



The Tahrir Institute
for Middle East Policy

Egypt Parliament Watch: **SESSION ONE REPORT**

JANUARY-SEPTEMBER 2016

Tahrir Institute for Middle East Policy

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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.

Contents

Introduction	4
Executive Summary	5
Performance Indicators	8
<i>Checks and Balances</i>	8
<i>Accountability</i>	10
<i>Public Engagement and Transparency</i>	12
<i>Legislative Capacity</i>	14
Legislation Tracker	16
<i>Church Construction Law</i>	16
<i>Amendment to the Penal Code (FGM)</i>	16
<i>Extension of Presidential Decree Allowing Military Protection of Government Facilities</i>	16
<i>Value-Added Tax Law</i>	17
<i>Table of Laws</i>	19
Appendix A: Timeline of Events	23
Appendix B: Methodology	24

Introduction

When, on January 10, 2016, Egypt's current legislature gathered under the dome of the parliament building, the country completed the final step in its "democratic roadmap." This roadmap had been announced in 2013 by Abdel Fattah El-Sisi upon the ouster of former president Muhammad Morsi; defense minister under Morsi, Sisi declared that the transition to democratic rule would require selecting a new president (which saw Sisi's rise to power) and parliamentary elections, held over six weeks in late 2015.

But simply convening as a parliament does not necessarily mean that body is truly engaging in democratic practice; further analysis is necessary to examine the function of the parliament and the ability of members to uphold their sworn oath to respect rule of law and the interests of the Egyptian people.

In this report, the Tahrir Institute for Middle East Policy assesses the performance of Egypt's parliament and the quality of the legislation it has passed during its first session, which ran from January to September 2016. The report builds on years of data collection and review of political developments in the country, as well as TIMEP's Parliamentary Elections and Legislation Tracker projects, which provided comprehensive analysis of the 2015 elections and legislation passed by executive decrees under Sisi.

This report, which serves as the first in an ongoing project that will continue to provide reports and analysis on the parliament, features sections on parliamentary performance and legislation, along with appendices detailing a timeline of the first session and the report's methodology.

- **Performance Indicators:** This section reviews the parliament's performance based on four key indicators, describing relevant developments and providing analysis and areas of concern.

The indicators include:

Balance of Powers: Was the parliament able to act as an effective check and balance to the executive, the judiciary, and other state institutions?

Accountability: Did members of parliament restrict their activity in accordance with existing statutes and bylaws, and did parliament implement equitable mechanisms to sanction members who did not?

Public Engagement and Transparency: Did the parliament make its activities known to the public and seek to engage with its constituencies to ensure effective representation?

Legislative Capacity: Was the parliament able to craft sound legislation in compliance with international and constitutional law?

- **Legislation Tracker:** In line with TIMEP's previous legislation tracker project, this section provides an English-language register of laws and relevant information. This section also features a spotlight of substantive legislation, with legal and constitutional analysis.

It is TIMEP's hope that this report and the analysis found herein will be of use to those interested in Egypt's progress toward more democratic representation, which was and has been a key demand since the 2011 revolution. As with all of TIMEP's work, it is intended to inform policies that will support the role of truly democratic institutions as part of a holistic policy program that holds human rights and rule of law as both inherently valuable and integral to security, stability, and prosperity.

Executive Summary

Egypt's House of Representatives, the country's first legislature since 2013, was seated on January 10, 2016. In its first, eight-month session, the 596-seat parliament established its leadership, electing Speaker of the House Ali Abdel 'Al; drafted its bylaws; established its committees and committee leadership; reviewed all interim laws passed by executive decree since 2013; formed a fact-finding committee to investigate corruption in the annual national wheat harvest; and drafted, reviewed, and passed legislation.

Performance Indicators

The performance indicators consider developments over the course of the session and analysis in the context of the parliament's stated mandate and international standards for democratic function.

Checks and Balances

- Across party lines, **the parliament offered little public opposition to the executive's positions**; even vocal debates like that over the budget did not result in substantive changes.
- **The ministries of interior, defense, and judiciary were exempt from any parliamentary accountability.** Members of these ministries were never called to account before parliament despite even state-sponsored reports attesting to complicity in human rights abuses.
- Of the 27 laws that were formally passed by parliament in the first session, **the majority were mostly or wholly government-drafted bills**, with only two laws based primarily on drafts generated from within parliament. Of the 341 laws passed by executive decree in the parliament's absence, only the Civil Service was subject to any meaningful debate; even controversial laws like the Counter-terrorism Law were passed without discussion.
- While maintaining an aura of independence in the statements of some representatives, **the parliament did not serve as an efficient check and balance on the executive and judicial branches**, acting more as a rubber stamp.

Accountability

- **Speaker Abdel 'Al used his authority selectively, particularly against those who had expressed positions unfavorable to the government.** Tawfik Okasha, who had called for early presidential elections, and Muhammad Anwar Sadat, a regime critic, were both singled out for penalties, while others who disrupted sessions (like the outspoken Mortada Mansour) were not.
- **Speaker Abdel 'Al attempted to instrumentalize the Ethics Committee for political ends, though unsuccessfully.** When the 25-30 opposition bloc walked out in protest of the vote proceedings over the controversial civil service law, Abdel 'Al threatened to refer them to the Ethics Committee; after the bloc gained backing in the parliament, the threat was dropped.
- **The parliament only partially fulfilled its constitutional obligations**, having passed the Church Construction law required by Article 235, but having failed to pass the Transitional Justice Law required by Article 241. No penalties were outlined in the Constitution for failing to comply with Article 241; no accountability measures were taken for this contravention.

Public Engagement and Transparency

- Despite auspicious beginnings that included a live feed of parliamentary session, public vote tallies, and the announcement of a messaging service to collect constituent communication, **transparency around parliament’s activities was quickly eroded in the first session.**
- Speaker Abdel ‘Al eschewed the electronic voting panels in favor of votes by standing or by hands. **These voting methods obscured the vote counts and voting behavior of representatives,** and vote tallies were not made available to the public afterward.
- **While journalists had access to the general sessions of parliament, freedom of press rights were violated on some occasions.** Access to specific committee meetings or to certain representatives was asymmetric (the defense committee, for instance, was off-limits, and certain media outlets had preferential treatment over others), and journalists faced impediments to their work, including assault.
- **Key documents were never made available to the public.** These included the parliament’s agenda, minutes, drafts, and committee reports. While available to members of parliament, these items only appeared sporadically when leaked to the press.

Legislative Capacity

- In the first fifteen days of session, **the parliament reviewed 341 laws that had been passed by executive decree since 2013.** The vast majority of laws were passed with little debate or discussion, with some laws grouped together; only one (the Civil Service Law) was rejected.
- **Twenty-seven laws were reportedly passed in the first session,** the majority of which were amendments to existing laws governing administrative procedures. Nine laws were related to the economy and resources, seven to military or security affairs. Two—the Church Construction and Female Genital Mutilation (FGM) Criminalization Laws—bode some positive impact on human rights.
- The State Council took an active role in reviewing drafts of legislation at various, and sometimes multiple, stages. While this is neither illegal nor inherently improper, **it further reinforces the picture that the parliament was often not the primary actor in drafting legislation.**

Legislation Tracker

The legislation tracker reviews the content and process for key pieces of legislation passed over the session, as well as features a full register of laws passed.

Church Construction Law

- The Church Construction Law was passed on the last day of the parliament’s first session, in accordance with constitutional Article 235 that required such a law be passed in this period. Despite many previous drafts submitted with the input of civil society, **the final draft was the product of closed-door discussions between representatives of Christian denominations and the Cabinet, and was subject to very little parliamentary debate.**
- The law was condemned among rights groups who had long sought a unified houses of worship law. **This law applies only to churches, maintaining the sectarian division in procedures regulating construction of mosques and churches.**

- The law outlines lengthy, burdensome, and legally imprecise procedures to obtain permits and outlines no recourse where permits fail to be granted. In this way, **the law is in contravention of Egypt’s constitutional and international obligations to ensure equal rights for citizens regardless of religion.**

Amendment to the Penal Code regarding FGM

- This law amends Article 242 of the Penal Code to **set a punishment of between five and seven years for those who carry out FGM, with up to 15 years if permanent disability or death results.** It additionally establishes a punishment of between one and three years requesting or authorizing an FGM procedure for another person.
- **While the increased penalties are a good step to deterrence, a clause allowing for FGM in the case of “medical justification” causes concern.** There is agreement in the medical community that FGM is not a medical procedure, yet it is often treated as such in Egypt. This clause may leave the door open for legal justification of the procedure on these grounds.

Extension of Decree 136/2014, Allowing Military Protection of Government Facilities

- This law extends Presidential Decree No. 136 of 2014 for an additional five years. The decree **establishes the Armed Forces’ authority to protect “vital government and public facilities” and allows military trials for those violating the security of these facilities.**
- **The decree and its extension are problematic in the overly broad definition of vital government and public facilities** which include electricity infrastructure, gas and oil fields, rail lines, road networks, bridges, and other installations.
- **This law extends a decree that creates a parallel system of justice where civilians are subject to military trials, which have notorious implication for abuse of due process. Combined with the broad language of the facilities,** this law expands the jurisdiction for those committing non-violent crimes (like protests) in public areas to be tried in military court.

Value-Added Tax Law

- **This law introduces a value-added tax (VAT) of 13 percent, with an increase to 14 percent in the next fiscal year.** The VAT was designed to replace the former sales tax and included exemptions on essential goods and services.
- **The VAT complies with Articles 27 and 38 of the Constitution regarding the government’s mandate to implement an effective tax structure,** and was implemented as part of a broader economic reform program to secure a \$12.5 billion International Monetary Fund loan.

Performance Indicators

Checks and Balances

Overview of Developments

The House of Representatives is explicitly empowered in Article 101 of the 2014 constitution to “exercise oversight over the actions of the executive authority.” But in only a few instances did representatives seem intent on maintaining their independence.

Parliament offered little oversight over the executive’s projects

On June 28, 2016, House Speaker Ali Abdel ‘Al **rebuked** parliamentarians for saying that “the parliament and the government are one hand,” maintaining, “We are independent and monitor the performance of the government.” Yet, on multiple occurrences, Abdel ‘Al also **warned** members against publicly speaking out against state policies. The most notable of these came during the review of the decrees made by the executive in the absence of a parliament, in which he **insisted** that controversial presidential decrees, like the Counter-terrorism Law, should be approved “in a second, not half a minute.”

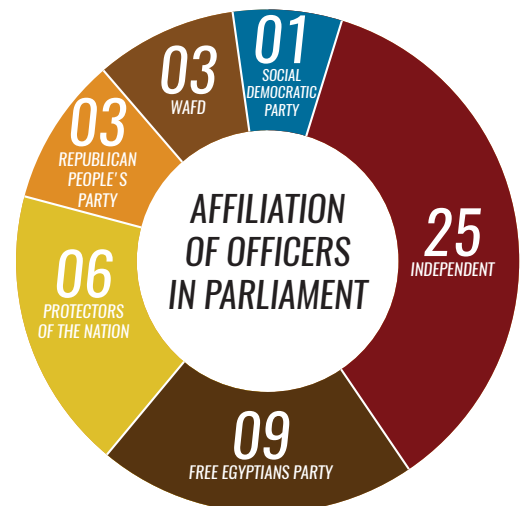
Abdel ‘Al’s remarks represented a regular dynamic over the first session in which the body, regardless of representatives’ party affiliations, offered little resistance to the president’s and cabinet’s projects, even when there were vocal debates over them. Representatives vociferously debated the budget in specialized committees for 38 days and required multiple ministers to **stand** before committees and **defend** their development plans. Yet after this, and in spite of several opposition figures **voicing concerns** over its constitutionality, parliament **passed** the budget with little to no substantive **change**.

The major exception to this trend was the parliament’s August investigation into the wheat corruption scandal, through the formation of a fact-finding committee that **discovered** 40 percent of the local supply was unaccounted for. Minister of Supply Khaled Hanafi resigned in the face of the scandal.

Ministries of Interior, Defense, and Justice were exempt from accountability

Additionally, the Ministry of Interior, Ministry of Defense, and Ministry of Justice were completely exempt from overt criticism over the first session. Their officials were never officially called before the parliament despite **independent international**, and even **state**-sponsored, **reports** of these ministries’ complicity in forced disappearances, torture, and other infringements during the same time period. Some disagreements regarding their professional and legislative conduct were **presented** in the **form** of a **suggestion** or **discussion**, with no formal accountability.

The privileged position of the security bodies was also reflected in other ways. For one, the number of military and police officers as members of parliament exceeds any recent legislature, and these held key leadership positions in the most powerful committees. Based on TIMEP’s research, at least 47 officers from five parties (plus independents) hold seats in parliament, comprising eight percent of the body. Officers vote in over half of all committees; former security officers chaired the African Affairs, Agriculture, Arab Affairs, Defense, and Transportation Committees in the first session.



The preferred position of the security agencies was also reflected in discussion of legislation. A law extending the military's jurisdiction over state institutions completed the full legislative circuit in 19 days, where most other laws saw months of discussion (and, in fact, parliament extended the military's mandate to five years, beyond its initial request of two). When the chairman of the Human Rights Committee, Muhammad Anwar al-Sadat, questioned a proposed increase to military pensions, Abdel 'Al **shouted him down**, cut off the microphone, and warned all other parliamentarians in attendance that he would not tolerate this lack of respect for the armed forces in any matter. Abdel 'Al's impromptu speech was received with a standing ovation in the parliament chamber.

Government draft laws saw favorable status throughout first session

According to TIMEP's tracking of legislation (see Table of Laws), a majority of the bills approved by the House of Representatives in the first session were drafted by the government, rather than members of the body. Of the 27 new laws and amendments TIMEP monitored after the first 15 days, when parliament was empowered to submit its own legislation, 18 were largely or entirely based on bills authored outside parliament, seven drafts were unclear in their geneses,¹ and only two laws were based on drafts authored by members of parliament.

Other notable cases of the parliament's failure to hold the executive accountable include the prioritization of laws favorable to the president and the defense and interior ministries (like the one **granting** greater oversight of public space to armed forces), instead of passing laws that were **mandated** to be passed in the first session by the Constitution (like the Transitional Justice Law). The only legislative debate in which the parliament put up sustained resistance to the government's position was on the Civil Service Law: The parliament **fought** the government from the first 15 days to the end of session on a number of issues in the law, most prominently the depth of cuts to civil servant salaries, and eventually won, **passing** a version² with a seven percent annual pay raise instead of the executive's preferred five percent increase.

Analysis and Areas of Concern

While some representatives made public **efforts** to hold certain cabinet ministries to **account** for **issues** facing the country, the fact that some ministries and bodies were exempt from accountability resulted in an asymmetrical, and ultimately politicized, application of oversight. The parliament did not serve as a meaningful check on executive power during its first session.

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The percentage of government-drafted laws passed in this session, and the absence of accountability in key ministries, harkens back to the rubberstamp parliaments of the pre-revolutionary era. By TIMEP's count, the high percentage of laws passed during the first session originating in the cabinet (67 percent by the most conservative estimate) risks approaching the 94 percent of new laws drafted outside parliament in 1984, the 99 percent in 1987, and the 100 percent in 1996-1997.³ Thus, the parliament's failure to hold the other branches of government accountable during the first session signals a return to the status quo ante.

¹Because initial drafts and markups of laws were only sporadically made available, it was not always possible to discern where the law originated.

²A final vote on the Civil Service Law did not come until the first day of the second session of parliament.

³Kassem, Maye. (2004). Egyptian Politics: The Dynamics of Authoritarian Rule. Boulder: Lynne Rienner Publishers. pp. 29-31

Accountability

Overview of Developments

The main regulations that govern the parliament are the bylaws, which consist of 437 articles drafted and ratified by the parliament in April,⁴ though some aspects of its function are outlined in constitutional articles. Much like the House of Representative's relationship to the system of checks and balances, its use of accountability procedures and adherence to internal regulations and existing law was erratic.

Sanctioning of MPs targeted regime critics

During the first session and before bylaws were passed, former Representative Tawfik Okasha, a controversial media personality known for his colorful outbursts, at times critical of the current regime, was stripped of his seat for meeting with the Israeli ambassador to Egypt. Okasha had been expelled from a general session days earlier, when on February 22 he had an outburst in which he called for the dissolution of the parliament and early presidential elections.

While Okasha's apparent attempt at low-level normalization of ties with Israeli officials was neither unconstitutional nor illegal under the Penal Code, and Okasha's actions were arguably no more disruptive or inappropriate than Mortada Mansour's obstruction of legal rulings, his peers felt Okasha must be held to account and a special committee was appointed to question him before his case was referred to the whole body for debate and action.⁵ Okasha was physically assaulted by another member of the body, censured by the committee, and subsequently removed from parliament on March 2 in a manner some experts believe was illegal.

In August, Representative Muhammad Anwar al-Sadat, the chairman of the Human Rights Committee was threatened with referral to the Ethics Committee for failing to receive approval for attending a human rights convention in Geneva. Although such action is prohibited under parliamentary regulations, Sadat maintained that no wrongdoing had occurred and that he had received the necessary approval prior to leading the delegation. Sadat, a critical voice who had threatened to freeze the Human Rights Committee due to regime obstruction, silenced the calls for his investigation by announcing his resignation as chair of the committee.⁶

Political calculations dictated accountability rather than bylaws

In late August, the 25-30 Bloc, widely recognized as the most oppositional force in parliament, decided to walk out during a vote on the Value-Added Tax (VAT) and hold a press conference denouncing the voting process when Speaker Abdel 'Al refused to use electronic voting. Abdel 'Al then threatened to send the group to the Ethics Committee and launched a large debate within the House of Representatives on the acceptability of the action. Eventually, the bloc having broken no bylaws and secured backing from fellow members, Abdel 'Al's threat to the 25-30 Bloc was dropped; the bloc did not issue any apology and was not sent to the Ethics Committee.

⁴Following the judicial dissolution of the previous legislative body in 2013 and the subsequent political shift, this parliament decided to draft bylaws fit for the new context instead of amending the preexisting rules. This process involved at least 65 days of drafting and voting on each article individually. Once completed, the bylaws were administered by the Ethics Committee, a group of 15 parliamentarians who serve as a jury of peers for members.

⁵The various actions taken against Okasha in parliament began on February 22, 38 days before the ratification of the bylaws. Due to this, the Ethics Committee had not yet been constituted and he was investigated by a special committee.

⁶The chair of the Human Rights Committee had previously been promised to Ayman Abul Aala, a better-connected member of the Free Egyptians Party, the largest party in the House, in negotiations among parliamentarians during committee creation in the first session. While resigning just before the end of the first session to some degree rendered Sadat's actions moot, his public announcement served as a symbolic protest.

If the Ethics Committee was used as a threat against the 25-30 Bloc, in other cases bylaws appeared to be overlooked. Parliamentary bylaws prohibit and punish missing more than three meetings in a month. Judging by the number of general and committee meetings either postponed or cancelled for lack of quorum, a sizeable number of representatives had issues adhering to those rules. None were censured for violating them.

Parliament only partially succeeded in meeting its constitutional mandate, with no ramifications

Explicit provisions of the 2014 constitution further required that the House of Representatives pass two laws in its first session: a law governing the construction and renovation of churches per Article 235, and a law on transitional justice per Article 241. Parliament only succeeded in passing the Church Construction Law. It provided no reason for having prioritized the passing of other laws, not required by the constitution, over a law on transitional justice. Article 241 outlines no penalty for failure to pass the transitional justice law; no accountability measures were implemented for the contravention.

Analysis and Areas of Concern

During its first session, parliament seemed to prefer a system of selective, politicized justice when implementing its internal accountability measures. The convoluted wording and overcomplicated system enshrined in the bylaws is ripe with loopholes and varied possible interpretations. This allowed Abdel 'Al and other leaders in parliament to use the threat of censure as a weapon against members who took unpopular actions, as can be seen in the cases documented above.

The amicable end to the 25-30 Bloc's case offers further insight into the underlying political currents of these decisions. Although adherence to the bylaws should not be influenced by popular opinion, collective pressure from other parliamentarians, including the well-connected Wafd Party caucus, against the speaker of the house nullified all charges against the bloc. The political calculations of actors within parliament guided the activation of accountability procedures more so than the written guidelines.

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Public Engagement and Transparency

Overview of Developments

While the parliament made some efforts to reach out to constituents and appear transparent during the first session (a requirement mandated by Article 120 of the constitution, which states that all meetings be “public”), they tended to obscure their efforts from the local media and observers.

The first session began auspiciously, but transparency was eroded over its course

The body began the session with a live televised feed of their meetings, two WhatsApp numbers to take questions and requests from the populace, and electronic voting panels that displayed vote tallies on a screen in the main debate hall. Journalists were also given the right to cover proceedings unless special rules regarding national security were invoked.

These elements of transparency were eroded quickly. On the second day, the televised feed of meetings was cut to remove the temptation to play to the camera, which Speaker Ali Abdel ‘Al blamed for the unruly first day of session. The feed was slated to return later in the session, but was only partially reactivated: A satellite television channel called Sawt al-Shaab began filming sessions and posting them on YouTube the day after the session. Its effort is not widely publicized and some members of parliament are not aware of the YouTube videos.

The electronic voting panels remained in use until mid-February, when technical issues with the speed of voting led Abdel ‘Al to begin conducting votes via show of hands or standing in agreement. This measure is legal under Article 320 of the bylaws, but it fails to produce vote tallies for legislation or document representatives’ voting records. Given the difficulty of accurately monitoring the votes of hundreds of representatives, to monitor voting records observers would pick which members to monitor or would resort to examining the photos of final votes.

The WhatsApp number continued to run throughout the first session, although tests run by TIMEP determined that the administrator of the number did not answer questions or engage citizens, though they did appear to aggregate the messages received.⁷

Journalists could access most general meetings, with more limited access to committees

Journalists were allowed into the building for the majority of general meetings and discussions, and Abdel ‘Al even defended the importance of press freedom to the work of the parliament (though stressing that it must be exercised responsibly). Nevertheless, members of the media reported facing harassment, unexplained barring from the hall or committee meetings, and even physical assault. Some media outlets were given more favorable access to committee meetings, including al-Youm al-Sabaa’s subsidiary website Parlmany. Certain committees’ meetings (particularly those relating to national security) were never open to the press.

⁷TIMEP’s test questions, which focused on basic information like the date of the last day of the first session and the number of laws passed during the first session, were answered with links to unrelated Parlmany.com articles. This is notable given Parlmany, a website and social media brand related to the newspaper al-Youm al-Sabaa, appears to have more access to the messages than any other media source.

Key parliamentary documents were never made public

Parliament failed to regularly publicize its agendas, minutes, or reports on its activities, although some of these were sporadically available as they were leaked to press. Very few laws were published by the media with either concrete vote tallies or proof of quorum for the vote following Abdel 'Al's decision to eschew the electronic voting panels after only one month of use.

Analysis and Areas of Concern

Throughout the first session the legislature actively avoided processes that would aid the public in monitoring the legislative process. Failing to actively respond to citizens' concerns via established methods of communication; failing to publish agendas, minutes, and other key documents; and selective engagement with the press meant that most of the parliament's proceedings occurred behind closed doors. Violations of freedom of the press, especially assaults on journalists that were for the most part carried out with impunity, raise additional concerns.

Legislating without official vote tallies is not only legally dubious but also fails to meet even basic standards of representation. In a house of 595 members,⁸ determining the difference between 380 and 393 standing members may be difficult when observing the mass in motion.

These methods raise serious concerns about the legitimacy of representation and whether quorum or sufficient majorities have been met. Ultimately, the preference for legislating via the least transparent means legally available in the name of expediency calls legislation passed during the first session into question.

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Legislative Capacity

Overview of Developments

Over the first session, the parliament acted on its mandate to draft, review, and approve legislation. While no official figure on the number of bills drafted or reviewed was published, TIMEP monitored 82 draft laws discussed in the media, and the parliament reported having passed of 27 of these.

Parliament reviews and approves 340 laws in first 15 days, passes 27 laws afterward

Article 156 of the 2014 Constitution mandated that the House of Representatives review all executive decrees issued by interim President Adly Mansour and President Abdel-Fattah El Sisi in the absence of a legislative body and vote on them in the first 15 days of its first session. Parliament approved all 341 decrees issued during the Mansour and Sisi presidencies with minimal debate or discussion. At times, multiple decrees were grouped together and approved in the same vote; at other times, debate was discouraged. The only executive decree that did not garner immediate approval through this process was the controversial Civil Service Law (see analysis in subsequent section).

After the approval of the decrees, the parliament reported having passed 27 laws throughout the first session (see Table of Laws). Of these, eight were amendments or new legislation that only changed some aspect of administration. Laws governing the economy and resources and military and security affairs were prioritized, with nine and six laws passed respectively. Only the laws governing church construction and the classification of FGM as a felony were regarded as having positive implication for social and political rights; trade unions criticized a regulatory law that would reduce unions' activity and undermine pluralism.

Legislating proceeded according to bylaws, often with late extra-parliamentary involvement

The draft laws presented by members of the house during the first session generally followed the correct procedures for presenting bills and moving them to a final vote. The most common method of presenting legislation was to amass at least 60 members' signatures on each bill, which, per the bylaws, moves the draft directly to its relevant committee for debate. These versions of bills were often d in committee alongside executive branch drafts of the same legislation. As previously mentioned, the government's versions of the bills were largely given priority.

Certain laws, such as the Church Construction Law, saw greater government involvement in the later stages of amendment than is typically considered to be appropriate. The government worked with officials from the three recognized sects of Christianity in Egypt to set a final draft of the law once it became clear that the version amended by the parliament was unacceptable to the church representatives. This version was eventually passed by the House of Representatives in accordance with the bylaws, though it contained no parliamentary amendments and received minimal debate.

⁸While the House of Representatives is a 596-seat body, Representative Siri Siam resigned early in the session. He had been appointed by Sisi, and no additional appointment was made to replace him; the body continued with 595 members for the rest of the session.

The State Council played an active role in legislation in the first session

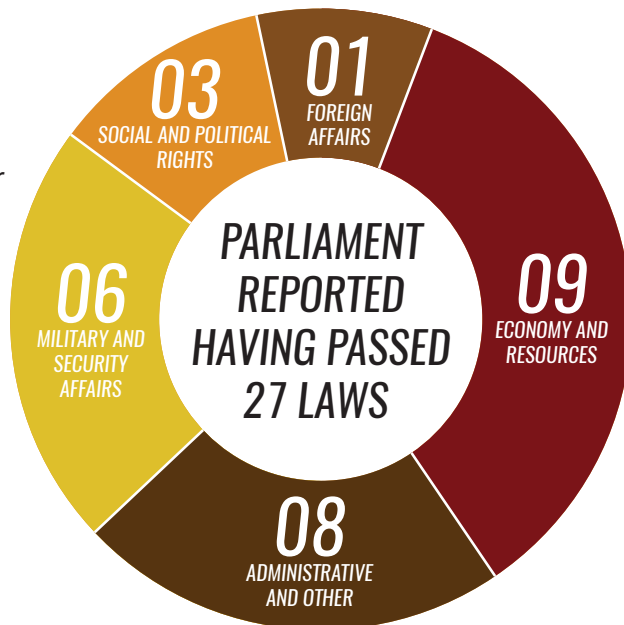
Some public concerns were raised over the active role of the State Council (a judicial oversight body that is meant to advise on the constitutionality of bills, among other non-legislative tasks) in the first session. Based on Articles 63 and 64 of the State Council Law (47/1972), the legislative department of the State Council has the jurisdiction to review legislation before it is passed. However, the body's interference in internal parliamentary matters (e.g., the bylaws) was contested as a violation of the separation of powers. The State Council did end up reviewing the bylaws, which stipulated a final State Council review to suggest any needed changes to legislation before passing to the executive for enactment.

The council also served as a conduit for introducing government amendments to laws and streamlining government drafts before they reached the parliament. During the period in which the president had legislated by executive decree, the State Council had played the role of advisor, actively reviewing legislation and providing recommendations for its compliance with the constitution. Yet, even in the presence of a legislature during the first session, the council reviewed both Cabinet and parliament drafts at various stages of development, sometimes multiple times.

Analysis and Areas of Concern

Although the House of Representatives' near-automatic approval of the 341 decrees issued during its absence does not reflect on the body's own legislative capacity per se, in doing so the parliament failed to display a capacity to serve as an independent legislative entity and review laws per their adherence to the country's domestic and international legal obligations, particularly in the realm of human rights.

While the more active role of the State Council is neither illegal nor inherently problematic, it does raise concerns about the parliament's capacity to actually draft and issue effective legislation (and, depending on the process and content of the recommendations, could raise additional concerns about balance of powers). Closely monitoring the substance of the State Council's review of legislation is thus both important and nearly impossible, given the opacity of the process.



Legislation Tracker

Throughout its first session, Egypt’s House of Representatives formally passed 27 laws (see table later in this section). Of those, four are highlighted below to provide a deeper analytical window into the parliament’s adherence to its internal regulations, constitutional mandates, and international legal obligations. TIMEP selected these laws for the substantive changes they made to existing legal structure, significant social implications, problematic or praiseworthy text or process, or notable aberrances.

Church Construction Law

This law, passed at the end of the first session on August 30, governs the construction and renovation of churches and church-affiliated buildings. It replaces Ottoman-era regulations and a patchwork of presidential, ministerial, and gubernatorial decrees that had long regulated church construction. The law makes church size dependent on the population and “need” of members of the Christian denomination in the area. It requires that the representative of a Christian sect submit a request to the governor for construction plans, stipulates that approval for both demolition and reconstruction must be sought, and fails to set forth a process to challenge denials or inaction for permit requests. Most importantly, the law only governs churches, thus allowing a different process for mosques and other religious buildings to continue.

The passage of the law ignored longstanding demands for a unified houses of worship law and furthered an unequal scheme that distinguishes between mosques and churches. Additionally, the law establishes lengthy, burdensome, and legally imprecise permit processes. These violate Egypt’s constitutional and international legal obligations to ensure equal rights for citizens without discrimination based on religion and the individual’s right to freedom of religion per the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples’ Rights. These rights include the ability to practice both in public and in private, individually and in a community setting.

The law does fulfill Article 235 of the Constitution, which requires that a law organizing the building and renovation of churches be passed in the first session of the new parliament. The law was largely the process of closed-door meetings between Egypt’s cabinet and representatives of the Christian denominations; it was passed with little parliamentary debate, in the wake of an earlier draft that had not met the Christian denomination’s liking. The draft that was passed had been discussed only briefly in the Constitutional Affairs Committee and passed in session immediately thereafter, bypassing requirements for deliberation that should have addressed comments including those from the human rights, constitutional affairs, religious affairs, and local administration committees.

The passage of the law ignored longstanding demands for a unified houses of worship law and furthered an unequal scheme that distinguishes between mosques and churches

Amendment to the Penal Code (FGM)

This law amends Article 242 of the Penal Code to set forth a punishment of between five and seven years for those who carry out a female genital mutilation (FGM) procedure, with up to 15 years if permanent disability or death results. It additionally establishes a punishment of between one and three years for anyone who requests that an FGM procedure be carried out on another person or anyone who authorizes the procedure. Egypt first criminalized FGM in 2008, but the practice continues. While the amendment represents a positive step to more strictly punish those who carry out and approve FGM procedures, some of the language within the amendment remains problematic. One phrase in the amendment bans FGM so long as there is no “medical justification;” activists

worry that this could open the door to some exceptions, given the [medicalization](#) of the crime in the past years. Additionally, the amendment refers to Article 61 of the Penal Code, which states that no penalty shall be imposed on a perpetrator if he committed the act to protect himself from “grievous danger.” Further, there are likely to be serious issues with implementation and accountability. FGM activists and gender specialists suggest that wider legal and institutional reform must involve the state providing additional monetary, educational, and awareness resources to combat FGM.

Egypt is mandated to protect women and girls from the practice of FGM in accordance with the right to be free from all forms of discrimination as women, the right to life, the right to be free from torture, the right to health, and the rights of the child. These rights are enshrined in the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT), the African Charter on the Rights and Welfare of the Child, and the African Charter on Human and Peoples’ Rights.

The amendment to the Penal Code involved drafting by both the government and the parliament. It was reviewed by parliament’s Constitutional Affairs Committee.

Extension of Presidential Decree No. 136 of 2014, Allowing Military Protection of Government Facilities

This law extends Presidential Decree No. 136 of 2014 for an additional five years. The 2014 decree had established that members of the Armed Forces would coordinate and collaborate with police forces to protect vital government and public facilities. The decree also established that those violating the security of these government and public facilities would be subjected to military trials. Vital facilities include electricity infrastructure, gas and oil fields, rail lines, road networks, bridges, and other installations.

An earlier extension proposed by a member of parliament during this same session had suggested a two-year extension, in line with the cabinet’s request, rather than the five-year extension that was ultimately adopted. The five-year extension, let alone the extension in and of itself, raises concerns, as it prolongs measures (purportedly adopted by the government to combat terrorism) that should be assessed regularly, rather than adopted for a lengthy period of time without opportunity for interim review.

This law extends a decree that creates a parallel system of justice where civilians are subject to military trial, essentially continuing Egypt’s historical state of emergency. Military courts tend to deny defendants the right to adequate counsel, the right to be informed of the charges against them, and the right to be promptly brought before a judge. At a time in which peaceful protesters and student activists face charges related to demonstrating, this decree allows the state to bring them under military justice, thus violating Egypt’s constitutional and international legal obligations per the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples’ Rights to constrain military courts and protect the individual’s due process rights.

The extension of Presidential Decree No. 136 of 2014 involved drafting by both parliamentary and government elements. It was reviewed by both the Defense and Constitutional Affairs Committees of parliament.

Value-Added Tax Law

This law introduces a value-added tax (VAT) of 13 percent, with an increase to 14 percent in the next fiscal year. The VAT is intended to replace the 10 percent sales tax, broaden the tax base, and exempt some basic goods and services to protect poor citizens.

Initial disagreement about the appropriate percentage had fluctuated between an initial rate of 12 and 14 percent; ultimately 13 percent for fiscal year 2016-17, with an increase to 14 percent afterward, was selected as a compromise.

At a time of economic stagnation, the VAT Law was part of a broader economic reform plan that involved implementing conditions to secure a \$12 billion loan program from the International Monetary Fund. Article 27 of Egypt's Constitution mandates that the state implement a fair taxation system, which according to Article 38, is meant to develop state resources and achieve social justice and development. The remainder of Article 38 also grants the state the authority to issue laws that regulate the tax system.

The VAT Law was proposed by the government and was reviewed by the Budget and Constitutional Affairs Committees.

Table of Laws

The following table displays a list of laws passed by the parliament in its first session, including the name and description of the law; whether it proposed new legislation or amended legislation; the date of passage in parliament; the date the draft was first publicized in the media (where available); the date proposed (where available); whether the draft was generated by the government or by parliament; whether the law saw multiple drafts; and a general category for the law.

Name of Law	Description	Amended or New Legislation?	Date Passed	Date First Publicized	Date Proposed	Genesis	Multiple Drafts Publicized?	Category
Amendment to Achieve Tax Justice	Reduces the fees on airline tickets for low-income Egyptians to make it easier for them to travel for work and make air travel competitive with overland travel prices	Amendment	6/14/16	6/14/16		Unclear	N	Economy and Resources
Amendment to End Daylight Savings Time	<u>Ends</u> Daylight Savings Time as an administrative practice in Egypt	Amendment	<u>7/17/16</u>	6/27/16		Member of Parliament	N	Administrative and Appointments
Increase Pension Law	<u>Sets</u> the minimum increase in pensions as LE125 and the maximum at LE323, up from the former rate of LE75 and increase the pension rate to 10%	New legislation + Amendment	7/20/16	7/19/16		Government	N	Administrative and Appointments, Economy and Resources
Civil Service Law	<u>Governs</u> the work schedules, raises, performance reviews, discipline, and salaries of public sector employees	New legislation	10/4/16	7/17/16		Mixed	Y	Administrative and Appointments, Economy and Resources
Amendment to Central Bank and Foreign Exchange Law	<u>Creates and enforces</u> harsher penalties on those found trading illegally in foreign currency	Amendment	<u>8/9/16</u>	8/9/16		Unclear	N	Administrative and Appointments
Amendment to Foreign Work Permit Law	Amends Law No. 231 of 1996, which stipulates the fees to be paid by those seeking work abroad, in accordance with Law No. 173 of 1958, and increases those fees from LE100 to LE200 for higher degree holders and LE60 to LE100 for lower degree holders	Amendment	<u>8/28/16</u>	8/21/16		Unclear	N	Administrative and Appointments

Name of Law	Description	Amended or New Legislation?	Date Passed	Date First Publicized	Date Proposed	Genesis	Multiple Drafts Publicized?	Category
Amendment to National War Production Body Law	Amends the profit distribution and housing and services provided to workers in defense factories	Amendment	8/21/16	8/21/16		Government	N	Administrative and Appointments
Amendment to Egyptian Cotton Improvement Fund Law	Seeks to increase the value of the additional Gulf fee on cotton to produce a budgetary surplus for 2016-2017 and use that money for the fund's disbursement activities	Amendment	8/21/16	8/21/16	6/12/16	Government	N	Administrative and Appointments, Economy and Resources
Amendment to Manufacturing Shops Disturbing the Peace and Public Health Law	Increases the fines for health and safety violations of the law	Amendment	8/21/16	8/21/16		Government	N	Administrative and Appointments
Amendment to Local Shops Law	Increases punishments on people who open stores without licenses and those who reopen businesses after closure without permission	Amendment	8/21/16	8/21/16	4/27/16	Government	N	Administrative and Appointments, Economy and Resources
Value-Added Tax Law	<u>Creates</u> a value-added tax (VAT) to enhance government revenue by replacing the 10% sales tax on items with a 13% VAT for the first year and a 14% VAT every year after that	New legislation	8/29/16	8/28/16	<u>5/16/16</u>	Government	N	Administrative and Appointments, Foreign Affairs
Law on Resolving Tax Claims	Establishes a commission for resolving tax claims through a decision by the minister of finance from experienced neutral parties in front of courts through all their degrees, tax cessation committees, tax reconciliation committees, and appeals committees	New legislation	8/30/16	8/30/16	8/10/16	Government	N	Administrative and Appointments

Name of Law	Description	Amended or New Legislation?	Date Passed	Date First Publicized	Date Proposed	Genesis	Multiple Drafts Publicized?	Category
Amendment to Entry and Residency of non-Egyptians in Egypt Law	Allocates funds from judicial fees for deporting foreigners in violation of Egyptian laws	Amendment	8/30/16	8/30/16		Unclear	N	Administrative and Appointments, Foreign Affairs
2016-2017 National Budget	<u>National budget</u>	New legislation	6/29/16	<u>5/23/16</u>		Government	N	Economy and Resources
Amendment to the Penal Code	<u>Amends</u> article 242 of the Penal Code to classify FGM as a felony instead of a misdemeanor and increases the punishment to 7 years for doctors and 3 years for those accompanying girl	Amendment	8/31/16	8/31/16	7/10/16	Mixed	Y	Political and Social Rights
Amendment to Court of Cassation Law	<u>Empowers</u> lower courts to make final decisions on more cases and reduces and complicates the ways to file for an appeal with the Court of Cassation	Amendment	6/13/16	5/22/16		Government	N	Administrative and Appointments
Amendment to Union Workers Law	Designed to fill legislative gap until comprehensive Unions Law is passed; allows union workers to run for positions in union organizations without losing their spot in the union and hold elections	Amendment	7/19/16	5/22/16		Member of Parliament	N	Administrative and Appointments, Political and Social Rights
Amendment to Civil Status Law	<u>Attempts</u> to make the Ministry of the Interior fund itself by increasing the fees for services	Amendment	<u>6/12/16</u>	6/12/16		Unclear	N	Administrative and Appointments, Economy and Resources
Amendment to State Council Law	<u>Amends</u> the law for the State Council to allow administrative courts to take over some of their duties	Amendment	8/9/16	8/7/16	<u>6/14/16</u>	Government	N	Administrative and Appointments

Name of Law	Description	Amended or New Legislation?	Date Passed	Date First Publicized	Date Proposed	Genesis	Multiple Drafts Publicized?	Category
Amendment to Sheikhs and Mayors Law	Amends Law 58 of 1978 to make the term of sheikhs and mayors five years and renewable	Amendment	8/23/16	8/21/16		Unclear	N	Administrative and Appointments
Church Construction Law	Establishes regulations on church building and renovations in accordance with Article 235 of the Constitution	New legislation	8/30/16	8/30/16	5/30/16	Government	Y	Political and Social Rights
Amendment to Armed Forces Retirement, Pension, and Insurance Law	Allows the president to extend the period major generals serve before retirement for an additional two years to impart their expertise to their subordinates	Amendment	5/31/16	5/24/16		Government	N	Administrative and Appointments, Military and Security Affairs
Amendment to Armed Forces Retirement, Pension, and Insurance Law	Seeks to achieve equality with civilian pensions and raises the minimum pension to LE125, as seen in the new Increase Pension Law	Amendment	7/25/16	7/25/16		Unclear	N	Administrative and Appointments, Military and Security Affairs
Amendment to Firearms and Munitions Law	Increases the fees on licenses, the production, and sale of these items	Amendment	6/12/16	6/12/16	4/28/16	Unclear	N	Military and Security Affairs
Two Amendments to the Police Body Law	Amends the law governing the High Council for Police by increasing penalties for releasing police related info, continues to prohibit talking to the media, prohibits unionizing, requires respect for human rights and constitution	Amendment	8/9/16	8/7/16		Government	Y	Military and Security Affairs
Extensions of Law 136 of 2014	Amends new extension of Law 136 of 2014 to make it five years of military prerogative to secure vital facilities instead of the original agreement of two years	New legislation + Amendment	8/9/16	8/7/16		Mixed	Y	Military and Security Affairs
Extend Emergency Law in Sinai	Extends the Emergency Law in Sinai for three months. It will include a curfew from 7 p.m. to 6 a.m.	Amendment	7/19/16		5/10/16 and renewed on 7/12/16	Government	Y	Military and Security Affairs

Appendix A: Timeline of Events

First Session of Parliament

January 10 – The first session of the Egyptian parliament since its dissolution in 2013 began by swearing in each of the 596 members present (28 appointed and 568 elected), one by one, on live television. Ali Abdel ‘Al, a member of the “For the Love of Egypt” electoral list that reconstituted itself as the “Coalition in Support of Egypt,” was elected as the Speaker of the House of Representatives.

January 11 – Al-Sayyid al-Sharif, another Coalition in Support of Egypt member, was elected as one of the two deputy speakers of the House of Representatives. The coalition failed to whip the necessary votes to sweep the leadership, losing the other deputy position to Wafd Party member Soleiman Wahdan.

January 11-24 – The House of Representatives reviewed the 341 laws passed in the absence of a legislature. All but one of the decrees, the Civil Service Law, were accepted without amendment or protest.

February 3 – March 30 – The House of Representatives wrote and ratified a new set of bylaws for the legislature, as the previous guidelines were seen as unacceptable to the new political context. These 437 articles were voted on individually over 50 cumulative hours of session. The bylaws set out the means of suggesting and reviewing legislation and separated these duties among members through a tiered system of committees. They are hierarchically structured: The General Committee sits at the top, a body comprised of 41 heads of parties, committees, and coalitions that discusses issues and suggestions prior to their submission to parliament; followed by the Ethics Committee, 15 members who oversee the investigations of members who violate the bylaws; and ending with 25 committees structured around specific subjects or cabinet ministries from African Affairs to Youth and Sports, among which is the Constitutional and Legislative Affairs Committee tasked with reviewing legislation for its compliance with the constitution and sharia.

February 10 – Abdel ‘Al moved to begin voting by means other than the electronic voting system meant to tally vote counts and take roll before sessions. Parliament would not return to using the electronic system for the rest of the first session.

March 2 – Representative Tawfik Okasha, a media member, and regular critic of the regime, was voted out of parliament for meeting with the Israeli ambassador to Egypt on February 24.

April 10-20 – Members of parliament debated and voted to extend confidence to the ministerial cabinet as it was then constituted. Each minister was asked to give a complete report on their plans to improve the country over the next year as a condition for receiving this approval.

June 29 – The House of Representatives approved the 2016-17 fiscal year budget. Representatives vociferously debated the issue in specialized committees for 38 days and required multiple ministers to stand before committees and defend their development plans. Yet after this, and in spite of several opposition members voicing concerns over its constitutionality, parliament passed the budget with little to no substantive changes.

August 9 – Parliament passed a law extending Presidential Decree No. 136 of 2014 for an additional five years. This gives the military prerogative to help police secure “vital facilities” and punish violators in military courts.

August 25 – Minister of Supply Khaled Hanafi pushed to resign by the threat of a parliamentary investigation into multiple claims of corruption during his tenure, including fraud surrounding the national wheat harvest and using state funds for personal expenses.

August 29 – The Value-Added Tax Law passed the parliament with only minor amendments, including strengthening penalties for tax evasion and keeping the baseline rate at 13 percent for the first year and 14 percent for all subsequent years.

August 30 – The Church Construction Law passed parliament.

August 31 – The FGM Law passed parliament.

September 6 – Parliament approved Muhammad Ali Sheikh, a general and former head of the Logistics, Supply, and Public Service System Authority for the army, as the new Minister of Supply. This was the last meeting of parliament in the first session, and it recessed until October 4.

Appendix B: Methodology

This first issue of the Egypt Parliament Watch report series was developed as part of a longer-term project to monitor and evaluate the function of the Egyptian House of Representatives. The project, and the report, address several fundamental research questions: What is the role of the Egyptian parliament in its political landscape? Does it embody the democratic entity that was envisioned as a final step in the transitional roadmap? How effectively does the parliament function per its constitutional obligations and international legal norms? Who are the main actors driving trends and developments in the political and legislative landscape, and what effect do they have on the previous questions?

To answer these questions, the Egypt Parliament Watch project draws on existing literature and praxis related to legislative monitoring, and it is based on TIMEP's independent and systematic media monitoring and analysis, legal review of legislation for compliance, review of official documents, and extensive consultation with policymakers, journalists, human rights practitioners, and experts in Egyptian and international law, politics, and civil society.

Data collection for the project began in late 2014, at the time of the announcement of parliamentary elections, and is ongoing. Since that time, TIMEP has conducted daily media monitoring of local and international Arabic and English language press and social media, collating and reviewing statements made by policymakers or Egyptian political figures. TIMEP conducted extensive background research into the platforms and ideologies of the political parties, and collected electoral data to conduct quantitative analysis related to its prior parliamentary elections project. With Egypt Parliament Watch, TIMEP continues to monitor statements and media from within or about the House of Representatives, comparing this to existing research and data on political platform and ideology. The project also relies on the Official Gazette, parliamentary reports, and published legislation from the government; where possible, the project references data from these primary sources.

To develop the key indicators used to assess the parliament's performance, TIMEP conducted a review of the seven leading parliamentary performance monitors' indicators, distilling a targeted list that was most appropriate to the Egyptian context. These four overarching indicators were broken into sub-indicators, with a series of questions outlined for each to ensure uniformity in assessing performance over time and to facilitate measurability for each sub-indicator. Further information and detail about these indicators or methodology is available upon request.



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