all affiliate buildings, ban meetings and all membership, stop its financial activities, freeze its property and assets, ban all related slogans, and temporarily deprive the individual or organization of political rights.

- Amendment to Penal Code (April 12, 2015): amended the Penal Code to make the punishment for the digging of border tunnels life imprisonment.
- Decree Allowing Formation of Security Companies (July 12, 2015): authorized the Ministry of Interior, the Ministry of Defense, and General Intelligence to establish security companies to protect public facilities and public funds.
- Anti-Terrorism Law (August 15, 2015): replaced the Penal Code's definition for terrorism, expanded the number of terrorist crimes and imposed new penalties, set a number of procedural guidelines in the investigation and trial of alleged terrorist crimes, and empowered the institutions of the state to take measures to combat alleged terrorism.
- Criminalization of Knowledge of Possession of Explosives (October 7, 2015): set a minimum one-year prison sentence and/or a LE20,000-100,000 fine for the knowledge of possession of explosives and the failure to report such possession.

A number of the decrees pertaining to military and security affairs addressed immediate terrorism threats and national security issues, including the criminalization of forging police identification cards, the declaration of states of emergency when necessary, and the creation of a crisis cell to address a significant national development. However, some decrees, including the Anti-Terrorism Law and the Military Judiciary Decree, severely affected and constrained human rights, raising serious questions on international legal commitments and were likely more appropriate for a legislative, parliamentary process, rather than an executive decision.

Additionally, laws that appeared to favor the Armed Forces and/or granted them benefits, like increased pensions and the right to form private security companies, raised concern in light of Sisi's former affiliation with the military.

FOREIGN AFFAIRS

Since his inauguration on June 8, 2014, Sisi has issued at least 32 decrees governing foreign policy issues, including:

- Ratification of Framework Agreement with Cyprus (September 11, 2014): ratified a framework agreement with Cyprus providing for the co-exploitation of the hydrocarbon reserves which extend across both the Egyptian and Cypriot Exclusive Economic Zones (EEZ).
- Approval of World Bank Loan (October 30, 2014): ratified a World Bank comprehensive financing loan worth about \$300 million.
- Ratification of U.S.-Egypt Agreement on Sanitation (November 24, 2014): approved an amendment to a cooperation agreement between the United States and Egypt regarding water and sanitation services.
- Ratification of Agreements with China (December 22, 2014): ratified a Strategic Framework Agreement signed with China, along with a number of economic agreements.
- Ratification of Agreement with the United Nations Population Fund (January 16, 2015): ratified an agreement between Egypt and the United Nations Population Fund regarding the role that the institution will play inside the country.
- Ratification of Egypt-U.S. Agreement on Trade (February 26, 2015): ratified an agreement between the United States and Egypt facilitating trade and investment.
- Ratification of World Bank Loan (April 23, 2015): ratified a \$500 million World Bank loan agreement to fund a natural gas distribution system meant to benefit 1.5 million households currently relying on older means of gas distribution.
- Ratification of Agreement with the International Islamic Trade Finance Corporation (May 21, 2015): ratified an agreement between Egypt and the International Islamic Trade Finance Corporation to finance the importation of basic commodities.
- Ratification of Egypt-Albania Customs Agreement (July 2, 2015): ratified an agreement between Egypt and Albania governing customs cooperation and other forms of mutual assistance.
- Ratification of Egypt-Japan Aqueducts Agreement (August 13, 2015): ratified a LE365 million agreement between Egypt and Japan approving the establishment of aqueducts.
- Ratification of Agreement between Egypt and the European Bank (September 10, 2015): ratified a loan agreement between Egypt and the European Bank on a sanitation services project in Kafr al-Sheikh.
- Ratification of Agreement between Egypt and International Fund for Agricultural Development (September 20, 2015): ratified an agreement between Egypt and the International Fund for Agricultural Development to finance an agricultural investment project and to raise the standard of living for Egyptians.
- Approval of Loan Agreement with Italy (October 8, 2015): approved a concessional loan agreement between Egypt and Italy to improve the system of sustainable land ownership in Minya and Fayoum.
- Withdrawal of Reservation to the African Charter (November 26, 2015): withdrew Egypt's prior reservation to the African Charter of the Rights and Welfare of the Child pertaining to child marriage. The

article that Egypt had previously reserved to stated that children may not be married or engaged, and that the signatories to the treaty must take effective measures to ban marriage before the age of 18.

All decrees in the category of foreign policy seemingly fell within the president's constitutional authority to represent the country in foreign affairs and sign treaties and agreements accordingly. The agreements set forth within this category were almost solely of an economic nature and thus, arguably necessary for the nation's well-being in the absence of a parliament.

ADMINISTRATIVE AND APPOINTMENTS

Since his inauguration on June 8, 2014, Sisi has issued at least 116 decrees governing administrative matters and appointments, including:

- Formation of Legislative Reform Committee (June 16, 2014): established a committee tasked with preparing, researching, and studying draft laws and decrees issued by the president and the prime minister.
- Formation of General Secretariat of National Defense Council (August 3, 2014): established the General Secretariat of the National Defense Council and laid out the body's logistical and financial responsibilities accordingly.
- Formation of Presidential Advisory Board on Technical and Scientific Advice (September 6, 2014): established a presidential advisory board of experts that reports directly to the president with technical and scientific advice.
- Formation of Presidential Advisory Board on Community Development (October 1, 2014): formed a presidential advisory board that focuses on community development, discussing matters that include poverty and street children.
- Decree Establishing Tourism Committee (November 20, 2014): formed a high-level ministerial committee to develop a comprehensive plan to contend with the country's tourism-related challenges.
- Decree Authorizing Minister of Interior with Regards to Military Judiciary (December 8, 2014): authorized the minister of the interior with the referral authority as pertains to police recruits being tried by the military judiciary.
- Establishment of Presidential Councils (February 5, 2015): established four presidential advisory councils specialized in community development, education and scientific research, economic development, and foreign policy and national security.
- Civil Service Law (March 12, 2015): set a centralized process of recruitment, re-categorized jobs, and streamlined promotion. The law created three new categories to organize existing jobs: specialized, administrative/technical, and handicraft jobs. Various guidelines will exist to organize promotion based on seniority and performance. The new law also established a Council for Civil Service.
- Decree Canceling Daylights Savings (April 23, 2015): canceled Daylight Savings Time.
- Decree Exempting Presidency and Cabinet from Public Sector Laws (May 7, 2015): exempted the cabinet and the presidency from following public sector regulations when it comes to the hiring and firing of high-level employees.
- Decree Authorizing Removal of Ministers (May 11, 2015): removed the ministers of justice, electricity, finance, investment, and industry from their current positions. The removals were a result of controversial statements made by the minister of justice and "ineffective performance" with the case of the remaining ministers.

- Appointment of Ministry of Defense and Interior representatives to Legislative Reform Committee (June 25, 2015): appointed one representative from both the Ministry of Defense and the Ministry of Interior to the Legislative Reform Committee.
- Authority to Dismiss Regulatory Body Heads and Members (July 11, 2015): authorized the president to dismiss the heads and members of regulatory bodies, including the Central Bank of Egypt (CBE), the Egyptian Financial Supervisory Authority (EFSA), the Central Auditing Organization (CAO), and the Administrative Control Authority (ACA) under certain circumstances, including reasons of national security.
- Appointment of the High Elections Commission (August 13, 2015): authorized the creation of the High Elections Commission in preparation for the upcoming parliamentary elections. The commission is led by the head of the Cairo Appeals Court.
- Appointment of Prosecutor-General (September 19, 2015): appointed Nabil Sadek as the new prosecutor-general to replace the late Hisham Barakat.
- Appointment of New Cabinet (September 20, 2015): appointed a new cabinet with Sherif Ismail as the new prime minister.
- Delegation of Power to Prime Minister (September 24, 2015): delegated some presidential powers to the prime minister in a variety of subject matters including antiquities, pensions, bonuses, loans, state employees, public entities, al-Azhar, public utilities, and local administration.
- Appointment of Central Bank Governor (October 21, 2015): appointed Tarek Amer to replace Hesham Ramez as the Central Bank Governor.
- Appointment of Permanent Representative to UNESCO (November 5, 2015): appointed Ahmed Badawy Sayyed as the Permanent Representative of Egypt to UNESCO.

The majority of appointments made by decree within this category—save for the more controversial authority to remove the heads of regulatory bodies—fell squarely within constitutional authority under Article 153 of the Constitution which grants the president the general authority to make appointments.

However, there are serious concerns regarding the creation of the Legislative Reform Committee and the appointment of Ministry of Interior and Defense representatives to it. The committee received legislative authority that would normally only be accorded to the cabinet or the House of Representatives. Although the president enjoys the advice of bodies like these, such entities in no way reflect the representative nature of a working House of Representatives and should not be configured to replace them or satisfy their role.

Additionally, the Civil Service Law, considered to be one of the most controversial pieces of legislation passed by the president within this category of degrees, has been the product of much public debate and protest. It is likely that its drafting and legislation would have been more appropriate for a parliamentary research and debate process.

CONCLUSION

Scholars argue that the temporary legislative authority that the president enjoys should be of an exceptional nature to accomplish only what is absolutely necessary for the nation's well-being in the absence of a parliament. Under this scheme, the drafting and ratification of controversial and less urgent laws would be saved for the parliamentary process.

Sisi has exercised his authority in what appears to be an attempt to bring Egypt out of the throes of rising unemployment, economic stagnation, and continued terrorist threats by issuing a number of vital and "necessary" decrees. At the same time, however, he has passed pieces of legislation that disproportionately empower the executive, judicial, and security arms of the state and severely constrain human rights. Ideally, such pieces of legislation, which are neither urgent nor overwhelmingly popular, would instead be the product of months of parliamentary debate and drafting among legislators who are elected and represent the diversity of citizen backgrounds and interests. Instead, the country's recent laws have been the result of largely closed-door meetings between the president and a set of unelected actors: the Legislative Reform Committee, the president's various advisory committees, the cabinet, and the State Council.

With a House of Representatives that is extremely likely to rubber-stamp the legislation of the president, Egypt faces the reality that it will inherit hundreds of laws that are not the product of democratic debate and arguably not what the country needs during its political transition.

METHODOLOGY

The TIMEP Legislation Tracker aims to provide a comprehensive English-language database of the presidential decrees passed with the force of law since the inauguration of President Abdel-Fattah El Sisi, and in the absence of a legislative body; however, the project does not include a tally of, or document routine administrative decrees, including those issued to promulgate official budgets.

TIMEP engages in daily media monitoring to track the issuing of presidential decrees as reported in media outlets, reviews Egypt's Official Gazette when it is made available, and cross-checks its work with the Monthly Reports of the State Information Service (SIS) on the Activities of the President.

The TIMEP Legislation Tracker consists of two elements: (1) the Legislation Timeline and (2) the Legislation Catalog.

The Timeline chronologically sets out the decrees and laws ratified by Sisi between the date of his inauguration (June 8, 2014) to the present. A brief description of the decrees and laws is accompanied by an explanation of the constitutional context in which these pieces of legislation came into existence.

The Catalog categorizes the decrees and laws ratified by Sisi between the date of his inauguration (June 8, 2014) to the present using a subject-matter organization. A detailed description of the decrees and laws is accompanied by an explanation of the constitutional context in which these pieces of legislation came into existence. The decrees and laws are split into five categories which seek to highlight the greatest impact expected by the passage of said pieces of legislation: (1) Economy and Resources, (2) Political and Social Rights, (3) Military and Security Affairs, (4) Foreign Policy, and (5) Administrative and Appointments.

With the imminent seating of Egypt's new parliament, the current phase of TIMEP's Legislation Tracker project will come to an end as the Egyptian presidency cedes its legislative authority to the House of Representatives. TIMEP will continue to observe the legal environment in Egypt by monitoring legislative activity and decrees issued by the president and other officials.

This project was initiated by Mai El-Sadany, TIMEP's Non-Resident Fellow for Legal and Judicial Analysis. She is the project's principal investigator, acting with the support of TIMEP's dedicated team.