

TESTIMONY OF

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BEFORE THE

SUBCOMMITTEE ON MIDDLE EAST AND NORTH AFRICA OF THE

HOUSE COMMITTEE ON FOREIGN AFFAIRS

ON

DEMONSTRATIONS IN TAHRIR SQUARE:

TWO YEARS LATER, WHAT HAS CHANGED?

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I want to thank the Members of the Subcommittee on the Middle East and North Africa for holding this hearing, “Demonstrations in Tahrir Square: Two Years Later, What Has Changed?” and for inviting me to testify here today on behalf of the U.S. Commission on International Religious Freedom (USCIRF). Madame Chairman, with your approval, I would like to submit my written testimony for the record.

The short and simple answer to your question is that much has changed in Egypt, but much more needs to change if the Egyptian people are going to realize their hopes for a genuine democracy that represents all Egyptians, fully respects the rule of law, and complies with international human rights standards, including freedom of religion and belief. These issues matter significantly. Over the nearly 15 years of USCIRF’s work, we have observed a strong correlation between religious freedom, social stability, security, development, and the consolidation of democracy. Conversely, the lack of religious freedom correlates with instability, insecurity, extremism, and a host of other social and political problems. Consequently, if Egypt is to prosper and hold true to the original principles of the January 25, 2011 revolution, it must protect religious freedom for all its citizens.

Madame Chair, because of these concerns, I led a USCIRF delegation to Cairo earlier this month to assess religious freedom conditions in the country. I was joined by fellow Commissioners Dr. Azizah al-Hibri and Dr. Zuhdi Jasser. We met with a wide range of interlocutors, including the U.S. ambassador and high-level Egyptian government officials, human rights defenders and women’s rights advocates, and Muslim religious leaders and members of religious minority communities.

The overwhelming sense we got from non-governmental interlocutors was that there is little reason for optimism about the country’s short-term trajectory under President Morsi. Some we spoke with felt strongly that the Morsi government has not been inclusive of or taken seriously the liberal and secular opposition’s views. The most common concerns we heard focused on: the poor state of the economy; increasing radicalization in society that negatively impacts women and religious minorities; troubling provisions in the new constitution limiting religious freedom and other rights; and frustration about the continuing climate of impunity for numerous acts of violence – including those targeting Coptic Christians – since the beginning of the revolution two years ago.

These views were reinforced just last week when 21 leading human rights groups in Egypt released a joint statement saying that, “the rights situation in Egypt currently appears even direr than it did prior to the revolution and the ouster of the former president.”

Egyptian government officials painted a picture of a difficult and arduous transition; yet they asserted that much progress has been made given the messy business that is a democracy. Officials cited free and fair presidential and parliamentary elections, the acceptance of a new constitution, and the emergence of a new democratic political system. Regarding the violence and continuing climate of impunity, it is unclear how much the current government could effectively do to improve the situation even if it had the genuine desire to do so.

As a consequence of the up's and down's in Egypt over the past two years, there have been some positive societal developments, particularly among religious and secular groups. Christian communities – including Coptic Orthodox, Protestant, Catholic, and others – have started to organize with both opposition groups and representatives from Al-Azhar to counter religious extremism. Previously, Christians were not encouraged to participate in various civil and political activities, but now the official churches have urged the community to be active in the democratic transition of a new Egypt. Contrary to his initial position of wanting to focus primarily on matters inside the Church, even the new Coptic Pope has been outspoken in recent weeks about concerns regarding the direction the democratic transition has taken.

Notably, all Christian groups have come together to form for the first time ever an Egyptian Council of Churches, which held its first meeting last week. Additionally, they have come together with al-Azhar, one of the leading Islamic centers of learning in Egypt and the world, to form an umbrella organization, named the “The Family Home.”

In general, many diverse interlocutors expressed a positive view of the moderating role Al-Azhar has played since the January 2011 revolution. The Grand Sheikh at Al-Azhar has spearheaded a number of efforts, including interfaith dialogue initiatives, aimed at unifying the various religious communities and countering extreme Islamist views.

Overall, our visit to Egypt confirmed that the situation is indeed complicated and concerning. Egypt is arguably the most important country in the region and during this transition is inadequately protecting the rights of its citizens, including the right to freedom of religion and belief. The United States has a unique role to play and our government must do more to press Cairo to implement real and meaningful reforms. We cannot afford to sit idly by and watch.

Let me highlight some of our specific areas of concern.

The Constitution

First and foremost are concerns about certain provisions in the constitution. Some former members of the Constituent Assembly complained to us that conservative elements hijacked the process of drafting the constitution, which led to several liberals, Christians, and Al-Azhar representatives withdrawing their membership before the drafting of the constitution was completed.

Most of those we spoke with expressed concern about various articles in the new constitution. In particular, there were numerous concerns about Article 219 which defines Islamic Shari'ah in such terms as to raise concerns that it is too narrowly drawn and may infringe on the rights of some Muslim schools of thought. Christians are also concerned that Article 219 could infringe on their rights. Most were fine with Article 2, which is holdover language from the 1971 constitution, and states that “The principles of Islamic Shari'a are the principal source of legislation.” However, Article 4, when read in conjunction with Article 2, potentially gives Al Azhar scholars a consultative role in reviewing legislation. Some of the people we spoke with stated emphatically that only the Supreme Constitutional Court should be designated with this role, not a religious body.

Depending on how it is interpreted, Article 43 could be especially problematic. It states: “Freedom of belief is an inviolable right. The State shall guarantee the freedom to practice religious rites and to establish places of worship for the divine religions, as regulated by law.” Article 43 has a number of flaws. Protections are limited to “rites” and places of worship; international standards protect a much broader range of activities and expression. Furthermore, because this concept of religious expression is limited to followers of the “divine” religions, followers of other religions, such as Baha’is, not to mention atheists and agnostics, are excluded from enjoying basic freedoms. Also, there is no mention of the right to change one’s religion.

Government officials believe that Article 43 guarantees religious freedom for all Egyptian citizens, including Baha’is. However, some officials feel that Baha’is would need to test this freedom in court, since the Baha’i faith is not one of the religions the constitution references. Others disagree, as evidenced by reported comments by the education minister stating before our visit that Baha’is cannot enroll in public schools because they are not mentioned in the Constitution. That Egyptian Baha’is should face this burden is a disturbing development.

Articles 31, 44 and 45 also raise concern. Article 44 states that “insult or abuse of all religious messengers and prophets shall be prohibited.” This ban is supported by Article 31, which says “[i]nsulting or showing contempt toward any human being shall be prohibited.” These are impermissible limitations on freedom of expression under international human rights law. Article 45 states: “Freedom of thought and opinion shall be guaranteed. Every individual has the right to express an opinion and to disseminate it verbally, in writing or illustration, or by any other means of publication and expression.” However, the language in the Articles 44 and 31 appears to limit this provision. Egyptian officials were unequivocal about Article 44, stating that there are consequences for insulting or injuring the religious feelings of others, in essence permitting the criminalization of “defamation of religion.”

People with whom we met expressed mixed views on a way forward with the constitution. Some expressed hope that President Morsi’s recent offer at a dialogue on the constitution would result in amendments to various articles of concern. However, many others are not optimistic that President Morsi’s offer will lead to a positive outcome and actual revisions of the constitution.

Impunity

There continues to be serious concern with impunity from sectarian violence, particularly violence targeting Copts and their property. The good news is that the number of deaths and injuries from sectarian violence in 2012 is down significantly when compared to 2011, although there continue to be attacks and destruction of property, particular in Upper Egypt. However, perpetrators of past sectarian attacks impacting predominantly Copts – and some Muslims – such as in Alexandria in January 2011, Imbaba in May 2011, and Maspero in October 2011, have gone unpunished. For the most part, Egyptian officials told us this was not a sectarian problem, or one facing just Copts, but one that impacts all Egyptians. Officials noted that some of the investigations have produced insufficient evidence to prosecute perpetrators. Nevertheless, impunity has been a recurring problem for many years, and the new government installed since the revolution has not moved quickly to address the issue of justice and accountability.

The ongoing violence, and the failure to prosecute those responsible, continues to foster a climate of impunity, especially in Upper Egypt. In recent years, in response to sectarian violence, Egyptian authorities have conducted “reconciliation” sessions between Muslims and Christians as a way to ease tensions and resolve disputes. In some cases, authorities compelled victims to abandon their claims to any legal remedy. USCIRF continues to assert that reconciliation efforts should not be used to undermine enforcing the law and punishing perpetrators for wrongdoing.

“Contempt of Religion” and Blasphemy

Article 98(f) of Egypt’s Penal Code prohibits “contempt” or “defamation” of religions by criminalizing “any use of religion to promote or advocate extremist ideologies...with a view toward stirring up sedition, disparaging or showing contempt for any divinely revealed religion, or prejudicing national unity and social harmony.” In the past, this provision has been used to detain and prosecute individuals and members of religious groups whose practices deviate from mainstream Islamic beliefs or whose activities are alleged to jeopardize “communal harmony” or insult the three “heavenly religions”: Judaism, Christianity, and Islam. Other provisions of the penal code address various forms of religious insult. For example, Article 161 prohibits the printing and dissemination of deliberately distorted religious texts for state-protected religions (Islam, Christianity, and Judaism), and also criminalizes the mocking or ridicule of religious ceremonies in public. And Article 176 punishes public incitement and holding a religious community in hatred or contempt.

USCIRF has observed an increase in “contempt of religion” cases since the January 25, 2011 revolution, with cases impacting Muslims as well as cases disproportionately impacting Copts. We are awaiting further clarification from Egyptian officials on a number of these cases. However, I must tell you that there are fundamental differences in our approach to this issue. Some Egyptian officials told us point blank that if individuals in Egypt say things publicly that “injures” or insults the religious feelings of others, there should be consequences, including criminal prosecution.

Building Places of Worship

The building and maintenance of places of worship continues to be a major problem in Egypt, as it has been for many years. No churches were approved for construction in 2012, despite applications being submitted to governors, as currently required. We were informed that this delay was due to the stalled discussions regarding the law regulating the establishment of places of worship. In 2011 and 2012, Egyptian officials stated that there had been progress on that law. However, after the lower house of parliament was disbanded in 2012, Christian churches temporarily placed on hold negotiations about the draft law because they wanted it to be significantly revised. In all likelihood, until the People’s Assembly is elected and seated this summer, there will be no progress on this front.

Converts and Re-Converts to Christianity

Egyptian-born Muslims who have converted to Christianity simply cannot reflect their change of religious affiliation on identity documents, and in many cases, these converts also face intense social hostility. In past cases where converts have sued for the right to reflect their new religious affiliation on ID cards, Egyptian courts have ruled that Muslims are forbidden from converting from Islam based on principles of Islamic law because conversion would constitute a disparagement of the official state religion and entice other Muslims to convert.

Regarding re-converts to Christianity, there remain systemic problems for individuals who converted to Islam and decided to convert back to Christianity to have this change reflected on identity documents. Despite a July 2011 law making it easier to reflect one's religion on ID cards – and not having to declare “formerly Muslim” – it still is difficult in practice to obtain identity cards.

In some instances, converts, who fear government harassment if they officially register their change in religion from Islam to Christianity, reportedly have altered their own identification cards and other official documents to reflect their new religious affiliation. Over the years, some of these individuals have been arrested for falsifying identity documents following conversion. Other converts have fled the country for fear of government and societal repercussions.

Baha'i Community

The Baha'i community continues to be banned due to a politically-motivated 1960 decree and, as a result, the approximately 2,000 Baha'is who live in Egypt are unable to meet or engage in communal religious activities. Baha'is who are married still cannot get ID cards, which makes it impossible to conduct every day transactions including going to a bank, registering for school, and owning a car. Single Baha'is can put a dash on ID cards in the space left for religion. As Article 43 of the constitution stands, Baha'is would be unable to build places of worship since the provision only cites the “divine religions,” or Muslims, Christians, and Jews, as those authorized to build places of worship. As mentioned earlier, the only way at this point to test this provision would be for Baha'is to sue in court.

Anti-Semitism

Anti-Semitism continues to be deep-seated and pervasive throughout both society and government. Recently unearthed 2010 comments by President Morsi that urged Egyptians to “nurse our children and grandchildren on hatred” for Jews and Zionists” and another interview in which he referred to Jews as the descendants of “apes and pigs” underscore the depth to which Egyptian society is infected with these deplorable attitudes. When confronted on these comments, Egyptian officials with whom we met attempted to divert the discussion to attacks on the state of Israel.

As long as disfavored Muslims, Copts and other Christians, Baha'is and other religious minorities are not sufficiently protected, USCIRF will continue to spotlight the problem and recommend that the U.S. government take strong action in support of religious freedom. USCIRF Commissioners are in the process of deliberating on Egypt and developing policy recommendations for the U.S. government. Our 2013 Annual Report will be released to Congress by May 1.

USCIRF recommended in 2011 and 2012 that Egypt be designated a “country of particular concern”, or CPC, for systematic, ongoing, and egregious violations of religious freedom, consistent with the definition as provided in our statute. Prior to 2011, USCIRF had placed Egypt on the Commission Watch List. During 2011-2012, USCIRF concluded that the Egyptian transitional government continued to engage in and tolerate systematic, ongoing, and egregious violations of freedom of thought, conscience and religion or belief.

Let me highlight just a few of our longstanding recommendations:

- First, the United States should press Egypt to improve religious freedom conditions by repealing discriminatory decrees against religious minorities, removing religion from official identity documents, abolishing the “contempt of religion” laws, and passing a unified law for the construction and repair of places of worship.
- Second, the United States should urge Egypt’s government to prosecute government-funded clerics, government officials, or any other individuals who incite violence, while disciplining or dismissing government-funded clerics who preach intolerance and hatred.
- Third, the United States should increase pressure on Egypt to bring to justice those who have committed violence against fellow Egyptians on account of their religion.
- Finally, in 2012, USCIRF recommended that, pursuant to the Consolidated Appropriations Act of 2012 (P.L. 112-74), the U.S. government should not certify the disbursement of military assistance to Egypt until the Egyptian transitional government demonstrates that it is using funds appropriated through the Foreign Military Financing Program to implement policies that protect freedom of religion and related human rights in Egypt. As I mentioned, we are currently reviewing this recommendation related to U.S. aid to Egypt but have not yet made final determinations for our 2013 recommendations.

Madame Chair, I thank you again for the opportunity to testify before you today and look forward to any questions you might have.