SUMMARY

Judicial and prosecutorial independence is severely eroded in Egypt. In 2019, the Constitution was amended to authorize the President to appoint the Prosecutor-General and the heads of the Administrative Prosecution, State Lawsuits Authority, Cassation Court, State Council, Military Judicial Authority, and Supreme Constitutional Court. There is no transparency in the selection of judges and appointments of prosecutors are politicized, contributing to a waning independence that has consolidated authoritarian rule, brought about a breakdown in the rule of law, and affected the separation of powers. Prolonged pre-trial detention, mass trials, and the use of the death penalty, especially for those critical of the government, have increased. Military courts try civilians without fair trial guarantees; recent constitutional amendments also expanded military jurisdiction. Since April 2017, a state of emergency has been in force, bringing about the re-emergence of state security emergency courts with broad jurisdiction. Between July 2013 and January 2016, 341 decrees with force of law, including the Protest Law and Counter-terrorism Law, were issued by the executive in absence of a sitting parliament. The House of Representatives has since continued to rubber stamp executive initiatives.

Lawyers and human rights defenders are subjected to enforced disappearance, arrest, prosecution, harassment, threats, travel bans, asset freezes, and organizational closures. Their work is curtailed by the application of various laws. For example, the Protest Law restricts civilians’ ability to mobilize and allows for the use of excessive force by security officials to disperse protests. The NGO Law restricts registration, activities, and funding of NGOs, subjecting them to extensive oversight and monitoring. The Media Law restricts “press entities” and gives wide discretion to authorities to block content. The Cybercrime Law authorizes investigating authorities to submit requests to the judiciary to censor or block websites compromising national security or the economy. The Counter-terrorism Law includes a broadly-worded definition of terrorism, creates special terrorism circuits in criminal courts, and establishes expansive surveillance powers. Articles of the Penal Code, including provisions criminalizing spreading false news, belonging to an organization contrary to the law, and attempting to overthrow the governance system, are used to criminalize the work of lawyers and human rights defenders.

Recommendations

- Amend the Protest Law, Media Law, Cybercrime Law, Counter-terrorism Law, NGO Law, provisions of the Penal Code, as well as other laws that violate the rights to freedom of expression, association, and assembly to bring them in line with Egypt’s international legal obligations.
- Repeal the 2019 constitutional amendments that govern judicial and prosecutorial selection and expand military jurisdiction, as well as other decrees and legislation that affect judicial and prosecutorial independence and allow for the exercise of military jurisdiction over civilians.
- Release immediately, and drop all charges against, human rights defenders and lawyers prosecuted for doing their work and exercising their constitutionally-guaranteed rights.