



**CAIRO INSTITUTE
FOR HUMAN RIGHTS STUDIES**
Institut du Caire pour les études des droits de l'homme
مركز القاهرة لدراسات حقوق الإنسان

Police reform: A pressing need to restore security and respect human rights

A memo from Cairo Institute For Human Rights Studies

Human rights abuses committed by the Interior Ministry were one of the primary factors which triggered the revolution, which notably erupted on the day on which Egypt ostensibly celebrates Police Day. Police abuses were exacerbated by numerous factors, first and foremost by the philosophy of the Interior Ministry itself, which was primarily interested in the security of the regime at the expense of the security of citizens. Another contributing factor was the lack of professionalism among the police and the swift recourse to torture to extract confessions, rather than conducting a disciplined, professional investigation, which was encouraged by the pervading culture of impunity that protected those responsible for these crimes.

After the revolution, several rights organizations and police officers came forward with initiatives for police reform, but none of them were met by the political will needed to engage seriously with their proposals, not even in the dissolved People's Assembly.

In this brief memo, we will evaluate attempts at reform and suggest proposals for legislative and practical changes to reform the police.

Transfers within the ministry's ranks

The past 18 months have seen two major internal shuffles that affected several of the Interior Ministry's commanders and referred numerous major generals and brigadier generals to retirement. Two former interior ministers, Mansour al-Eissawi and Mohammed Ibrahim, described these shuffles as the biggest in the ministry's history. No doubt the transfers injected new blood into the police and Interior Ministry, but we believe that the shuffles, particularly the first one which took place only a few months after the revolution, were undertaken with the aim of pacifying public opinion with claims to have developed the ministry's work.

In fact, transfers and retirements are no more than administrative measures to organize operations within the ministry, and these measures fell far short of the repeated demands for a close review of officers' records for evidence of involvement in human rights crimes or corruption. Such a review would require the formation of a committee comprised of Interior Ministry leadership as well as judges nominated by the Supreme Judicial Council and rights groups. In contrast, the transfers were done by the Interior Minister in consultation with the Supreme Police Council. In terms of outcomes, a police audit may have led to criminal charges against those with proven involvement in human rights violations or corruption, whereas during the shuffles, some officers were transferred to new locales or positions while others were sent into retirement with full benefits.

An audit would contribute to the restructuring of the police based on respect for human rights by holding those responsible for crimes accountable, thus demonstrating to all a lack of tolerance for human rights abuses. Meanwhile, an internal shuffle only reinforces police impunity, allowing those who may have committed violations to enjoy a quiet retirement and thus sending a clear message that there will be no accountability for human rights crimes.

Recent legislative changes to the police law

Human rights organizations again attempted to put Interior Ministry reform on the agenda after the election of the first post-revolution parliament by submitting numerous legal proposals and attending parliamentary committee hearings with the goal of advancing radical reforms of the Interior Ministry. Yet the changes made by the People's Assembly to the police law did not embody these demands; instead, the parliament explicitly adopted the law proposed by the Interior Ministry, which focused only on improving wages and salaries with little attention to enhancing professional performance or firmly establishing

respect for human rights in Egypt. As a result the amendments only changed the wage structure for ministry personnel—albeit a necessary step—without addressing the root of the security problem in Egypt.

The People’s Assembly disregarded the following demands (based on the “Police for the people of Egypt” initiative):

- It did not uphold the civilian nature of the Interior Ministry. The system under which conscripts are loaned to the Interior Ministry for the term of their military service is the most significant indication of the militarization of the ministry, but sections of the Code of the Military Justice, such as Articles 78, 81, 87(*bis*)(a) and (4), and 99, also make police officers commanding a regular force subject to military law. The changes made to underscore the civilian nature of the Interior Ministry are seen only in Article 4 of Law 25/2012, which mandates replacing the term “military court” with “disciplinary board” throughout the law, a linguistic change that does not reflect a real transformation in the militarization of the ministry.
- The legal amendments did not touch the composition of the Supreme Police Council, which we believe must be restructured to comprise, in addition to Interior Ministry leadership, judges chosen by the Supreme Judicial Council, as well as representatives of human rights groups, to guarantee social oversight of police work. The council also requires the input of legalists and rights experts when designing Interior Ministry policy to ensure that it is consistent with laws and international human rights conventions.
- The changes did not address Article 47 of the police law, whose last paragraph exempts officers from punishment for violations of the law if it is proven that the violation was committed pursuant to an order issued by the President, even after the officer was made aware that it is a violation, which makes him an accomplice to the crime under Article 40 of the Penal Code.
- The dissolved parliament failed to amend Article 54 of the police law, which grants an officer against whom a final criminal verdict has been issued all wages suspended during his detention period, if the competent deputy minister rules that he bears no disciplinary liability. We believe that if an officer is criminally convicted, there should be no discrepancy between that ruling and any disciplinary penalty.
- The parliament also failed to address Article 102 of the police law, Paragraph 3 of which permits police to use weapons to disperse an assembly or demonstration of at least five people that endangers public security. Aside from the fact that no demonstration or assembly of five people can endanger public security, the article leaves the use of weapons up to the discretion of the President without specifying any restrictions or regulations. We also believe it is necessary to review all laws and decrees regulating the use of firearms to give due consideration to:
 - Specifying the circumstances in which police personnel may carry firearms while specifying permissible types and ammunition.
 - Guaranteeing the correct use of firearms with the least danger.
 - Banning the use of firearms and ammunition that cause needless injury or are needlessly hazardous.
 - Regulating oversight of firearms, their storage, and their issuance, including provisions that guarantee accountability for police personnel for weapons and ammunition issued to them.

- Establishing a system to report every case in which firearms are used in the course of police duty.
- Mandating the penalty for murder or attempted murder in cases where police use firearms¹ without legal cause.
- Banning the use of firearms to confront demonstrations and public assemblies, which requires abolishing Interior Minister Decree 156/1964 and replacing it with a new decree that shows due consideration for international standards for maintaining security, which ban the use of firearms and live ammunition during demonstrations and public disturbances and place strict rules on their use in all other cases.

The amendments introduced by the dissolved People's Assembly to the police law are insufficient, and the assembly should have made changes to other relevant laws to reform the police. Examples include Articles 126 and 129 of the Penal Code criminalizing torture and the use of force, which must be amended to comply with the definition of torture in the Convention Against Torture. Amendments must also be made to articles in Chapter 2, Book 2 of the Penal Code on felonies and misdemeanors that harm the government domestically, for these provisions contain amorphous language and vague criminalizing terms that may be abused by police personnel. Finally, changes must be introduced to the law on military and national service, Article 2 of which upholds the military nature of the police.

Restoring security without stiffened penalties or exceptional laws

The security vacuum is clear to all, but it cannot be used as a justification for stiffening penalties or imposing exceptional measures. As it is, the Penal Code and the Code of Criminal Procedure do not comply with international human rights standards or with modern theories on punitive legislation. We believe that restoring security requires political will above all. When the political will exists, as it did during the parliamentary and presidential elections, the security apparatus performs ably, as seen through the recent securing of the elections. When political will does not exist, however, we witness failures such as the tragic massacre that occurred during the Ahli-Masri soccer match, in which more than 70 people lost their lives.

Exceptional laws and measures will not restore the functionality of the Interior Ministry but rather will weaken police performance, which is what led security forces to rely on these measures for the past 30 years instead of doing their job to investigate, collect evidence, and conduct professional interrogations that respect the police profession and human rights. Moreover, the lack of social oversight of police actions, bans on inspecting detention facilities, and weak mechanisms to hold Interior Ministry personnel responsible for torture only exacerbated the problem of both security and human rights.

¹ For more details see, A. Osse, "Understanding Policing: A Resource for Human Rights Activists," Amnesty International, 2007.