

**EGYPT 2014**  
NATIONAL INTEGRITY  
SYSTEM ASSESSMENT

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# I. INTRODUCTORY INFORMATION

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Between 2011 and 2014, Egypt experienced perhaps the most turbulent and uncertain phase in its modern history. The elimination of widespread corruption was one of the key issues galvanising Egyptians during the 25 January revolution. Hopes were high when the Mubarak regime was toppled in 2011 that the time had come for an accountable, transparent and fair system of governance. This report provides a timely insight into the extent to which those hopes have been fulfilled, in another period of transition and uncertainty, following the removal of President Mohamed Morsi by the military in response to large demonstrations in 2013. The world is watching as Egypt seeks to rebuild itself as a country and a number of worrying signs are emerging in terms of curtailments of media freedom, freedom of association and barriers to access to justice. This current assessment is an opportunity for Egyptians as they seek to rebuild their country, providing a roadmap to reestablish institutions on a more transparent and accountable basis and to address structural issues which continue to allow corruption to flourish three years after the revolution.

Recent evidence suggests that corruption remains deeply entrenched within institutions in Egypt. In 2013, Egypt ranked 114 out of 177 countries in our Corruption Perceptions Index, which scores countries and territories around the world on their perceived levels of public sector corruption. Our Global Corruption Barometer, a global survey of 114,000 people in 107 countries, showed that in Egypt 79 per cent of respondents indicated that corruption is a problem in the public sector, with 36 per cent of respondents who had come into contact with one of the services assessed reporting having paid a bribe.<sup>1</sup>

Between April 2013 and January 2014, when the 2014 constitution was passed, we conducted a National Integrity System (NIS) assessment of Egypt,<sup>2</sup> funded by the European Commission, which evaluates the ability of key institutions within a society to play their role in fighting corruption. Previously, Transparency International conducted four NIS studies in the Middle East and North Africa region in 2009, in Egypt, Lebanon, Morocco and Palestine. In Egypt, our 2009 NIS report<sup>3</sup> found a number of structural issues allowing corruption to occur and made a series of recommendations to address these issues, including giving a voice to the people, implementing an access to information law, providing a follow-up mechanism to the reports of the Central Audit Organisation (CAO) reports, and implementing rules regarding conflict of interest, gifts and hospitality for the public sector. Unfortunately most of these recommendations were not adopted in the intervening period. The current report uses an updated methodology that has been implemented in more than 40 countries globally since 2011. The findings of the current report show a number of fundamental problems in the governance system, undermining the system and the functioning institutions in the work they do to combat corruption. This report puts forward key recommendations for reform and Transparency International urges the relevant bodies to take note and take immediate action to strengthen transparency, accountability and integrity within the public institutions and beyond.

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<sup>1</sup> Transparency International, *Global Corruption Barometer 2013: Egypt*.

<sup>2</sup> Ahead of the Curve ([www.ahead-ofthecurve.com](http://www.ahead-ofthecurve.com)) carried out the research for this report, on behalf of Transparency International.

<sup>3</sup> Transparency International, *National Integrity System assessment: Egypt, 2009*: [http://archive.transparency.org/policy\\_research/nis/nis\\_reports\\_by\\_country](http://archive.transparency.org/policy_research/nis/nis_reports_by_country)

## II. EXECUTIVE SUMMARY

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Between 2011 and 2014, Egypt experienced perhaps the most turbulent and uncertain phase in its modern history. The elimination of widespread corruption was one of the key issues galvanising Egyptians during the 25 January revolution. Hopes were high when the Mubarak regime toppled in 2011 that the time had come for an accountable, transparent and fair system of governance. This report provides a timely insight into the extent to which those hopes have been fulfilled and a roadmap for future reform, in another period of transition and uncertainty, following the removal of Mohamed Morsi by the military in July 2013 in response to large demonstrations. The NIS does this through assessing the current situation within its historical context since 2011. Its message is clear – progress needs to be faster, key institutions need reform and political actions need to focus on building a transparent, accountable and integrity-focused governance system.

### Background to the assessment

Corruption is rarely an isolated phenomenon found only within a specific institution, sector or group of actors; rather it is usually systemic and fighting it requires a holistic strategy. The Transparency International NIS assessment provides a systematic analysis of corruption risks faced by a country and produces a set of recommendations on how to mitigate those risks in the future. These recommendations can then be used by civil society, government and the private sector to promote integrity and to create structures to reduce the opportunity for corruption. To date, assessments have been completed in more than 100 countries around the world, including in the Middle East and North Africa, Latin America, Europe, Asia and Sub-Saharan Africa.

Transparency International began a NIS assessment for Egypt in 2013, funded by the European Commission. While covering a period of transition in Egypt's history and acknowledging the challenges this brings to undertaking an assessment of governance institutions, the NIS assessment points out key gaps in the anti-corruption framework and will provide a roadmap for future reforms.

The assessment focuses on an evaluation of the key public institutions and non-state actors in a country's governance system with regard to (1) their overall capacity, (2) their internal governance systems and procedures, and (3) their role in the overall integrity system. The assessment examines both the formal legal framework of each pillar and the actual institutional practice. The analysis highlights discrepancies between the formal provisions and reality on the ground, making it clear where there are gaps in the integrity system.

The assessment process in Egypt has been consultative and sought to involve key stakeholders in the country. Transparency International staff and the research team consulted widely on the report between February and December 2014, as well as throughout the process, with the NIS advisory group and the National Coordinating Committee for Combatting Corruption. All discussions have been constructive and well attended by most stakeholders, who appeared to place high importance on the dialogue.

This report puts forward a number of recommendations for reform and Transparency International urges the relevant bodies to take note and take immediate action to strengthen transparency, accountability and integrity within the public sector and beyond. This assessment

also provides a set of good governance benchmarks for the citizens of Egypt to hold their government and elected officials to account through public dialogue, through policy engagement and, ultimately, at the ballot box.

## Adapting the methodology to a time of transition

This report provides an assessment of legislation and practice starting in January 2012 and up to the release of Egypt's January 2014 constitution. This period presented itself as one of the most, if not *the most*, turbulent and uncertain phases in the modern history of Egypt, a period that was marked by continuous change not only of governments or systems but also of philosophies, strategies and ideologies. The period has seen mass protests, violent clashes with police and security forces, group arrests and allegations of torture. Allegations of human rights abuses have been levelled at both the ousted Morsi government and authorities during the assessment period.<sup>4</sup> Conducting an assessment of the status quo when so much is in flux brings with it major challenges. The only certain element by the end of this research is that this period has substantially affected the foundation of Egyptian society and the enabling environment, and that the results of such changes will be seen over generations to come.

Our approach to conducting Egypt's NIS assessment at such a transitional and volatile point in Egypt's history has been to prioritise stakeholder engagement and to ensure the inclusion of the insights of representatives from the public, private and civil society sectors. To complete the assessment we consulted with a wide range of stakeholders<sup>5</sup> through workshops, interviews and one-on-one meetings. Stakeholders consulted ranged from senior policy experts to members of the different pillars being assessed, academics and civil society practitioners. Although the time during which the NIS was conducted was and remains a continuous period of unrest and fluctuation, we remained committed to a final product that is accurate and up-to-date.<sup>6</sup>

The following sections provide an overview of main findings based on the collected data, as well as recommendations to strengthen the NIS assessment.

## Key findings of the NIS assessment

The assessment reveals some fundamental problems undermining the entire NIS system, including: the absence of the legislature (unscored)<sup>7</sup> and the dominance of the executive (57) over other pillars. While the executive scores high compared to other institutions, this can in large part be attributed to the ample resources and independence it enjoys, coupled with a distinct lack of oversight and accountability vis-à-vis other institutions. The dominance of the executive must be understood as negative for the NIS as a whole, as it has prevented other pillars from playing their part in the system.

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<sup>4</sup>See for example Human Rights Watch (2014), *World Report: Egypt*: [www.hrw.org/world-report/2014/country-chapters/egypt?page=2](http://www.hrw.org/world-report/2014/country-chapters/egypt?page=2)

<sup>5</sup> These include: Ayman Ramsees, Relief International; Mona Boraei, CAO; Dr. Dina Wafaa, American University in Cairo; Qusaii Salama, Egyptian Junior Business Association; Emad Mubarak Association for Freedom of Thought and Expression; Hana Aboul Ghar; Hazem Mounir; Kamal Sedra; Laila El-Baradei, American University in Cairo; Maged Sorour and Islam Ahmed, One World Foundation; Wadei Hanna, National Coordinating Committee for Combatting Corruption; Ahmad Sangafli, Adalah Centre; Yosry Ezbawi, Ahrum Center; Yasser Abdel Gawwad, Arab Law Office; Khaled Badawy, Rural Studies Centre; Lubna Saeed and Zaki Mohamed, National Council for Women; Ibrahim Moustafa Zahran, President of the Tahrir Egyptian Party; and Nader Bakkar, El Nour political party. Please see Annex II.

<sup>6</sup> Methodology found in Annex I. A full list of stakeholders consulted and interviews conducted is found in Annex II.

<sup>7</sup>The legislature was not scored in this assessment, given its current absence.

Further issues with the judiciary (53) have called into question the separation of powers, a fundamental tenet of any democracy.

The lack of an access to information law and restrictions on the work of civil society (40) and the media (45) furthermore affect accountability and transparency across the NIS, with each pillar lacking the mechanisms for members of the public to understand their work and hold them accountable.

### Overall assessment of the integrity system

Egypt ratified the United Nations Convention against Corruption (UNCAC) in 2005.<sup>8</sup> However, overall, the “pillars” of the integrity system in Egypt are found to be weak to average in terms of their integrity, with few exceptions. The pillars that emerge from the assessment as relatively strong in terms of adherence to NIS indicators and in relation to other pillars are the supreme audit institution and executive, followed by the judiciary; however, all three face serious shortcomings in their ability to be effective anti-corruption actors. It is important to reiterate that the strength of the executive pillar is not necessarily a positive sign – its high score reflects ample resourcing and a troubling degree of independence, which facilitates its current dominance over other pillars. The weakest pillars are the law enforcement agencies, the anti-corruption agency (which only exists in the form of an inter-ministerial committee headed by the minister of justice), and civil society.

In general, pillars tended to score better on law than on practice, meaning that while the legislation does at times provide the framework necessary for the NIS, in reality institutions do not live up to the rules in place and implementation of laws is generally weak.

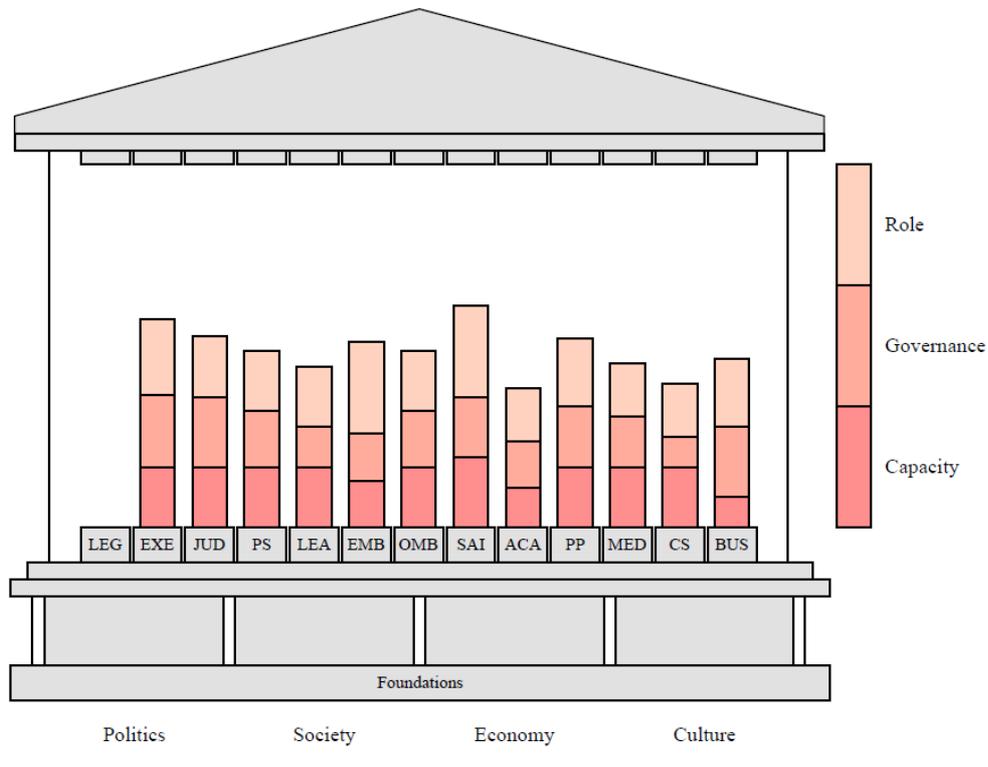
Notwithstanding this general trend, a number of laws are found to act as limitations to the strength of pillars, including civil society funding laws, while other laws do not go far enough, for example in not requiring public asset disclosure and in not providing the audit institution with enforcement powers.

The following diagram visualises the results for the pillars and illustrates their relative strength. The overall score for each pillar is made up of the quantitative assessment of the three dimensions: capacity, governance and role.

PILLAR	SCORE (MAX. 100)
Legislature	Unscored
Executive	57
Judiciary	53
Public sector	49
Law enforcement agencies	44
Electoral management body	51
Ombudsperson	49
Supreme audit institution	61
Anti-corruption agency	38
Political parties	52
Media	45
Civil society	40
Business	46

<sup>8</sup>United Nations Treaty Collection, *United Nations Convention Against Corruption*:[https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-14&chapter=18&lang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-14&chapter=18&lang=en) [accessed 4 August 2014].

## National Integrity System



LEG.	Legislature	SAI.	Supreme Audit Institution
EXE.	Executive	ACA.	Anti Corruption Agencies
JUD.	Judiciary	PP.	Political Parties
PS.	Public Sector	MED.	Media
LEA.	Law Enforcement Agencies	CS.	Civil Society
EMB.	Electoral Management Body	BUS.	Business
OMB.	Ombudsman		

### NIS pillars

The pillars of the NIS include the core governance institutions – legislature, Executive and Judiciary – which are the three pillars essential to basic functioning democracy. These are supported by the public sector, law enforcement and a range of public watchdog and oversight institutions such as audit institutions and anti-corruption agencies, which provide a check on the powers and perform key anti-corruption functions. Finally all of these public institutions exist in a broader societal environment consisting of political parties, civil society, business and media, which can either enable or hamper the overall integrity of the system. The follow section outlines our key findings with respect to these groups of institutions.

### Core governance institutions

The **legislature** is one of the most important pillars of any integrity system and the notable absence of a functioning parliament in Egypt is of grave concern and in need of urgent reform for the NIS to function. Since 2012 the lower house has not functioned and since July 2013, the executive alone is exercising legislative authority. In practice there is no functioning legislature

in Egypt at the time of publication of this report. As the situation remains unstable and uncertain, a fair assessment of the status of the legislative authority was not possible and was not scored as a pillar; only the legislative environment was assessed. The assessment still identified however that some key laws are missing, including a code of conduct for parliamentarians.

Due to the excessive independence, lack of oversight and dominance over other pillars that the **executive** currently enjoys, it emerges from this assessment with a relatively high score. This high score is not necessarily a positive sign, but reflects the role the executive currently plays in Egypt. Over the timespan covered for this assessment, Egypt has had five different cabinets. With the frequent shifts and re-shuffles, accurately assessing the degree of independence in practice is a challenge. While senior staff are often well-educated, and budgetary figures are high, this does not necessarily guarantee a sufficiency in resources available at the executive's disposal. Transparency is lacking in the executive – the 2014 state budget was not published at the time of assessment and not all ministries have websites. Positively, however, the 2013 conflict of interest law with post-employment restrictions is a good step in better ensuring integrity within the executive.

Despite constitutional and legal independence, low salaries and discretionary enhancements in the **judiciary** weaken its ability to be an effective anti-corruption institution. A lack of physical and technical resources and a low incidence of asset declarations reduce the ability and perception of judicial accountability.

## Public sector, law enforcement and watchdog institutions

While the **public sector** has a comparatively large budget, resources are not sufficient for covering both salaries and the provision of quality services. Physical and technical resources available to different branches of the public sector vary dramatically from urban to rural and wealthier to poorer neighbourhoods. While it is very complicated to remove public personnel from office, senior public sector officials have been frequently re-deployed in concurrent political shifts. The fact that it is difficult to remove public staff guarantees the independence of public sector employees, but also creates a lack of accountability, as dismissal is a challenge. Access to information is generally difficult; however, several public sector bodies are trying to publicise their activities through an e-government portal.

**Law enforcement** has sufficient budgetary resources, clear laws for recruitment and promotion and a police officer code of conduct, but it faces political interference and lacks accountability and transparency mechanisms. The existing legal framework is ineffective in protecting citizens from unjust use of power by the police in some cases. Overall it is a weak pillar, as legal loopholes allow for undue influence from the executive and the Supreme Council of the Police limits public accountability for police personnel, while there is no mechanism for complaints about law enforcement, meaning that the police are left to investigate themselves, affecting their accountability.

No specific **anti-corruption commission exists** in Egypt. For this report, we therefore assessed the National Coordinating Committee for Combating Corruption (NCCCC), which plays part of the strategic and guiding role of an anti-corruption commission. The NCCCC is a statutory body made up of representatives from government ministries to implement the UN Convention Against Corruption in Egypt, to create a unified anti-corruption strategy across the government, and to review primary and secondary anti-corruption legislation. It has an independent budget, but this is not published; nor is there a public list of its activities. The

committee coordinates the 28 oversight bodies within Egypt that have an anti-corruption mandate, but does not have any enforcement powers of its own, and is working to introduce anti-corruption courses at state universities. Its limited role however and the lack of a truly independent anti-corruption commission made this the second weakest pillar and another urgent reform priority.

Egypt's Supreme Elections Committee (SEC), the **electoral management body**, is made up of judges and has constitutional independence. As judges are governed by strict rules on integrity, the SEC reflects this. While the SEC is allocated an independent budget, this budget does not necessarily guarantee an elections process that is sufficiently financed. Resources available to complete the voting process still greatly vary across the country. Technical resources and especially the SEC's capacity to effectively manage the elections process have also been issues of concern. The SEC publishes results and makes information about voting centres available online and via different communication mediums. Concerns exist about accountability in both law and practice, especially with regard to disbursement of funds at its disposal. A major weakness of the SEC is that it has not been actively involved in campaign management as well as ensuring that expenditure limits are not exceeded. The Carter Center indicated a need for greater staff training, after monitoring the 2014 constitutional referendum.<sup>9</sup> Oversight of election funding, resource allocation and training are priorities for the SEC to address.

While Mohamed Morsi planned on introducing a national **ombudsperson**, this was never fully implemented. During the time of the assessment there was no one entity or position specifically dedicated to the role of ombudsperson; rather, two projects, one under the National Council for Human Rights (NCHR) and the other under the National Council for Women (NCW), perform the role of the ombudsperson. These sub-offices are differently set up and have different outreach levels across the country. The current offices are playing an important role in conducting investigations and fact-finding missions, as well as issuing reports regarding major national violations of human rights. However, no legal provisions mandate these offices to be transparent and little information is publicly available on prosecutions and convictions resulting from their investigations.

The **supreme audit institution**, the CAO, emerges as the strongest of the watchdog institutions, with an integral function in safeguarding integrity and good governance in Egypt. A major strength within the CAO is that several legal and regulatory provisions maintain its independence. For example, the CAO's independence is enshrined in the constitution and it internally allocates its budget; in practice, the CAO has also maintained its independence. The CAO has access to all public expenditure documents, enabling it to identify many cases of corruption. Weaknesses within the regulatory framework, however, prevent such advantages from translating into tangible effects with regard to safeguarding integrity at a practical level. Main weaknesses within the current framework are the fact that the CAO does not have any power of enforcement, a point made in our 2009 NIS assessment, and the fact that the CAO itself is not subject to an enforceable code of conduct or an audit by an independent external auditor. Addressing these two points would make the CAO a strong pillar within the NIS.

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<sup>9</sup>Carter Center Reports, مركز كارتر بحث على عملية شاملة لتلاصلا صلاح الدستور بيو توسيع المجال السياسي قبيل الاستفتاء في مصر, January 2014: [www.cartercenter.org/resources/pdfs/news/pr/egypt-010614-arabic.pdf](http://www.cartercenter.org/resources/pdfs/news/pr/egypt-010614-arabic.pdf)

## Non-state actors of the NIS

Since 2011 the number of active **political parties** has greatly increased, as well as their ability to independently operate in the political sphere. The constitution allows for a multiple-party system; however, some newly emergent political parties suffer from a weak capacity to reach out to a broad base of citizens and to organise their constituencies, consequently affecting their capacity to effect real change in fighting corruption. The overall legal framework under which political parties function does not guarantee their independence, accountability or transparency, especially with regard to financing and campaign expenditure.

Despite the existence of thousands of organisations across the country, **civil society** is another weak pillar in need of support. A succession of governments and the legal framework have strongly hampered civil society from being a strong anti-corruption advocate, which was a finding also of the 2009 NIS report. The legal framework continues to give the state excessive power and thus leverage over the types of activities civil society organisations (CSOs) can engage in, the composition of CSOs' boards and management structures, and the funds they may receive.<sup>10</sup> The highly restrictive framework has also led to an overall environment where transparency and reporting on activities and funding is almost nonexistent, due to fear of scrutiny or persecution. Transparency International was however able to monitor the constitutional referendum in January 2014.<sup>11</sup>

Recent advancements in Egypt's **business** regulatory framework have facilitated certain stages of doing business, but it still remains one of the weaker pillars. Advancements among the stock market and regulatory bodies in terms of issuing good governance standards, for example, paired with a vibrant community of business associations concerned with responsible business practice, have resulted in an enhanced level of awareness regarding the different components of responsibility, ranging from protecting human rights to combating corruption and adopting good governance practices. However, several weaknesses within the regulatory framework and actual practices regarding the different aspects of integrity remain present. While registering a business has become a simpler process, enforcing contracts and obtaining licences remain bureaucratic and burdensome, and often impossible to complete without resorting to "facilitation payments" or bribes. Moreover, while more dialogue and resources exist around issues of corporate accountability, and good governance in particular, there remains a lag regarding the actual application of such practices.

The **media** have witnessed several dramatic shifts over the past three years. A rise in online, crowd-sourced and citizen journalism media has diversified the types of information accessible to the general public. The rise in citizen journalism has also meant that the general public is no longer reliant on traditional sources of information, such as state-owned or privately-owned satellite channels, which remain, to an extent, under the state's control. Self-censorship, harassment and imprisonment of journalists and media personnel, however, remain a major concern, as well as the restrictive legal framework governing broadcast and television channels.

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<sup>10</sup>Transparency International, *Transparency International Concerned about Egyptian Court Ruling Against Civil Society*, 4 June 2013: [www.transparency.org/news/pressrelease/transparency\\_international\\_concerned\\_about\\_egyptian\\_court\\_ruling\\_against](http://www.transparency.org/news/pressrelease/transparency_international_concerned_about_egyptian_court_ruling_against) [accessed 4 August 2014].

<sup>11</sup>Transparency International, *Transparency International Makes Recommendations After Observing Egypt*, 16 January 2014: [www.transparency.org/news/pressrelease/transparency\\_international\\_makes\\_recommendations\\_after\\_observing\\_egypt\\_refe](http://www.transparency.org/news/pressrelease/transparency_international_makes_recommendations_after_observing_egypt_refe) [accessed 4 August 2014].

Egypt has become an increasingly dangerous place to undertake journalism.<sup>12</sup>This limits the ability of the media to be an effective anti-corruption institution and is a reform priority. Transparency within existing media outlets, traditional or non-traditional, also remains weak.

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<sup>12</sup>Committee to Protect Journalists, On the Divide Press Freedom at Risk in Egypt, 14 August 2013; Sherif Mansour, Egypt's journalists speak out against repression, self-censorship, Committee to Protect Journalists, 4 November 2014, <https://cpj.org/blog/2014/11/egypts-journalists-speak-out-against-repression-se.php>.

## Recommendations

1. [Pass and implement an access to information law](#). The lack of transparency and access to information is a cross-cutting barrier to an effective NIS. The government and legislature, when constituted, should urgently pass and effectively implement an access to information law that complies with international standards. This was a recommendation also made in our 2009 NIS assessment.
2. [Give a voice to the people](#). CSOs are hindered from carrying out their role by the regulatory environment, as per our 2009 report. The government should immediately reform the CSO Law (84/2002), Freedom of Assembly Law and other laws to allow CSOs to operate in an environment where they can be effective anti-corruption watchdogs. Development agencies should focus on strengthening the capacities of CSOs.
3. [Establish an independent anti-corruption commission](#). The inter-ministerial committee is not an active player in pushing forward national anti-corruption strategies. The government should establish a politically independent and well-resourced anti-corruption commission with prosecutorial powers that unifies the work of the 28 existing anti-corruption bodies. Establishing an independent anti-corruption commission is a prerequisite for a functioning NIS.
4. [Promote political party engagement](#). The capacity of many political parties to engage with their constituencies and to develop programmes is low. Development agencies and concerned actors should support political parties to become credible and effective advocates for anti-corruption policy and legal reform before and after the upcoming elections.
5. [Reform judicial appointments](#). The role of the executive in the appointment of the public prosecutor and senior judges limits the perception of fair enforcement of anti-corruption laws. The government should legislate to make these institutions independent of executive control.
6. [Establish a police complaints mechanism](#). The government should establish an independent police complaints commission with the mandate of transparently and accountably investigating and enforcing complaints made by the public against police personnel.
7. [Bolster supreme audit institution enforcement powers](#). A key weakness in the CAO is its lack of enforcement powers. The government should provide it with the power to require public bodies and ministries to respond publicly to its reports and create a mechanism for CAO findings to trigger corruption investigations, as recommended by Transparency International in 2009.
8. [Promote inclusive regulatory reform](#). Despite the ongoing legal reforms, stakeholders feel that progress has been slow and reforms have not produced sound results. The government (and Parliament when reconstituted) should ensure that a systematic process for inclusive stakeholder consultation and assessment of comparative best practice is included before passing laws.

## IV. COUNTRY PROFILE

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The government of Egypt was dominated by former President Hosni Mubarak and the National Democratic Party from 1981 until February 2011, when President Mubarak was removed from power through a popular uprising. The Supreme Council of the Armed Forces (SCAF) took control of the country following the revolution, promising a transition to civilian rule. Between February 2011 and July 2012, SCAF exercised executive powers, before handing these over to Mohamed Morsi after presidential elections largely seen as free and fair. On the 3 July 2013, Morsi was forcibly removed from power by the security forces, following a series of large-scale protests in the preceding days. Between July 2013 and June 2014, Adly Mansour, the head of the Constitutional Court, was interim president, exercising executive powers.<sup>13</sup> In June 2014, Abdel Fatah al-Sisi was elected president of Egypt.<sup>14</sup>

No legislative body has functioned in Egypt since July 2013. Elections for the directly elected lower house of Parliament – the People’s Assembly – were held in January 2012; however, this house was dissolved by order of the courts in July 2012 due to unconstitutionality of the election laws. The upper house – the Shura Council – has a mix of presidential appointments and direct elections. Elections for this were held in early 2012 and presidential appointees were named in December 2012, with the Shura Council exercising sole legislative authority after the dissolution of the People’s Assembly. This house was dissolved in July 2013 alongside the removal of Mohamed Morsi.<sup>15</sup>

Following the 2011 revolution, the constitution was suspended and replaced by an interim constitutional declaration. In December 2012, Morsi’s government secured by referendum a new constitution, which was suspended and replaced by an interim constitutional declaration in July 2013. A constitutional drafting committee worked on a new draft constitution for the latter half of 2013 and in January 2014; this draft was approved by referendum.<sup>16</sup> Egypt operated under a state of emergency law from 1981 until May 2012 and again between August and November 2013, when the courts ended the state of emergency and lifted the curfew that the government had imposed.<sup>17</sup>

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<sup>13</sup>Freedom House, *Freedom in the World 2014: Egypt*, US State Department, *Country Reports on Human Rights Practices for 2013: Egypt*.

<sup>14</sup>Patrick Kingsley, “Abdel Fatah al-Sisi won 96.1% of vote in Egypt presidential election, say officials”, *The Guardian*, 3 June 2014.

<sup>15</sup>Freedom House, *Freedom in the World 2014: Egypt*.

<sup>16</sup>*Ibid.*

<sup>17</sup>*Ibid.*; Bertelsmann Foundation, *BTI 2014: Egypt Country Report*.

## Political-institutional foundations

### TO WHAT EXTENT ARE THE POLITICAL INSTITUTIONS IN THE COUNTRY SUPPORTIVE OF AN EFFECTIVE NATIONAL INTEGRITY SYSTEM?

In the period of this assessment, the political institutions in Egypt have been in a state of flux and staggered transition towards democracy. The Mubarak era witnessed a systematic weakening of the political opposition.<sup>18</sup> After the demonstrations on 25 January 2011, the military issued a communiqué declaring that it was intervening to protect the country and “to sponsor the legitimate demands of the people.”<sup>19</sup> The popular uprising in January 2011 was not supported by opposition figures and since then they have been largely excluded from public office. When Morsi came to power in July 2012 this exclusion continued and extended to appointing members of the Muslim Brotherhood in leadership positions within the government. Other political parties were not represented in the government.<sup>20</sup> A democratic culture is not yet established in the political institutions and therefore politics remains deeply polarised with little cross-party cooperation.

Since 2010, the government has created electronic complaints systems on various government websites, as well as establishing a hotline for the Administrative Prosecution to receive citizen complaints.<sup>21</sup> The NCHR and the NCW reach out to citizens through mobile<sup>22</sup> and representative offices across the Egyptian governorates.<sup>23</sup> No statistics are available on the effect of reporting in addressing the levels of corruption and/or the rate of violations of citizens’ rights.

## Socio-political foundations

### TO WHAT EXTENT ARE THE RELATIONSHIPS AMONG SOCIAL GROUPS AND BETWEEN SOCIAL GROUPS AND THE POLITICAL SYSTEM IN THE COUNTRY SUPPORTIVE TO AN EFFECTIVE NATIONAL INTEGRITY SYSTEM?

The Egyptian people are divided based on geography, class and religion. Egypt suffers from a shrinking middle class,<sup>24</sup> with more than a quarter of the population considered “poor”<sup>25</sup> and a concentration of wealth in the hands of a small number of people, often with ties to decision makers.<sup>26</sup> The traditional political elite faces a diminishing role in society, restricting its ability to effect change.<sup>27</sup>

<sup>18</sup>Galal Amin, *Masr walmasreyeen fi asr Mubarak [Egypt and the Egyptians during the Mubarak Era]* (Cairo: Dar Merit, 2009).

<sup>19</sup>Ozan O. Varol, “The Democratic Coup D’État”, *Harvard International Law Journal*, vol. 53, no. 2, 2012, cited in M. Patrick Yingling and Mohamed A. Arafa, “After the Revolution: Egypt’s Changing Forms of Corruption”, *University of Baltimore Journal of International Law* (2014, forthcoming): <http://ssrn.com/abstract=2246459>

<sup>20</sup>Alaa El-Deeb, “Nightmare democracy”, *AlMasryAlYoum*, 3 November 2011:

[www.almasyalyoum.com/news/details/343063](http://www.almasyalyoum.com/news/details/343063)

<sup>21</sup>Mohamed Ahmed Saadani, «الخط الساخن لـ«النيابة الإدارية» يتلقى ١٥ ألف شكوى ضد الفساد في ٥٠ يوماً», *AlMasryAlYoum*, 16 November 2010: <http://today.almasyalyoum.com/article2.aspx?ArticleID=277480>

<sup>22</sup>National Council for Human Rights website: [www.nchregypt.org/index.php/complaints-bureau.html](http://www.nchregypt.org/index.php/complaints-bureau.html)

<sup>23</sup>National Council for Women website: [www.ncwegypt.com/index.php/ar/about-ncw/committees-of-the-council/158-goverara](http://www.ncwegypt.com/index.php/ar/about-ncw/committees-of-the-council/158-goverara)

<sup>24</sup>Ahmad Zayed, “The rise and fall of Egypt’s middle class”, *Al-Monitor*, 13 May 2014: [www.al-monitor.com/pulse/ar/culture/2014/05/egypt-middle-class-rise-fall.html](http://www.al-monitor.com/pulse/ar/culture/2014/05/egypt-middle-class-rise-fall.html)

<sup>25</sup>“26.3% of Egypt is poor: CAPMAS”, *Daily News Egypt*, 2 December 2013: [www.dailynewseggypt.com/2013/12/02/26-3-of-egypt-is-poor-capmas/](http://www.dailynewseggypt.com/2013/12/02/26-3-of-egypt-is-poor-capmas/)

<sup>26</sup>Mohamed Salmawy, «أى شبكة مصالح؟», *AlMasryAlYoum*, 23 December 2012: [www.almasyalyoum.com/news/details/192468](http://www.almasyalyoum.com/news/details/192468)

<sup>27</sup>Gamal Nassar, “The crisis of the Egyptian political elite”, *Middle East Monitor*, 11 February 2011: [www.middleeastmonitor.com/articles/africa/9684-the-crisis-of-the-egyptian-political-elite](http://www.middleeastmonitor.com/articles/africa/9684-the-crisis-of-the-egyptian-political-elite)

Christians are largely excluded from leadership positions in the government and face societal discrimination. Sectarian violence has included killings, destruction of property and places of worship of religious minorities.<sup>28</sup> Linguistically, Egyptians living in the far South of Nuba speak Nubi:<sup>29</sup> a language only spoken. This group faces both official and societal discrimination and marginalisation.<sup>30</sup>

Conflict between the state and the citizens is frequently resolved through violence. The ending of the sit-ins post-January 2011 has often been violent, the most recent of which at the Rabia' Al Adawiyah Mosque ended in over 600 victims according to the National Human Rights Council.<sup>31</sup>

There is little scope for CSOs to help those in need. With notable exceptions, civil society is fragile and unable to pressure decision makers to address the issues on their agenda. This is due to restrictions to their activities, developed under the false pretence that they cause unrest within society.<sup>32</sup>

## Socio-economic foundations

### TO WHAT EXTENT IS THE SOCIO-ECONOMIC SITUATION OF THE COUNTRY SUPPORTIVE TO AN EFFECTIVE NATIONAL INTEGRITY SYSTEM?

Egypt is home to more than 87 million people, living in highly populous areas around the Nile.<sup>33</sup> The latest statistics by CAPMAS show a spike in poverty indicators, jumping 1.1 per cent in the last fiscal year.<sup>34</sup>

Unequal division of wealth is evident in extreme poverty. The expenditures of around 5.6 per cent of Egyptian families – currently 19 million nationwide – are less than LE10,000 (US\$1,452) per year, while 6.2 percent of total families spend more than LE50,000 (US\$7,259) annually.<sup>35</sup>

Only 22,250 Egyptians have wealth that exceeds US\$1 million,<sup>36</sup> indicating a concentration of wealth at the top.

Levels of unemployment have climbed over the past few years, with a current 25 per cent unemployment rate for youth aged 16-25,<sup>37</sup> while high levels of public sector employment mean that the state budget focuses on wages over services.<sup>38</sup> Basic services that should be provided

<sup>28</sup>US State Department, *Human Rights Report 2013: Egypt*.

<sup>29</sup>Peter Schwartzstein, "Changing Egypt Offers Hope to Long-Marginalized Nubians", *National Geographic*, 31 January 2014: <http://news.nationalgeographic.com/news/2014/01/140131-egypt-nubia-dams-nile-constitution-culture/>

<sup>30</sup>Ibid.

<sup>31</sup><http://www.sis.gov.eg/Newvrfinal%20rab3a%20report%20march2014.pdf>

<sup>32</sup>Adam Pickering, "By trying to control civil society, the Egyptian government could fuel more social unrest", *New Statesman*, 21 May 2014: [www.newstatesman.com/world-affairs/2014/05/trying-control-civil-society-egyptian-government-could-fuel-more-social-unrest](http://www.newstatesman.com/world-affairs/2014/05/trying-control-civil-society-egyptian-government-could-fuel-more-social-unrest)

<sup>33</sup>State Information Service, [http://www.sis.gov.eg/Ar/Templates/Articles/tmpArticles.aspx?CatID=19#.VRAja\\_mUde8](http://www.sis.gov.eg/Ar/Templates/Articles/tmpArticles.aspx?CatID=19#.VRAja_mUde8)

<sup>34</sup>"Egypt's poverty rate rises to 26% in 2012/13: CAPMAS", *Ahram Online*, 28 November 2013:

<http://english.ahram.org.eg/NewsContent/3/12/87776/Business/Economy/Egypt-poverty-rate-rises-to-in-CAPMAS.aspx>

<sup>35</sup>Ibid.

<sup>36</sup>Noha Moustafa, "Growing wealth disparities", *Al-Ahram Weekly*, 31 October 2013:

<http://weekly.ahram.org.eg/News/4548/18/Growing-wealth-disparities.aspx>

<sup>37</sup>Mohsen Abdel Razek, "Statement regarding the 2014/2015 state budget", *AlMasryAlYoum*, 30 June 2014: [www.almasryalyoum.com/news/details/473560#.U7FzlaA\\_hQw.facebook](http://www.almasryalyoum.com/news/details/473560#.U7FzlaA_hQw.facebook)

<sup>38</sup>Ibid.

by the government to the citizens are unmet. Access to clean water is a privilege<sup>39</sup> and informal housing makes up a large proportion of the owner and rental market.<sup>40</sup>

## Socio-cultural foundations

### TO WHAT EXTENT ARE THE PREVAILING ETHICS, NORMS AND VALUES IN SOCIETY SUPPORTIVE TO AN EFFECTIVE NATIONAL INTEGRITY SYSTEM?

Addressing corruption was one of the main reasons for the outbreak of the January 2011 revolution;<sup>41</sup> however, with the continuous unrest in the political scene as well as the difficult living conditions, trust in the government is low.<sup>42</sup> Corruption is significant in the informal sector, which amounts to 40 to 70 per cent of the economy, where bribes to government officials are common.<sup>43</sup> Bribes are often referred to as a “*Ekramiya*” in colloquial terms, and are able to thrive in a system that lacks transparency and unmonitored special budget lines.<sup>44</sup> Administrative corruption is quite common according to the 2010 Global Integrity Report, outlining that government officials offer privileged tax cuts to a wealthy business elite<sup>45</sup> while small business owners suffer higher tax rates.<sup>46</sup>

The World Values Survey (2010-2014) found that almost 80 per cent of Egyptians do not feel that most people can be trusted.<sup>47</sup> Where society remains polarised and interpersonal trust is low, different forms of favoritism, particularly nepotism, can thrive in the country’s political and economic sphere.

64 per cent of Egyptians however feel that ordinary people can make a difference in the fight against corruption,<sup>48</sup> indicating a continuing commitment by the Egyptian people to address this phenomenon.

<sup>39</sup> Isabel Bottoms, *Water Pollution in Egypt: Causes and Concerns*, Egyptian Center for Economic & Social Rights, March 2014: <http://ecesr.org/en/wp-content/uploads/2014/03/ECESR-Water-Pollution-En.pdf>

<sup>40</sup> David Sims, “The Arab Housing Paradox”, *Cairo Review of Global Affairs*, 24 November 2013: [www.aucegypt.edu/gapp/cairoreview/Pages/articleDetails.aspx?aid=458](http://www.aucegypt.edu/gapp/cairoreview/Pages/articleDetails.aspx?aid=458)

<sup>41</sup> Duncan Green, “What caused the revolution in Egypt?”, *The Guardian*, 17 February 2011.

<sup>42</sup> “Egypt From Tahrir to Transition”, *Gallup*: [www.gallup.com/poll/157046/egypt-tahrir-transition.aspx](http://www.gallup.com/poll/157046/egypt-tahrir-transition.aspx)

<sup>43</sup> Chatham House, *Middle East and North Africa Programme: Egypt dialogue workshop summary. Defining and Tackling Corruption* (London: Chatham House, 2012):

[www.chathamhouse.org/sites/default/files/public/Research/Middle East/0212egyptsummary\\_corruption.pdf](http://www.chathamhouse.org/sites/default/files/public/Research/Middle%20East/0212egyptsummary_corruption.pdf)

<sup>44</sup> Andrew Puddephatt, *Corruption in Egypt*, Global Partners & Associates, 2012: [www.gp-digital.org/wp-content/uploads/pubs/Corruption-in-Egypt-Report-new-cover.pdf](http://www.gp-digital.org/wp-content/uploads/pubs/Corruption-in-Egypt-Report-new-cover.pdf)

<sup>45</sup> Global Integrity, “Egypt”, *The Global Integrity Report: 2010*: [www.globalintegrity.org/global/the-global-integrity-report-2010/egypt/](http://www.globalintegrity.org/global/the-global-integrity-report-2010/egypt/)

<sup>46</sup> Global Advice Network Integrity Solutions, “A Snapshot of Corruption in Egypt”, *Business Anti-Corruption Portal*, 2013: [www.business-anti-corruption.com/country-profiles/middle-east-north-africa/egypt/snapshot.aspx](http://www.business-anti-corruption.com/country-profiles/middle-east-north-africa/egypt/snapshot.aspx)

<sup>47</sup> World Values Survey, *World Values Survey Wave 6: 2010-2014*: [www.worldvaluessurvey.org/WVSONline.jsp](http://www.worldvaluessurvey.org/WVSONline.jsp)

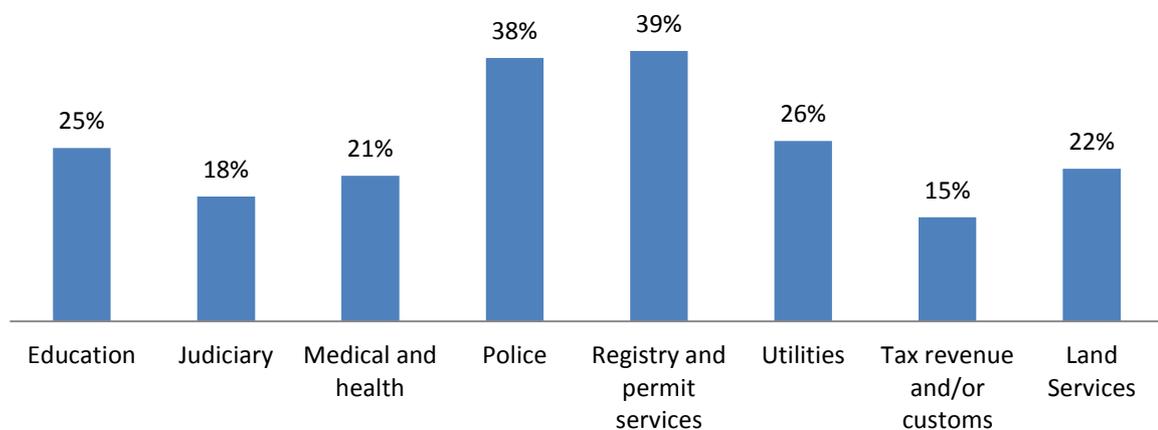
<sup>48</sup> Global Corruption Barometer 2013, *Transparency International*.

# V. CORRUPTION PROFILE

2013 Corruption Perceptions Index Ranking: 114 / 177

Corruption is one of Egypt's most persistent problems. In Transparency International's 2013 Global Corruption Barometer, a public opinion survey of corruption, 79 per cent of respondents indicated that corruption is a problem in Egypt's public sector, with 36 per cent of respondents who had come into contact with one of the services assessed reporting having paid a bribe.<sup>50</sup>

## HAVE YOU OR ANYONE IN YOUR HOUSEHOLD PAID A BRIBE TO ONE OF THESE EIGHT SERVICES IN THE LAST 12 MONTHS?\*



\* Note: results shown for those who came into contact with a service.

In response, the government and Parliament have worked on adapting the legislative and legal framework over the past few decades to tackle corruption and promote integrity, transparency and accountability.<sup>51</sup> Prior to the 25 January 2011 protests, former president Hosni Mubarak and his political party, the National Democratic Party (NDP), had considerable influence over anti-corruption initiatives and agencies. This resulted in widespread impunity for corruption offences of members or allies of the regime and the use of anti-corruption rules to target the opposition.<sup>52</sup>

Cairo University's Political Research Center released a report in 2009 exposing the cost of corruption in Egypt as totaling up to US\$9 billion a year,<sup>53</sup> while more recent reports go as high as US\$37 billion.<sup>54</sup> This number is estimated based on the loss of employment opportunities, foreign investment, and embezzled and wasted public funds.

The 25 January 2011 revolution had roots in addressing this issue and in holding government leaders accountable. The revolution provided Egyptians with a rare opportunity to repair the

<sup>49</sup>Transparency International's Corruption Perceptions Index scores countries and territories around the world on their perceived levels of public sector corruption.

<sup>50</sup>Transparency International, *Global Corruption Barometer 2013: Egypt*.

<sup>51</sup>Minister of State for Administrative Development, *Executive summary: The second report of the transparency and integrity committee "action priorities and its mechanisms"*.

<sup>52</sup>Puddephatt, 2012.

<sup>53</sup>Hamdi Kasem, "MP: Corruption costs LE63 billion a year", *Egypt Independent*, 13 December 2009: [www.egyptindependent.com/news/mp-corruption-costs-le63-billion-year](http://www.egyptindependent.com/news/mp-corruption-costs-le63-billion-year)

<sup>54</sup>Nesma Nowar, "Corruption on the rise", *Al-Ahram Weekly*, 8 December 2011: <http://weekly.ahram.org.eg/2011/1075/ec4.htm>

fundamentals of the NIS. The post-revolution era witnessed high-profile court cases against Mubarak and his officials related to corruption, including abusing power to amass wealth, insider trading, abuse of public funds, profiteering and money laundering. While Mubarak and his sons were acquitted of corruption charges, most high-profile officials received prison time and hefty fines for corruption offences.<sup>55</sup>

For many, however, the hopes of reform have turned to disappointment. This is in part due to wider constitutional issues, with the Morsi government's seeming failure to respect the diversity of Egyptian society – the 2012 draft Constitution was criticised for its lack of human rights protections and its deference to Islam in state affairs.<sup>56</sup> However, there is also a widespread belief that corruption has actually increased following the revolution, with 64 per cent of Egyptians stating this in the Global Corruption Barometer 2013.<sup>57</sup>

## Transparency indicators

Holistic assessments of Egypt's transparency and governance systems during the assessment period were limited by the lack of official data, which results in a reliance on rumours and opinion.<sup>58</sup> This is especially problematic at this juncture in history, when political leaders and government officials are altered on a regular basis. For a more fair assessment, most studies are complemented with interviews from key figures and relevant focal points in the country. Aggregated data of the major corruption assessments in Egypt showed that although voice and accountability were higher in 2012 compared to before 2011, government effectiveness, regulatory quality, rule of law and total control of corruption have been declining.<sup>59</sup>

Rankings related to business transparency and growth have also been in decline post-revolution. In the 2012/2013 Global Competitiveness Report, Egypt dropped 13 positions to 107<sup>th</sup> place due to political and economic instability.<sup>60</sup> The report stated that while the ease of starting a business gave the country a competitive advantage, corruption is consistently one of the largest impediments to business growth. In tandem the 2012 Open Budget Survey, which monitors budget transparency and accountability, gave Egypt a score of 13/100, dropping 36 points from its 2010 score of 49.<sup>61</sup>

## Uncovering the roots of corruption

According to a recent study by Chatham House, the criminalising nature of the state causes citizens to act outside the boundaries of the law in order to move processes forward. This is significant in the informal sector, which amounts to between 40 to 70 per cent of the economy, where bribes to government officials are a common way to avoid taxes.<sup>62</sup> These facilitation payments or bribes, often referred to as a "Ekramiya" in colloquial terms, are able to thrive in a system that lacks transparency and unmonitored special budget lines.<sup>63</sup> This type of administrative corruption is quite common according to the 2010 Global Integrity Report,

<sup>55</sup> "Egypt trials: Mubarak officials' charges and verdicts", *BBC News*, 12 June 2014: [www.bbc.co.uk/news/world-middle-east-14389223](http://www.bbc.co.uk/news/world-middle-east-14389223)

<sup>56</sup> Yingling and Arafa, 2014, forthcoming.

<sup>57</sup> Transparency International, *Global Corruption Barometer 2013*.

<sup>58</sup> Puddephatt, 2012.

<sup>59</sup> World Bank, "Country data report for Egypt, Arab Rep., 1996-2012", *Worldwide governance indicators*: <http://info.worldbank.org/governance/wgi/pdf/c67.pdf>

<sup>60</sup> Klaus Schwab, ed., *The Global Competitiveness Report 2013-2014*. (Geneva: World Economic Forum, 2013): [http://www3.weforum.org/docs/WEF\\_GlobalCompetitivenessReport\\_2013-14.pdf](http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2013-14.pdf)

<sup>61</sup> Egyptian Initiative for Personal Rights, "A Sharp Decline in Egypt's Ranking in the "Open Budget Index 2012" - Egypt's score dropped to 13 in the index in 2012 compared to 49 in 2010", 10 March 2013: <http://eipr.org/en/pressrelease/2013/03/10/1652>

<sup>62</sup> Chatham House, 2012.

<sup>63</sup> Puddephatt, 2012.

outlining that government officials offer privileged tax cuts to wealthy business elite<sup>64</sup> while small business owners suffer at the hands of higher tax rates.<sup>65</sup> Different forms of favouritism, chief among them being nepotism, are commonplace in the country's political and economic sphere. With a high unemployment rate, those with special privileges and connections usually fill job vacancies.<sup>66</sup> Alternatively, those who are employed face low minimum wage rates where income generated from bribes is much higher than salaries. Corruption therefore becomes normalised in society. Egyptians perceive high unemployment, increases in prices, the increasing gap between rich and poor, and maltreatment of citizens by government officials as some of the main instigators of corruption, according to a report by the Center for International Private Enterprise Egypt (CIPE).<sup>67</sup>

In Transparency International's 2013 Global Corruption Barometer, the police, public officials and medical and health services were perceived as the public institutions most affected by corruption.<sup>68</sup> In an assessment by the International Enforcement Law Reporter on roots of corruption, businesspeople were viewed as the most corrupt, while traders, police and local councils followed.<sup>69</sup>

More positively, the opening up of more space for media freedom following the fall of Mubarak has allowed for widely circulated publications to showcase the shortcomings of government anti-corruption programmes and policies.<sup>70</sup> Along with the media, Egyptian civil society has launched a series of anti-corruption campaigns in an effort to address issues of corruption and transparency to a wider audience.<sup>71</sup>

Despite recent efforts to combat corruption, Transparency International's 2013 Global Corruption Barometer found that 55 per cent of persons surveyed believed government initiatives are ineffective in fighting corruption.<sup>72</sup> However, it also found that 65 per cent of persons surveyed believed that ordinary people could make a difference in the fight against corruption.<sup>73</sup> According to the most recent Global Competitiveness Index, there is potential for improvement based on evidence such as decreasing favouritism from public sector officials and increasing corporate ethics.<sup>74</sup> Greater inclusivity and transparency will be essential to achieving the integrity and accountability called for in the 25 January revolution of 2011.

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<sup>64</sup>Global Integrity, 2010.

<sup>65</sup>Global Advice Network Integrity Solutions, "A Snapshot of Corruption in Egypt", 2013.

<sup>66</sup>Chatham House, 2012.

<sup>67</sup>Center for International Private Enterprise, *Egyptian citizens' perceptions of transparency and corruption* (Cairo: CIPE, 2009): [www.cipe.org/sites/default/files/publication-docs/2009 Egypt National Survey Report EN\\_0.pdf](http://www.cipe.org/sites/default/files/publication-docs/2009%20Egypt%20National%20Survey%20Report%20EN_0.pdf)

<sup>68</sup>Transparency International, *Global Corruption Barometer 2013*.

<sup>69</sup>Adel Maged, "Fighting Corruption in Egypt – Necessary Legal Reform", *International Enforcement Law Reporter* vol. 28, issue 9, September 2012.

<sup>70</sup>Bertelsmann Transformation Index, *Egypt Country Report, 2012*: [www.bti-project.org/reports/country-reports/mena/egy/2012/index.nc](http://www.bti-project.org/reports/country-reports/mena/egy/2012/index.nc)

<sup>71</sup>Ibrahim Mamdouh Fouda, *Corruption and money laundering in Egypt*, Faculty of Economics and Political Science, Cairo University: [www.academia.edu/1517637/CORRUPTION\\_AND\\_MONEY\\_LAUNDERING\\_IN\\_EGYPT](http://www.academia.edu/1517637/CORRUPTION_AND_MONEY_LAUNDERING_IN_EGYPT)

<sup>72</sup>Transparency International, *Global Corruption Barometer 2013*.

<sup>73</sup>Ibid.

<sup>74</sup>Schwab, 2013.

# VI. ANTI-CORRUPTION ACTIVITIES

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While this report details many shortcomings in the NIS in Egypt, it is important to recognise that Egypt has taken some positive steps towards addressing corruption. These efforts could play a large role in the future as the country continues to combat corruption and develop the necessary tools for creating a robust anti-corruption framework. Egypt's regulatory framework has already criminalised bribery and other major corruption offences. Egypt ratified the UNCAC in 2005.<sup>75</sup>

## Anti-corruption activities in the public sector

Egypt's 2002 Anti-Money Laundering Law and its subsequent amendments criminalise money laundering in the public sector and in private-public sector interactions, but does not yet cover corruption between businesses. In 2008, the Unified Construction Law (No. 119) was passed with the aim of reducing corruption in the construction sector through decreasing the number of regulations and entities involved in the construction process. Since the overthrow of Mubarak, several high-profile officials have been prosecuted for corruption offences.<sup>76</sup>

Prior to the 25 January 2011 uprisings, the government's strategy was seemingly slowly and inconsistently moving towards compliance with the UNCAC. A Transparency and Integrity Committee was established in 2007 in the Ministry of State for Administrative Development to promote transparency, accountability, and public sector anti-corruption efforts. Shortly after in 2010, Ministerial Decree No. 2890 (2010) established the National Anti-Corruption Coordination Committee. The committee includes representation from all relevant authorities and is responsible for creating solutions to combat corruption within the Egyptian system.

The 2012 constitution, which was constructed under Mohamed Morsi's Administration and is no longer in place, had put forth several new initiatives for combating corruption in Egypt, including establishing a new anti-corruption agency affiliated with the Parliament. This agency's purpose would have been to deal with conflicts of interest, standards of integrity and transparency in government. In 2013, the government also signed a cooperation agreement with the United Nations Development Programme (UNDP) to develop a new anti-corruption commission. Under this agreement, the UNDP would provide advisory and technical support help to build databases for cataloguing corruption crimes and the means to combat them.<sup>77</sup> In other attempts, a new conflict of interest law was passed, addressing issues of conflict of interest that could arise from high-level officials in the government.<sup>78</sup>

Following the revolution, the Ministry of State for Local Development established an inspection and control division with the purpose of conducting announced and unannounced inspections to address corruption complaints. The inspection and control division also prosecutes corruption crimes including bribery, fraud, and embezzlement, as well as conducting periodic assessments of staff and officials in the provinces. The ministry is also working at the time of writing on establishing a hotline to be used for reporting financial and administrative corruption cases. The Ministry of Investment partnered with UNDP and other partners on a deal that ran between

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<sup>75</sup>MENA-OECD, "Business Climate Development Strategy", 2009.

<sup>76</sup> Global Advice Network Integrity Solutions, "Egypt: Anti-Corruption Initiatives", *Business Anti-Corruption Portal*, 2013.

<sup>77</sup>Ibid.

<sup>78</sup>Law No. 106 for the year 2013.

2007 and 2011 and that aimed to improve transparency to promote investment in the country, draft a legal document on freedom of information, and raise public awareness of corruption.<sup>79</sup>

Egypt has a good framework for its public procurement, which has been described by Global Integrity's 2010 report as "very strong"<sup>80</sup>, and a 2013 report by the European Bank gave Egyptian public procurement high scores with regard to its accountability, integrity, and transparency. The Global Integrity Report added that the Egyptian government bodies reviewed with regard to public procurement procedures were not corrupt. Furthermore, the Government Procurement Portal in Egypt is the first in the Arab region, and it aims to provide companies with online access to information and supplier registration.<sup>81</sup>

## Anti-corruption agencies

Egypt has a labyrinth of 28 supervisory bodies overseeing the public sector. With the complicated and interlinked public sector entities and agencies, those supervisory bodies carry out their duties in supervising different elements and outcomes within the public sector.

Indicated below are the major supervisory entities in Egypt:

- The National Ministerial Anti-corruption Committee was established in 2010 and includes representation from all relevant supervisory entities such as the Ministry of Interior, the Ministry of Communications, the Ministry of Administrative Development and the Ministry of Justice. The committee also includes representatives from the supervisory entities such as the CAO, the Illicit Gain Apparatus, the Anti-Money Laundering Unit and the Public Prosecution.<sup>82</sup>
- The Administrative Control Authority (ACA) has been active for more than 50 years and has a legal mandate to identify and combat corruption in the public sector, but requires permission by the president to arrest public officials suspected of corruption cases.
- The Administrative Prosecution Authority (APA) is authorized to monitor and investigate all civil servants at every level in all ministries and state agencies. Supported by a large professional staff, it investigates administrative and financial corruption and is mandated to hand over perpetrators to criminal courts.
- The Illicit Profit Apparatus (IPA) is mandated to investigate cases of suspected illegal income. Public officials are required to disclose their assets upon joining the sector. The IPA receives reports concerning corruption from the general public as well as from private and public employees, but does not investigate corruption cases; it passes the case to investigate authorities.
- The Money Laundering Combating Unit (MLCU) was established in 2002 and is responsible for fighting money laundering and the financing of terrorism in Egypt.<sup>83</sup>

## Business and civil society initiatives

To date Egyptian CSOs have faced challenges in playing the role of anti-corruption watchdog of state institutions, in part due to a restrictive legal climate. A number of organisations are engaged in initiatives, however, including international bodies in partnership with local civil society. These include, but are not limited to:

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<sup>79</sup>Global Advice Network Integrity Solutions, "Egypt: Anti-Corruption Initiatives", 2013.

<sup>80</sup>Global Integrity, 2010.

<sup>81</sup>Global Advice Network Integrity Solutions, "Egypt: Anti-Corruption Initiatives", 2013.

<sup>82</sup>Ministerial Decision No. 2890 for the year 2010.

<sup>83</sup>Global Advice Network Integrity Solutions, "Egypt: Anti-Corruption Initiatives", 2013.

- Transparency International, which is running a number of anti-corruption activities in 2014, including supporting youth to strengthen transparency and integrity on the municipal level, assisting female parliamentary candidates to push anti-corruption in their political agendas, training youth election observers in monitoring transparency and integrity, and advocating for asset recovery whistleblower protection laws.
- CIPE, which aims to strengthen democracy in Egypt through reforms in the private sector. CIPE is carrying out a programme called Combating Corruption and Promoting Transparency, which is using research and training to raise awareness among Egyptians on corruption issues.<sup>84</sup>
- Egyptians against Corruption (EAC), an organisation that started from the Afro-Egyptian Human Rights Organization (AEHRO), which has created a website where people can report any incidences of corruption they have faced in the country.<sup>85</sup>
- Egyptian Junior Association (EJB), which consists of Egyptian young business owners who are looking at ways to combat corruption found in the private-public interface. The organisation's idea is to create a framework, supervised by a compliance system, where a zero tolerance for corruption policy is adopted.<sup>86</sup>

## Government efforts to combat corruption

The Economic and Financial Affairs Committee, of the Shura Council (dissolved during the assessment period), released a report in 2012 detailing how corruption is the leading cause of the increase in public debt. As supporting evidence, the committee provided 65,000 corruption examples in just one year with multiple cases of government agency budget exploitation.<sup>87</sup> Despite being a criminal offence under the Egyptian Penal Code, whose Articles 103 to 112 detail bribery as a crime against the country's public interest, corruption cases are still frequent.<sup>88</sup>

Institutions that focus on budget transparency include the Transparency Unit under the Ministry of Investment, the ACA, the Banking Auditing Authority, the CAO and the Plan and Budget Committee of the now-dissolved People's Assembly. The country also joined the Middle East and North Africa-Organisation for Economic Co-operation and Development (MENA-OECD) Task Force on Anti-Bribery and the Arab Anti-Corruption and Integrity Network.<sup>89</sup>

When it comes to international conventions, the country ratified the UNCAC in 2005, is a signatory to the Arab Convention against Corruption<sup>90</sup> and a signatory of the OECD Declaration on International Investment and Multinational Enterprises, participating in its anti-corruption and transparency network. Egypt is a founding member of the Middle East and North Africa Financial Task Force, which includes efforts to combat money laundering. However, the country is not party to the African Union Convention on Preventing and Combating Corruption, nor is it a signatory of the OECD Anti-Bribery Convention.<sup>91</sup>

<sup>84</sup> Global Advice Network Integrity Solutions, "Egypt: Anti-Corruption Initiatives", 2013.

<sup>85</sup> Ibid.

<sup>86</sup> EJB website: [www.ejb.org.eg/](http://www.ejb.org.eg/)

<sup>87</sup> "Shura Council report cites corruption as main cause of growing debt", *Daily News Egypt*, 10 July 2012: <http://thedailynewsegypt.com/2012/07/10/shura-council-report-cites-corruption-as-main-cause-of-growing-debt/>

<sup>88</sup> OECD, *Business Climate Development Strategy: Dimension II-1 Anti-Corruption*: [www.oecd.org/daf/psd/46341460.pdf](http://www.oecd.org/daf/psd/46341460.pdf)

<sup>89</sup> Ibid.

<sup>90</sup> League of Arab States, *Arab Anti-Corruption Convention*, 2010: <http://star.worldbank.org/star/sites/star/files/Arab-Convention-Against-Corruption.pdf>

<sup>91</sup> Natural Resource Governance Institute, *Egypt: Transparency Snapshot*, 2012: [www.resourcegovernance.org/countries/middle-east-and-north-africa/egypt/transparency-snapshot](http://www.resourcegovernance.org/countries/middle-east-and-north-africa/egypt/transparency-snapshot)

Following the resignation of former president Mubarak, the country witnessed institutional improvements such as the first published report from the CAO.<sup>92</sup> In an effort to capitalise on the revolution's momentum, the country extended its anti-corruption programmes and initiatives, including the partnership of the Ministries of State for Administrative Development, Justice and Interior with the European Union and the United Nations on a four-year project to support measures for combating corruption and money laundering for asset recovery.<sup>93</sup> Reforms were witnessed under the Morsi administration through draft initiatives such as a law on right of access to information, protection of whistleblowers and a law on preventing conflicts of interest. Additional improvements can be found in the now-amended 2012 constitution, where, for the first time, a national anti-corruption agency was introduced.<sup>94</sup> The constitution also provided increased transparency and compulsory financial disclosure of Parliament members.<sup>95</sup>

## Current outlook

Former minister of justice Ahmed Suleiman emphasised the ministry's interest in combating corruption, as well as in cooperating with international institutions and transferring and utilising their expertise in the National Committee for Combating Corruption. This expertise will be particularly important in coordinating among the 28 regulatory bodies, but the government needs to put mechanisms in place for coordinating their efforts and preventing overlapping or conflicting investigations. The Anti-Corruption Coordination Committee, which was established in 2010 by former prime minister Ahmed Nazif, is the institution now responsible for coordinating between regulatory bodies, and is also responsible for enforcing the UNCAC.<sup>96</sup> After the recurring cabinet shifts, the committee is faced with challenges in the implementation of its recommendations in the extremely unsettled political landscape.

According to the 2014 constitution, the state will establish a National Anti-Corruption Commission, and will be comprised of several regulatory authorities, which will include the CAO, the Public Funds Prosecution, the Administrative Supervisory Authority, the Central Bank's anti-money laundering unit and the Illicit Gains Apparatus.<sup>97</sup>

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<sup>92</sup>Puddephatt, 2012.

<sup>93</sup>United Nations Office on Drugs and Crime (UNODC), *Supporting Measures to Combat Corruption and Money Laundering and to Foster Asset Recovery in Egypt*, 2013: [www.unodc.org/middleeastandnorthafrica/en/project-profiles/egy49.html](http://www.unodc.org/middleeastandnorthafrica/en/project-profiles/egy49.html)

<sup>94</sup>Farid Farid, "Egypt in crisis: A look at corruption figures for the last two years", *Space for Transparency*, 15 July 2013: <http://blog.transparency.org/2013/07/15/egypt-in-crisis-a-look-at-corruption-figures-for-the-last-two-years>

<sup>95</sup>Global Advice Network Integrity Solutions, "A Snapshot of Corruption in Egypt", 2013.

<sup>96</sup> Ahmed Rabie and Sabry Tarek, "Minister of Justice: We have 28 monitoring bodies that lack coordination in combating corruption", *El Watan News*, 2013.

<sup>97</sup>Ibid.

# NATIONAL INTEGRITY SYSTEM PILLARS



**LEGISLATURE  
UNSCORED**

# SUMMARY

The legislature has witnessed dramatic shifts since the January 2011 protests. Legislative authority has been alternating between the Supreme Council of the Armed Forces, the Parliament and, most recently, the executive. As the situation remains unstable, a fair assessment of the status of the legislative authority in the state is not possible. To overcome this issue, this section focuses on the constitutional and legal provisions governing the legislative authority in its most recent form – that is, the People’s Assembly alone.

The assessment finds a number of gaps in the legal framework including a lack of transparency provisions that would ensure that the public knows what is going on in Parliament. It also finds that there is no specific code of conduct in place to ensure the integrity of parliamentarians. Finally, the oversight role of Parliament is weakened by the lack of a role for Parliament in the appointment of key oversight bodies including the Central Audit Organisation and the Board of the Supreme Electoral Committee.

The table summarises the scored indicators for the legislature in Egypt according to its capacity, governance and role in both law and practice:

OVERALL PILLAR SCORE: UNSCORED			
Category	Index	Law	Practice
<i>Capacity</i>	Resources	100	-
	Independence	75	-
<i>Governance</i>	Transparency	50	-
	Accountability	50	-
	Integrity	50	-
<i>Role</i>	Executive oversight	100	
	Legal reforms	-	

# STRUCTURE AND ORGANISATION

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In the 1971 and 2012 Egyptian constitutions, the legislature consisted of two chambers: the Shura Council (the upper house) and the People's Assembly (the lower house). The 2014 Egyptian Constitution, however, does not include the Shura Council within its provisions and vests legislative authority in the People's Assembly alone.

The People's Assembly should consist of no fewer than 450 members, all acquiring their seats through a direct, secret ballot.<sup>98</sup> The constitution also grants the president the authority to appoint not more than 5 per cent of the members of Parliament.<sup>99</sup>

The assembly should consist of seven main structures,<sup>100</sup> namely:

- The Chair of the Assembly
- The Ethics Committee
- The General Assembly
- The Internal Committees
- The Office of the Council
- The Parliamentarian Division
- Private and Coordination Committees

The People's Assembly contains 18 internal committees, namely:

- Agriculture and Irrigation Committee
- Committee of Arab Affairs
- Committee of Foreign Affairs
- Committee of Housing, Public Utilities and Development
- Constitutional and Legislative Affairs Committee
- Culture, Media and Tourism Committee
- Defense, National Security and Public Mobilisation Committee
- Economic Affairs Committee
- Education and Scientific Research Committee
- Energy and Industry Committee
- Health and Environment Committee
- Local and Civil Coalitions Committee

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<sup>98</sup>Article 102 of the 2014 Egyptian Constitution.

<sup>99</sup>Ibid.

<sup>100</sup>Article 4 of the Internal Regulations of the People's Assembly.

- Manpower Committee
- Planning and Budgeting Committee
- Public Transportation Committee
- Religious, Social and Waqf Committee
- Suggestions and Complaints Committee
- Youth Committee

Sessions of the People's Assembly (currently the House of Representatives) are chaired by the Office of the Assembly. This consists of the chair and his/her two vice chairs. As a rule of procedure, the Office of the Assembly is elected from among the members of the assembly at the beginning of its first session.<sup>101</sup>

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<sup>101</sup>Article 11 of the Internal Regulations of the People's Assembly.

# CAPACITY: RESOURCES

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## LAW

To what extent are there provisions in place that provide the legislature with adequate financial, human and infrastructure resources to effectively carry out its duties?

Score: 100

*Legal provisions provide the People's Assembly with adequate finances to carry out its work. The number of members of the Parliament is established by the constitution in accordance with the local divisions of Egypt.*

The People's Assembly has an independent, separate budget that comes directly from the state budget.<sup>102</sup> The Budget Committee of the assembly is the organ responsible for setting up the assembly's budget.<sup>103</sup>

The constitution explicitly states that the number of members of the Parliament has to be enough to constitute a fair geographical representation of the Egyptian people.<sup>104</sup>

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<sup>102</sup>Article 35 of Law No. 2 for the year 2013 amending Law No. 37 for the year 1972.

<sup>103</sup>Article 44 of the Internal Regulations of the People's Assembly.

<sup>104</sup>Article 102 of the 2014 constitution.

# CAPACITY: INDEPENDENCE

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## LAW

To what extent is the legislature independent and free from subordination to external actors by law?

Score: 75

*Broadly speaking, the independence of the legislature is ensured in law. Legal provisions allow for dismissal of the Parliament, but only under strict conditions.*

The president has the authority to dismiss Parliament. However, there are certain restrictions on such authority. The presidential decision has to be based upon a reason – although what reason was not specified in the constitution. A further restriction to the authority of the president is that such a decision has to be preceded by a public referendum supporting the decision to dissolve Parliament.<sup>105</sup>

The Parliament has the power to recall its members outside of its normal sessions in cases of emergency, either through a request from the president or upon a signed request from 10 parliamentarians.<sup>106</sup>

The agenda of the Parliament is set by its office<sup>107</sup> – the Office of the People’s Assembly consists of its chair and two vice chairs. The agenda typically consists of pressing issues and a list of proposed draft laws that the Parliament should discuss in accordance with the internal regulations and rules of procedures of the People’s Assembly.<sup>108</sup>

The Parliament elects its chair and vice chairs in its first session.<sup>109</sup> The People’s Assembly is also responsible for establishing its own internal regulations and rules of procedure as it sees fit.<sup>110</sup> The session in which the chair and vice chairs are elected should be chaired by the oldest member in the convened Parliament.<sup>111</sup>

The different committees of the People’s Assembly are required to update the database of the assembly with the names of the experts relevant to each committee during their first meeting.<sup>112</sup> These experts may be consulted when a matter relates to their field.<sup>113</sup>

It is forbidden under current laws for the police force to enter the Parliament. This is implicit in the Internal Regulations of the People’s Assembly, which put the security of sessions under the discretion of the chair of the assembly. Articles 387 to 391 of the Internal Regulations of the People’s Assembly state that the security of the session is maintained through the security forces of the assembly. The method upon which these security forces are hired is very explicit in

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<sup>105</sup> Article 137 of the 2014 constitution.

<sup>106</sup> Article 117 of the 2014 constitution.

<sup>107</sup> Article 17 of the Internal Regulations of the People’s Assembly.

<sup>108</sup> Ibid.

<sup>109</sup> Article 117 of the 2014 constitution.

<sup>110</sup> Article 188 of the 2014 constitution.

<sup>111</sup> Article 11 of the Internal Regulations of the People’s Assembly.

<sup>112</sup> Article 75 of the Internal Regulations of the People’s Assembly.

<sup>113</sup> Article 56 of the Internal Regulations of the People’s Assembly.

the legal provisions; the chair of the assembly informs the Minister of the Interior of the number of troops they see fit for carrying out the duty of securing the assembly's sessions. Once the troops are assigned the duty of securing the session, they become independent from the Ministry of the Interior and come under the direction of the chair of the assembly.<sup>114</sup>

The constitution grants parliamentarians immunity against police arrest without prior permission from the assembly itself,<sup>115</sup> except in cases of *flagrante delicto*.<sup>116</sup> The office can provide this when the assembly is not in session but must notify the assembly at its next session. The chair of the assembly has to reply to the request of the executive authority to lift the immunity of parliamentarians. Should the chair not reply within a period of 30 days, the request is considered to be accepted and hence<sup>117</sup> the parliamentarian's immunity is lifted.<sup>118</sup> Chapter 3 of the Internal Regulations of the People's Assembly regulates parliamentary immunity and its procedures in detail.<sup>119</sup>

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<sup>114</sup>Article 387 of the Internal Regulations of the People's Assembly.

<sup>115</sup>Article 113 of the 2014 constitution.

<sup>116</sup>*Ibid.*

<sup>117</sup>Author's analysis of laws and regulations governing the People's Assembly.

<sup>118</sup>Article 113 of the 2014 constitution.

<sup>119</sup>Articles 159-163 of the Internal Regulations of the People's Assembly.

# GOVERNANCE: TRANSPARENCY

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## LAW

To what extent are there provisions in place to ensure that the public can obtain relevant and timely information on the activities and decision-making processes of the legislature?

Score: 50

*All sessions of the People's Assembly should be public according to the constitution. The Internal Regulations of the People's Assembly require media representatives to be invited to public sessions.*

According to the constitution, sessions of the People's Assembly should be public.<sup>120</sup> This means that the public can access the session and is seated in the balconies of the Parliament.<sup>121</sup> In addition, the sessions of the People's Assembly are aired on national television. This grants the public access to what is being discussed in the People's Assembly sessions.<sup>122</sup> The chair of the assembly is responsible for regulating the broadcasting of its sessions.<sup>123</sup>

The Internal Regulations of the People's Assembly require public sessions to be recorded. However, the chair of the assembly has discretionary authority to make the records public or not.<sup>124</sup> Voting records are not mentioned as a separate case; that is, they are a part of the session recordings and follow the same regulations.

The Office of the Assembly sets up a working plan after members are elected. The agenda of a session is set in accordance with the working plan.<sup>125</sup> The law does not require the agenda of the Parliament or its other documents to be made public. However, at the beginning of the session, the president reads out the agenda of the meeting and, since sessions are aired on television, the public has access to the agenda of the meeting but not the annual agenda of the legislature. The draft bills and the state budget are discussed in the general session and are aired on national television however, as part of the constitutional duty to make parliamentary sessions public.

It is the duty of the chair to invite media representatives to inquiry sessions of the Parliament.<sup>126</sup> However, journalists are restricted from attending the meetings of the different committees unless they acquire the permission of the chair of said committee.<sup>127</sup> The Internal Regulations of the People's Assembly are silent on the issue of regulating recording of the floor sessions.

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<sup>120</sup> Article 120 of the 2014 constitution.

<sup>121</sup> Article 390 of the Internal Regulations of the People's Assembly.

<sup>122</sup> Author's analysis.

<sup>123</sup> Article 410 of the Internal Regulations of the People's Assembly.

<sup>124</sup> Article 65 of the Internal Regulations of the People's Assembly.

<sup>125</sup> Articles 16-17 of the Internal Regulations of the People's Assembly.

<sup>126</sup> Article 227 of the Internal Regulations of the People's Assembly.

<sup>127</sup> Article 59 of the Internal Regulations of the People's Assembly.

Article 226 of the Internal Regulations of the People's Assembly clearly states that media representatives are to be invited to the public sessions of the assembly.<sup>128</sup>

The constitution includes the right of citizens to bring their complaints/questions to the convened People's Assembly. The same article also requires the relevant public entity to address the enquiry of the citizen and direct its response to him/her.<sup>129</sup>

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<sup>128</sup> Article 226 of the Internal Regulations of the People's Assembly.

<sup>129</sup> Article 138 of the 2014 constitution.

# GOVERNANCE: ACCOUNTABILITY

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## LAW

To what extent are there provisions in place to ensure that the legislature has to report on and be answerable for its actions?

Score: 50

*There are no provisions giving direct supervision over Parliament. However, there are channels where citizens can address their complaints and questions to the legislature. Hence, there is some room for public supervision of the Parliament outside of elections.*

In addition to the constitutional right of citizens to address complaints/questions to Parliament, the Internal Regulations of the People's Assembly regulate the process of public consultation. The regulations cover the form of citizen inquiry,<sup>130</sup> the process of review of the inquiry by the Parliament,<sup>131</sup> and the process of periodic reporting on the inquiries and complaints that the Parliament deals with.<sup>132</sup>

Chapter 8 of the Internal Regulations of the People's Assembly also detail the process of inquiries and complaints addressed to the assembly through citizens and/or relevant entities. Signed inquiries are filed with the assembly stating the name, address and occupation of the inquirer. The inquiry is then transferred internally to the Complaints Committee of the assembly, which, in its turn, addresses the inquiry to the relevant ministry/public entity. A periodic report is to be filed to the Office of the Assembly containing the inquiries/complaints and specifying how they were handled.<sup>133</sup>

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<sup>130</sup> Article 234-236 of the Internal Regulations of the People's Assembly.

<sup>131</sup> Articles 237-238 of the Internal Regulations of the People's Assembly.

<sup>132</sup> Article 239 of the Internal Regulations of the People's Assembly.

<sup>133</sup> Author's analysis of Articles 234-239 of the Internal Regulations of the People's Assembly.

# GOVERNANCE: INTEGRITY

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## LAW

To what extent are there mechanisms in place to ensure the integrity of members of the legislature?

Score: 50

*There is no specific code of conduct in place to ensure the integrity of parliamentarians. However, there is an Ethics Committee whose role is to investigate misbehavior of the members of the Parliament when a complaint is filed.*

The composition of the People's Assembly includes an Ethics Committee. Referring a parliamentarian to the Ethics Committee is done through filing a complaint against said member to the chair, who, in turn, refers the investigation of the complaints to the Ethics Committee.<sup>134</sup> Law 62/1975 requires parliamentarians to submit asset declarations when entering parliament and within two months of the end of term, parliamentary session or any other exit from parliament.

There are restrictions on being a member of the Parliament and engaging in further fields of public life. It is illegal for a member of the Parliament to be a member of the local council, a mayor or a governor.<sup>135</sup> Furthermore, it is illegal for a member to hold public office<sup>136</sup> unless the position they hold is exempted from such restriction. Professors of public faculties, members of consulting committees, and members of scientific committees are among those positions that are exempted from an obligation to leave office if elected to Parliament.<sup>137</sup> The exemptions posed do not necessarily represent a conflict of interest, as they are mostly technical positions.

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<sup>134</sup> Articles 25-35 of the Internal Regulations of the People's Assembly.

<sup>135</sup> Article 356 of the Internal Regulations of the People's Assembly.

<sup>136</sup> Article 357 of the Internal Regulations of the People's Assembly.

<sup>137</sup> Article 373 of the Internal Regulations of the People's Assembly.

# ROLE: EXECUTIVE OVERSIGHT

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To what extent does the legislature provide effective oversight of the executive?

Score: 100

*Executive oversight is one of the main roles of Parliament. The legal provisions covering this aspect are strict in terms of the procedures followed and the parameters of authority the Parliament has over the executive.*

Committees of inquiry can be set up by the People's Assembly in order to fulfil its role as a supervisory organ in the public interest. The committees have the authority to investigate a pressing issue in Egypt or the conditions of a public entity, a local government unit or any other public company or administrative or executive organ.<sup>138</sup>

The People's Assembly discusses the state budget and the division of financial resources between the different areas of spending. It is also within the scope of influence of the Parliament to modify and amend the budget of the Central Audit Organisation(CAO).<sup>139</sup> The first draft of the state budget is usually set up by the Ministry of Finance as part of the ministry's political role,<sup>140</sup> and then discussed in the Parliament, where it is finalised. The Budget Committee of the Parliament is also responsible for following up on the spending of all public institutes as per the agreed-upon annual budgeting plan.<sup>141</sup> The CAO has an obligation to assist the legislature in supervising public expenditure.<sup>142</sup>

The constitution gives the right to the legislature to address questions to the president, prime minister and/or cabinet.<sup>143</sup> Hearing sessions are scheduled and organised following the Internal Regulations of the People's Assembly.<sup>144</sup> It is also within Parliament's authority to withdraw confidence in the cabinet.<sup>145</sup>

The legislature has the authority to impeach or express no confidence in the government by virtue of Article 131 of the constitution. The role of the People's Assembly as a separate, supervisory authority does not extend beyond the executive authority into other bodies, however. For example, the People's Assembly has no authority over the appointment of the head of the CAO, the Board of the Supreme Electoral Committee or the members of the independent national councils, which are all, except for the Supreme Electoral Committee, appointed by the president of the republic.<sup>146</sup>

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<sup>138</sup> Article 218 of the Internal Regulations of the People's Assembly.

<sup>139</sup> Article 44 of the Internal Regulations of the People's Assembly.

<sup>140</sup> Political role of the Ministry of Finance, ministry website:

[www.mof.gov.eg/Arabic/%D8%B9%D9%86%20%D8%A7%D9%84%D9%88%D8%B2%D8%A7%D8%B1%D9%87/Pages/MinistryGoals.aspx](http://www.mof.gov.eg/Arabic/%D8%B9%D9%86%20%D8%A7%D9%84%D9%88%D8%B2%D8%A7%D8%B1%D9%87/Pages/MinistryGoals.aspx)

<sup>141</sup> Article 44 of the Internal Regulations of the People's Assembly.

<sup>142</sup> Ibid.

<sup>143</sup> Articles 129-135 of the 2014 constitution.

<sup>144</sup> Articles 180-193 of the Internal Regulations of the People's Assembly.

<sup>145</sup> Article 131 of the 2014 constitution.

<sup>146</sup> Article 216 of the 2014 constitution.

**EXECUTIVE**

**57 / 100**

# SUMMARY

Since the 2011 revolution, the executive in particular has been through a period of flux. The executive authority in Egypt consists of the prime minister and the cabinet of ministers, with the president of the republic at its head. Between January 2011 and July 2013 Egypt had five prime ministers.<sup>147</sup>

While such a highly volatile situation makes it difficult to confidently assess the status of the executive in Egypt, there have been several efforts by the executive to address pressing issues of corruption, disclosure of information and conflict of interest among ministerial staff – all of which are discussed throughout this section.

The table summarizes the overall score for the executive in Egypt according to its capacity, governance and role in both law and practice.

OVERALL PILLAR SCORE: 57 / 100			
Category	Index	Law	Practice
<i>Capacity</i> 63 / 100	Resources	-	50
	Independence	75	N/A
<i>Governance</i> 59 / 100	Transparency	50	75
	Accountability	50	75
	Integrity	50	50
<i>Role</i> 50 / 100	Public sector management (law and practice)	50	
	Legal system	50	

<sup>147</sup>Reem Leila, "From Shafik to Ganzouri", *Ahram Weekly*, 26 January 2012; Ahmed Aboulenein, "President Morsy Appoints HishamQandil Prime Minister", *Daily News Egypt*, 24 July 2012; "Liberal economist Hazem El-Beblawi appointed new Egyptian Prime Minister", *Ahram Online*, 9 July 2013.

# STRUCTURE AND ORGANISATION

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As set out in Egypt's 2014 constitution, executive powers are vested in the president and the cabinet (prime minister and ministers). The executive is overseen by both the judiciary and the Parliament, while maintaining a level of independence itself.<sup>148</sup> The president is elected for a period of four calendar years, renewable once.<sup>149</sup> The president assigns a prime minister to form a government, which must be confirmed by the Parliament.<sup>150</sup>

The executive is responsible before the Parliament for executing a national action plan set forth by the former. It may be held accountable through parliamentary hearing sessions where ministers or public officials are asked about their actions in accordance with the annual plan the government is responsible for executing during a given year.<sup>151</sup>

The executive's decisions can be challenged before the State Council, which is the judicial branch responsible for handling all administrative disputes filed against state officials and state entities.<sup>152</sup>

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<sup>148</sup>2014 Egyptian Constitution.

<sup>149</sup>Article 140 of the 2014 Egyptian Constitution.

<sup>150</sup>Article 146 of the 2014 Egyptian Constitution.

<sup>151</sup>Ibid; [www.sis.gov.eg/Ar/Templates/Articles/tmpArticles.aspx?ArtID=66613](http://www.sis.gov.eg/Ar/Templates/Articles/tmpArticles.aspx?ArtID=66613) [accessed 4 July 2014].

<sup>152</sup>Article 15 of Law 46 for the year 1972 Regulating the Judicial Authority.

# CAPACITY: RESOURCES

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## PRACTICE

To what extent does the executive have adequate resources to effectively carry out its duties?

Score: 50

*While Egypt's current executive is staffed by a highly competent ministerial team, the overall national economic situation and budgetary deficits have taken a toll on the financial resources at the executive's disposal.*

Prior to the 25 January uprising, executive appointments tended to be based on presidential preferences and business and political allegiances, rather than technical capacity.<sup>153</sup>

The current cabinet has been called the “best qualified and most competent government ever”.<sup>154</sup> The cabinet is headed by Prime Minister Dr. Hazem El-Biblawy, the holder of a PhD in political economy,<sup>155</sup> and contains a team of highly competent technocrats. Neither Islamic nor secular parties have criticised the composition of the current government;<sup>156</sup> however, the government has been put under pressure to resolve Egypt's outstanding challenges.<sup>157</sup>

Egypt's overall budget deficit has been increasing over the past two years; according to the Ministry of Finance the total budget deficit for the year 2013/14 is expected to reach EGP 186 billion (US\$26 billion<sup>158</sup>).<sup>159</sup> In light of the country's economic situation, as well as growing demands for social justice and equity, it is unlikely that the financial resources at the executive's disposal are sufficient for it to fulfil its role.

Such a situation is further complicated by longstanding issues with internal budgetary allocations in Egypt's public sector as a whole, ministries included. Due to overstaffing within different state ministries and sub-offices, a high amount of public expenditure is spent on salaries.<sup>160</sup>

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<sup>153</sup>M. Ayman A. M. Daef, *The Impact of Open Door Policy on Public Service Provision in Urban Areas of Egypt: A Major Factor Influencing Income Distribution Since 1974*, Working Paper No. 29, Development Planning Unit – University College London, September 1986; Freedom House, *Countries at the Crossroads: Egypt, 2011*; S. Roll, “Egypt's Business Elite after Mubarak: A Powerful Player between Generals and Brotherhood”, *StiftungWissenschaft und Politik*, 2013.

<sup>154</sup>Human Rights First, *How to Turn Around Egypt's Disastrous Post-Mubarak Transition: Blueprint for U.S. Government Policy* (New York: Human Rights First, 2013).

<sup>155</sup>[www.mof.gov.eg/MOFGallerySource/English/Dr.Hazem-cv.pdf](http://www.mof.gov.eg/MOFGallerySource/English/Dr.Hazem-cv.pdf) [accessed 4 July 2014].

<sup>156</sup>Al-Masry Al-Youm, “Biblawy expects cabinet to begin work next week”, *Egypt Independent*, 12 July 2013.

<sup>157</sup>Human Rights First, 2013.

<sup>158</sup>Oanda.com, 3 July 2014.

<sup>159</sup>Ministry of Finance, *Financial Report on the State's Budget for the Fiscal Year 2013/2014*

[البيانات المالية لمشروع الموازنة العامة للدولة للسنة المالية 2013/2014], 2013: [www.mof.gov.eg/MOFGallerySource/Arabic/budget2013-2014/Financial\\_statement13-14.pdf](http://www.mof.gov.eg/MOFGallerySource/Arabic/budget2013-2014/Financial_statement13-14.pdf)

<sup>160</sup>A. Feteha, “Egypt's new minimum wage: Crunching a squeezed budget”, *Ahram Online*, 20 September 2013; Interview of Dr. Laila ElBaradei, Professor of Public Administration, the American University in Cairo, with Ahead of the Curve, November 2013.

# CAPACITY: INDEPENDENCE

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## LAW

To what extent is the executive independent by law?

Score: 75

The executive's independence is enshrined in the 2014 Egyptian Constitution.<sup>161</sup> The decisions of the executive can only be challenged before the legitimate channels (administrative courts). The executive authority can also be asked before the Parliament about the progress of its annual work plan set forth by the Parliament at the beginning of each year.

The constitution enshrines the independence of each of Egypt's three main authorities:

- The executive, which is headed by the president and includes all the ministers and public bodies. Their independence is not stated in clear language. However, the constitution gives the cabinet the right to issue regulations,<sup>162</sup> set policies<sup>163</sup> and establish public entities.<sup>164</sup>
- The legislature (the People's Assembly).
- The judiciary, which encompasses all of the courts and judicial systems present in the state.<sup>165</sup>

Separation of these three main authorities is meant to create a balance that enables the three to supervise each other with minimum influence on their independent decision-making processes. With the absence of the legislature, ever since Parliament was dissolved by a court order on 14 July 2012<sup>166</sup> invalidating it from inception and the dissolution of the Shura Council after the constitutional declaration on 3 July 2013, the balance of power within Egypt's governance system has been flawed, as the executive currently issues laws on behalf of the legislature.<sup>167</sup>

The supervision exercised by the State Council and Central Audit Organisation (CAO) maintains balance and does not restrict the decision-making process of the executive.<sup>168</sup> It has to be noted here that the defense minister (although part of the executive authority) is appointed by the president after acquiring the approval of the Supreme Council of the Armed Forces (SCAF).<sup>169</sup>

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<sup>161</sup> Articles 163–174 define the executive authority and state its jurisdiction and duties.

<sup>162</sup> Article 170 of the 2014 Egyptian Constitution.

<sup>163</sup> Article 168 of the 2014 Egyptian Constitution.

<sup>164</sup> Article 171 of the 2014 Egyptian Constitution.

<sup>165</sup> 2014 Egyptian Constitution.

<sup>166</sup> "Egypt's Shura Council dissolved: Judicial source", *Ahram Online*, 4 July 2013.

<sup>167</sup> 3 July Interim Constitutional Declaration.

<sup>168</sup> Interview of Judge Hisham Genena, President of the CAO, with Ahead of the Curve, summer 2013.

<sup>169</sup> Article 234 of the 2014 Egyptian Constitution.

## PRACTICE

To what extent is the executive independent in practice?

Score: Not scored

*The volatility of the political situation makes it difficult to accurately assess the practical state of the independence of Egypt's executive.*

The exceptional political situation in Egypt makes judging the executive authority's independence difficult. The cabinet has seen several shifts since 2011, leaving the public with limited sources and time to judge its independence and efficiency.

Since the removal of President Morsi, the executive branch has had the right to issue laws until the next elected Parliament is constituted.<sup>170</sup> This situation is unusual as it leaves the executive authority with the power to both produce laws and execute them.

Some have argued that the removal of Morsi<sup>171</sup> by SCAF represents interference in the independence of the executive authority.<sup>172</sup>

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<sup>170</sup>3 July Interim Constitution.

<sup>171</sup>Patrick Kingsley and Martin Chulov, "Mohamed Morsi ousted in Egypt's second revolution in two years", *The Guardian*, 3 July 2013.

<sup>172</sup>Hicham Murad, "Why Egypt's Army Overthrew Morsi", *Ahram Online*, 13 July 2013.

# GOVERNANCE: TRANSPARENCY

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## LAW

To what extent are there regulations in place to ensure transparency in relevant activities of the executive?

Score: 50

*Despite recent advances, legal provisions guaranteeing a transparent executive that proactively and frequently communicates its activities to the public are minimal.*

Despite a number of initiatives taken by the government over the past few years towards making some executive information publicly available, a solid policy on public information accessibility is still lacking.<sup>173</sup> No legal provisions require governmental activities or minutes of meetings to be published on an information system or through electronic communication channels.

Since 2011, the executive has however made some advances on access to information in law. For example, Article 47 of the 2012 Egyptian Constitution protected the right to access information. However, this constitutional article was criticised by the Center for Law and Democracy as failing to state clearly that “information” includes information held by the state authorities.<sup>174</sup>

The 2014 constitution labels information, data, statistics and official documents as “owned by the people”.<sup>175</sup> This can be considered a positive step, allowing for a coherent set of legal provisions aimed at making relevant information publicly available.

The state budget is set up by the Ministry of Finance and discussed with the Parliament. The law regulating the state budget requires the executive to make it publicly available.<sup>176</sup>

Laws 47 and 48 (1978) and their bylaws regulate the hiring process in the public sector, which includes executive staff, and requires asset disclosure.<sup>177</sup> Under Law 62 (1975) the Illicit Gains Apparatus under the Ministry of Justice oversees asset disclosure and is made up of Court of Appeal judges and heads of courts of first instance. Persons subject to this law are required to disclose their assets annually and upon appointment, and must include the sources of any increased wealth.

The 2014 constitution states that the President (Article 145), the head and members of the council of ministers (Article 166) and members of the parliament (Article 109) should disclose their assets yearly.

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<sup>173</sup>Organisation for Economic Co-operation and Development (OECD), *E-Government Studies: Egypt (2013)*(OECD Publishing, 2013).

<sup>174</sup>Centre for Law and Democracy, *Statement on the Freedom of Expression and Information Provisions in the draft Egyptian Constitution*, 2012.

<sup>175</sup>Article 68 of the 2013 Draft Constitution.

<sup>176</sup>Law No. 53 for the year 1973.

<sup>177</sup>Laws No. 47 and 48 for the year 1978 and their bylaws.

The Administrative Prosecution Authority (APA) was established under Law 117 (1958).<sup>178</sup> The law authorises the APA to monitor and investigate all public sector personnel at all levels in all ministries and agencies. The APA, supported by a large and professional staff, investigates administrative and financial crime and has the mandate to hand over perpetrators to the public prosecution to refer them to the criminal courts. The APA also serves as an internal reporting mechanism where public officials may direct their complaints or reports of corruption.<sup>179</sup>

## PRACTICE

To what extent is there transparency in relevant activities of the executive in practice?

Score: 75

*The recent political changes Egypt has been witnessing have brought about several significant changes in the form of enhanced efforts on behalf of the executive to communicate with and engage the public. Numerous problems with transparency in the executive still exist, however.*

Post-January 2011, several steps have been taken to enhance executive transparency. A recent example is when the previous 2014 cabinet, headed by Prime Minister Hazem El-Biblawy, started publishing minutes of the cabinet's meetings on its website, including information on what was discussed and what was agreed upon.<sup>180</sup> It has to be noted that there are no set regulations that oblige the cabinet minutes to be made publicly available.

Moreover, significant advancements have been made with regard to active efforts on behalf of the executive to engage with the general public. Also after January 2011, a number of ministries started widely using social media including Facebook<sup>181</sup> and Twitter<sup>182</sup> in an attempt to keep up with the wave of protests that broke out on 25 January 2011. Many ministries now have their own official Facebook page informing citizens of the entity's activities, posting laws, regulations and policy decisions, and discussing recent political events. Various ministries also have websites where citizens can access relevant information. There is also a government directory online where all websites of the ministries are listed.<sup>183</sup>

There is an online citizen relationship management and complaints system but this lacks clear and transparent usage terms.<sup>184</sup> However, despite relatively high online engagement, the impact of such engagement on improving policy making and service development remains limited.<sup>185</sup> Although there have been some improvements, efforts do not appear to reflect a coordinated strategy that could encourage more systematic and targeted awareness raising and e-government marketing.<sup>186</sup>

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<sup>178</sup> Law No. 117 for the year 1958.

<sup>179</sup> "Public Anti-Corruption Initiatives", *Egypt Country Profile*, Business Anti-Corruption Portal: [www.business-anti-corruption.dk/country-profiles/middle-east-north-africa/egypt/initiatives/public-anti-corruption-initiatives/](http://www.business-anti-corruption.dk/country-profiles/middle-east-north-africa/egypt/initiatives/public-anti-corruption-initiatives/) [accessed 4 July 2014].

<sup>180</sup> [www.cabinet.gov.eg/Media/CabinetMeetings.aspx](http://www.cabinet.gov.eg/Media/CabinetMeetings.aspx) [accessed 4 February 2014].

<sup>181</sup> Facebook page for the Ministry of Interior: [www.facebook.com/MoiEgy](https://www.facebook.com/MoiEgy) [accessed 4 February 2014].

Facebook page for the Ministry of Foreign Affairs: [www.facebook.com/MFAEgypt](https://www.facebook.com/MFAEgypt) [accessed 4 February 2014].

<sup>182</sup> Twitter account for the Egyptian cabinet: [https://twitter.com/Cabinet\\_eg](https://twitter.com/Cabinet_eg) [accessed 4 February 2014].

<sup>183</sup> [www.egypt.gov.eg/english/guide/directory.aspx](http://www.egypt.gov.eg/english/guide/directory.aspx) [accessed 4 February 2014].

<sup>184</sup> OECD, 2013.

<sup>185</sup> Ibid.

<sup>186</sup> Ibid.

Moreover, no practical changes have been witnessed with regard to freedom of information. The access to information law is still a draft and bureaucracy prevents researchers and citizens from accessing information held by the government.<sup>187</sup>

The state budget is made public via the Ministry of Finance's website.<sup>188</sup> Egypt conforms to the International Monetary Fund's global standard on drafting and agreeing on a budget template that is universally understood.<sup>189</sup>

Despite an improvement in the comprehensiveness of the state budget, the transparency of the budget witnessed a sharp decline in 2012, with Egypt scoring 13 out of 100 on the Open Budget Index, rather than the 49 out of 100 it scored in 2010. The decline was mainly due to a poorer commitment towards making the budget transparent.<sup>190</sup> According to Bloomberg, the International Budget Partnership's survey on the issue shows that Egypt's budget is currently less transparent than in the Mubarak era.<sup>191</sup> Such a lack of transparency stands in the way of citizens' ability to hold the public sector as a whole accountable for their plans and actions.<sup>192</sup>

On the disclosure front, assets of state officials are disclosed to the Illicit Graft Apparatus and CAO in practice but nothing in the law or practice of the organisations requires these disclosures to be made public or publicly available.<sup>193</sup>

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<sup>187</sup>Manar Mohsen, "On International Right to Know Day, Egypt Continues to Grapple with Freedom of Information", *Daily News Egypt*, 28 September 2013.

<sup>188</sup>[www.mof.gov.eg](http://www.mof.gov.eg)

<sup>189</sup>Interview of a governmental consultant who requested anonymity with Ahead of the Curve, 2013.

<sup>190</sup>Egyptian Initiative for Personal Rights, "A Sharp Decline in Egypt's Ranking in the 'Open Budget Index 2012' - Egypt's score dropped to 13 in the index in 2012 compared to 49 in 2010", EIPR press release, 10 March 2013.

<sup>191</sup>Nadine Marroushi, "Egypt's Budget Less Transparent than Mubarak Era, Survey Shows", *Bloomberg*, 11 March 2013.

<sup>192</sup>Nadine Marroushi, "Egypt Government to Respond to IMF Transparency Case Next Month", *Bloomberg*, 13 November 2012.

<sup>193</sup>Interview of Judge Hisham Genena, Head of the Central Audit Organisation (CAO), with Ahead of the Curve, July 2013.

# GOVERNANCE: ACCOUNTABILITY

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## LAW

To what extent are there provisions in place to ensure that members of the executive have to report and be answerable for their actions?

Score: 50

*The legal framework allows for the executive to be held accountable for wrongdoing. Challenging the administrative decisions of the executive is possible through the State Council and reporting of the activities of the executive to the legislator is required by the constitution.*

The executive is supervised by the judiciary as well as by Parliament.<sup>194</sup> The previous Egyptian constitutions granted the Parliament the right to question any public official during its sessions.<sup>195</sup> The 2014 constitution also allows the Parliament to question the executive.<sup>196</sup>

Another form of supervision is through the CAO as part of its role as an external auditor for the public sector in general. The organisation's responsibilities include supervising government expenditure and suggesting methods to improve internal auditing practices in the ministries, public enterprises and the public sector generally.<sup>197</sup>

Members of the executive are obliged to abide by several laws when it comes to their decision-making processes. For instance, the Egyptian legal system supervises contracting for public services through the Tender Law, which sets certain requirements for the executive authority to enter into a contract with other entities.<sup>198</sup> This offers a level of protection against embezzlement.

There is no requirement for members of the executive to consult with the public on decisions they take as part of their role. Members of the executive can have their decisions revoked before the State Council. The State Council is the judicial organ responsible for cases filed against the state. It consists of several administrative courts. Citizens and entities wishing to challenge decisions of the executive authority file lawsuits against it in the relevant administrative court.<sup>199</sup>

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<sup>194</sup> Article 116 of the 2012 Egyptian Constitution.

<sup>195</sup> *Ibid.*

<sup>196</sup> Article 105 of the 2014 Egyptian Constitution.

<sup>197</sup> Interview of Judge Hisham Genena, Head of the CAO, with Ahead of the Curve, July 2013.

<sup>198</sup> Bids and Tenders Law No. 98 for the year 1998.

<sup>199</sup> Interview of a judge of cassation with Ahead of the Curve, summer 2013.

## PRACTICE

To what extent is there effective oversight of executive activities in practice?

Score: 75

*Practically speaking, the solid legal framework that provides for multiple supervision channels over the executive has managed to create a system that holds the executive accountable for wrongdoing. The process still needs improvement in several respects, however, particularly in relation to public disclosure of assets.*

The government does report on its activity through presenting documents to the CAO, enabling it to carry out its duties as an external auditor of the executive.<sup>200</sup> The budget of each branch of the executive is developed and negotiated with the Ministry of Finance as part of the state budget.<sup>201</sup> Moreover, each entity of the executive communicates its internal audits to the CAO on an annual basis.<sup>202</sup> The reports are revised by the CAO, then sent back to the entity for correction.<sup>203</sup> The CAO is an independent entity, functioning under its own separate law, and has no affiliation with any other branch of the public sector.<sup>204</sup> This ensures a certain degree of independence within the CAO, which in turn guarantees minimal interference with its methods in conducting its role.<sup>205</sup>

Reporting on public procurement provides some level of oversight over executive activities; however, the CAO's reports are often too detailed to be generally understood.<sup>206</sup> The reporting guidelines are too strict for relevant personnel to abide by. This decreases the government's ability to effectively abide by these detailed and stringent reporting guidelines.<sup>207</sup>

The judiciary in practice fulfils its role in overseeing unjust executive decisions. Challenges against executive decisions may be presented to the State Council by citizens or entities.<sup>208</sup> The executive is supervised closely and required to report on a number of details when it comes to public procurement.<sup>209</sup>

Several members of the executive have been prosecuted for crimes relating to public money. However, this has predominantly only occurred since January 2011,<sup>210</sup> raising the question of whether executive prosecution is dependent on political will.

Under the existing legal framework, several ex-members of the executive have been put on trial since 2011 for crimes relating to profiteering, corruption and abuse of power to amass wealth.<sup>211</sup>

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<sup>200</sup>Interview of Hisham Genena, Head of the CAO, with Ahead of the Curve, July 2013.

<sup>201</sup>Ibid.

<sup>202</sup>Ibid.

<sup>203</sup>Ibid.

<sup>204</sup>Law No. 144 for the year 1988.

<sup>205</sup>Interview of Judge Hisham Genena, Head of the CAO, with Ahead of the Curve, July 2013.

<sup>206</sup>Interview of a governmental consultant who requested anonymity with Ahead of the Curve, 2013.

<sup>207</sup>Ibid.

<sup>208</sup>State Council Law, رقم 47 لسنة 1972 بشأن مجلس الدولة المصري قانون:

[www.google.com/eg/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&ved=0CCkQFjAA&url=https%3A%2F%2Fgroups.google.com%2Fd%2Fmsg%2Fhamdy66%2FeQmTThrPAwo%2FJ4wZSAxfNEYJ&ei=zfbwUqi5B-GL7AbxxoCgDQ&usg=AFQjCNGIS-mz7glrOmjlBwvdxU\\_HsbGXdw&sig2=IWAjo6FMIno0IAi-nbom\\_w&bvm=bv.60444564,d.ZGU](https://www.google.com/eg/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&ved=0CCkQFjAA&url=https%3A%2F%2Fgroups.google.com%2Fd%2Fmsg%2Fhamdy66%2FeQmTThrPAwo%2FJ4wZSAxfNEYJ&ei=zfbwUqi5B-GL7AbxxoCgDQ&usg=AFQjCNGIS-mz7glrOmjlBwvdxU_HsbGXdw&sig2=IWAjo6FMIno0IAi-nbom_w&bvm=bv.60444564,d.ZGU)

<sup>209</sup>Interview of a governmental consultant who requested anonymity with Ahead of the Curve, 2013.

<sup>210</sup>Egypt: Hosni Mubarak Trials, Library of Congress, 2014: [www.loc.gov/law/help/mubarak/index.php](http://www.loc.gov/law/help/mubarak/index.php)

<sup>211</sup>"Egypt trials: Mubarak officials' charges and verdicts", *BBC News*, 2014:

[www.bbc.co.uk/news/world-middle-east-14389223](http://www.bbc.co.uk/news/world-middle-east-14389223)

# GOVERNANCE: INTEGRITY

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## LAW

To what extent are there mechanisms in place to ensure the integrity of members of the executive?

Score: 50

*The introduction of the conflict of interest law has paved the way for further legal provisions on executive integrity.*

Members of the executive abide by the same integrity laws as those governing other public sector employees. Law 48 (1978) provides a general outline of a code of conduct but leaves it to each public body to draft its own internal regulations.<sup>212</sup> However, the Egyptian Penal Code is the law that defines and sanctions all breaches relating to public money. The second book of the penal code addresses issues of embezzlement of titles, bribery and forgery among other offences. This does not amount to a separate code of conduct including anti-corruption provisions, but does cover issues of abuse of authority and misuse of public money.

Conflict of interest is governed by general provisions in Chapter 10 of Law 48 (1978). The provisions prohibit public employees from conducting side businesses related to their line of work with the public sector. Public employees are also prohibited from investing in the stock market, accepting gifts and establishing companies.

A law on conflict of interest was recently issued by the Council of Ministers. The law includes post-employment restrictions of six months after leaving public office for several posts: ministers or their deputies, local government heads, heads of public companies and heads of supervisory bodies. The 2014 Egyptian Constitution in Article 166 prohibits ministers from holding office and another job at the same time.

To date, Egyptian law still does not recognise protection of whistleblowers.

## PRACTICE

To what extent is the integrity of members of the executive ensured in practice?

Score: 50

*Executive authority employees abide by the same integrity provisions under Law 48 (1978) as other public employees. The existing rules of conduct under the said law lack enforcement mechanisms.<sup>213</sup>*

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<sup>212</sup>Article 8 of Law No. 48, 1978.

<sup>213</sup>MENA-OECD Investment Programme, *Business Climate Development Strategy: Egypt, Anti-Corruption*, page 5: [www.oecd.org/globalrelations/psd/46341460.pdf](http://www.oecd.org/globalrelations/psd/46341460.pdf)

Due to the changes in the political scene over the past few years, 2012 witnessed a significant number of court verdicts regarding members of the executive and charges of corruption including illicit profiting, money laundering and profiteering.<sup>214</sup>

During the Mubarak era, ministers, parliamentarians and businessmen switched seats regularly.<sup>215</sup> When SCAF took over, following the January 2011 protests, most ministers kept their office in the “new” government SCAF put together.<sup>216</sup> During the Freedom and Justice Party’s period in government, commentators complained of the party replacing executive officials with its own supporters.<sup>217,218</sup>

Whistleblowers are not protected by the law or in practice and, according to an interviewee, are easy targets for anti-reform and pro-corruption groups.<sup>219</sup>

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<sup>214</sup> *BBC News*, 2013.

<sup>215</sup> Thomas L. Friedman, “Mubarak Trying to Penetrate Egyptian Red Tape”, *The New York Times*, 2 November 1981: [www.nytimes.com/1981/11/02/world/mubarak-trying-to-penetrate-egyptian-red-tape.html](http://www.nytimes.com/1981/11/02/world/mubarak-trying-to-penetrate-egyptian-red-tape.html)

<sup>216</sup> Shaden Shehab, “Revolving doors”, *Al-Ahram Weekly*, 2011: <http://weekly.ahram.org.eg/2011/1036/eg22.htm>

<sup>217</sup> Shehab, 2011.

<sup>218</sup> Sherif Tarek, “Egypt’s Morsi in talks with PM over cabinet reshuffle”, *Ahram Online*, 26 December 2012: <http://english.ahram.org.eg/NewsContent/1/0/61342/Egypt/Egypt-Morsi-in-talks-with-PM-over-cabinet-reshuff.aspx>

<sup>219</sup> Interview of Dr. Laila ElBaradei, Professor of Public Administration, the American University in Cairo, with Ahead of the Curve, November 2013.

# ROLE: PUBLIC SECTOR MANAGEMENT

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To what extent is the executive committed to and engaged in developing a well-governed public sector?

Score: 50

*Legally, supervision of executive employees happens within an annual assessment. However, practically the assessment system is flawed, allowing poor-performing employees promotion based on their years of experience in the entity and not based on their performance.*

The Egyptian hierarchy in the public sector in theory allows supervision over every employee. According to the law, ministerial staff is public employees. This gives supervisors and senior staff the ability to assess staff and evaluate their performance. According to an interviewee, in reality the system is not followed according to the law.<sup>220</sup> The assessment system consists of filling in an evaluation form and sending it to the Personnel Department. Receiving an assessment of “weak” two consecutive times can lead to the employee being fired.<sup>221</sup> The assessment of public personnel is unavailable to the public; thus, researchers have not been able to access it.

In the 2014 constitution, “fighting corruption” was referred to in Article 218 as a duty that should be carried out by the state.<sup>222</sup> One of the most visible government-led initiatives as regards an anti-corruption approach was the establishment of the Anti-Corruption Ministerial Committee, introduced in 2010.<sup>223</sup> The committee’s main concern is making sure Egypt is abiding by the international standards in fighting corruption as agreed in international treaties.<sup>224</sup> There have not been any awards or incentives announced as a reward for enhancing transparency in the public sector.

Promotion in the public sector is obligatory and depends on staff members’ years of experience inside the institute, disregarding their adequacy.<sup>225</sup>

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<sup>220</sup>Interview of a legal researcher in the office of the Minister of International Cooperation who requested anonymity with Ahead of the Curve, December 2013.

<sup>221</sup>Ibid.

<sup>222</sup>Article 218 of the 2014 Egyptian Constitution.

<sup>223</sup>Prime Minister Decision No. 2890 for the year 2010.

<sup>224</sup>Article 2 of Prime Minister Decision No. 2890, 2010.

<sup>225</sup>Laws No. 47 and 48, 1978.

# ROLE: LEGAL SYSTEM

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To what extent does the executive prioritise public accountability and the fight against corruption as a concern in the country?

Score: 50

*The issuance of a conflict of interest law serves as an example of how fighting corruption is a priority to the interim government.*

The interim government issued Law 106 (2013) on conflict of interest among members of the executive, while in 2010 the Anti-Corruption Ministerial Committee was created.<sup>226</sup> The committee was tasked with developing strategies to help combat corruption in the public sector.<sup>227</sup> There are also several independent entities aimed at combating corruption in the public sector.

During the Freedom and Justice Party's period in office, a law regarding freedom of information was drafted and was being discussed. The law pushed for more transparency and disclosure on the government's behalf. However, that law has not yet been passed due to the absence of Parliament.<sup>228</sup> It should be mentioned that Egypt does not have a separate anti-corruption code, but articles of the Egyptian Penal Code cover bribery (direct and indirect), attempted corruption and abuse of office, as well as use of public resources for personal gain.<sup>229</sup>

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<sup>226</sup>Prime Minister Decision No. 2890, 2010.

<sup>227</sup>Ibid.

<sup>228</sup>"Public Anti-Corruption Initiatives", *Egypt Country Profile*, Business Anti-Corruption Portal.

<sup>229</sup>Ibid.



**JUDICIARY**

**53 / 100**

# SUMMARY

The current and all previous Egyptian constitutions have guaranteed judicial independence. The judiciary has also in many of Egypt's constitutions been granted constitutional supervisory authority over the executive and the legislature, allowing the Supreme Constitutional Court to assess the constitutionality of laws. Executive influence over the judiciary has however limited its ability to provide effective oversight.<sup>230</sup>

Before the 2011 uprising, Egypt's judiciary strove for greater levels of independence to enhance accountability within the country.<sup>231</sup> Some national judicial reform initiatives were in place prior to the revolution.<sup>232</sup> However, according to the Ibrahim Index of African Governance, Egypt's performance when it comes to safety and the rule of law – an area that addresses judicial functions and transparency among several other aspects – has significantly dropped since 2000 and especially over the past three years.<sup>233</sup> Both the judiciary<sup>234</sup> and citizens' groups<sup>235</sup> have called for reforms, which have yet to materialise.

The table summarises the overall score for the judiciary in Egypt in capacity, governance and role, in both law and practice.

OVERALL PILLAR SCORE: 53 / 100			
Category	Index	Law	Practice
<i>Capacity</i> 50 / 100	Resources	50	50
	Independence	50	50
<i>Governance</i> 58 / 100	Transparency	50	25
	Accountability	75	75
	Integrity	75	50
<i>Role</i> 50 / 100	Executive oversight	50	
	Corruption prosecution	50	

<sup>230</sup>Freedom House, "Egypt", *Freedom in the World 2013*, 2013.

<sup>231</sup>Nathan J. Brown and Hesham Nasr, *Egypt's Judges Step Forward: The Judicial Election Boycott and Egyptian Reform*, Policy Outlook (Washington, D.C.: Carnegie Endowment for International Peace, 2005).

<sup>232</sup>Nora Elbially and Miguel A. García-Rubio, *Assessing judicial efficiency of Egyptian First Instance Courts: A DEA analysis*, Joint Discussion Paper Series in Economics (Marburg: Philipps-University Marburg, 2011): [www.uni-marburg.de/fb02/makro/forschung/magkspapers/19-2011\\_elbially.pdf](http://www.uni-marburg.de/fb02/makro/forschung/magkspapers/19-2011_elbially.pdf)

<sup>233</sup>Mo Ibrahim Foundation, "Egypt's governance score declines according to 2013 Ibrahim Index of African Governance", 14 October 2013.

<sup>234</sup>Nathan J. Brown, "Still Fighting the Last War? Egypt's Judges after the Revolution", Carnegie Endowment for International Peace, 16 October 2012.

<sup>235</sup>Judy Barsalou and Barry Knight, *Delayed or Denied: Egyptian Expectations About Justice in post-Mubarak Egypt*, International Human Rights Funders Group, 2013; Richard Wike, "Egypt on the Eve of Elections: Economy, Democracy Are Both Priorities", Pew Research Center, 23 May 2012.

# STRUCTURE AND ORGANISATION

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The judiciary in Egypt is divided into:<sup>236</sup>

- **REGULAR COURTS**

These cover all disputes and crimes not directed to another branch of the judiciary. According to the Judges' Club there are 12,250 current judges, working under Articles 184-189 of the constitution and Law 46 (1972) on Judicial Affairs. The structure of the regular courts includes:

- Court of Cassation  
This sits as one court in Cairo and is the highest court. It hears the final appeals from individuals involved in the case or from the public prosecutor. It also hears appeals for annulment of judgments and retrials. It can also hear cases relating to the work of judges, in which case it sits as a first instance court and not a court hearing appeals on points of law.
- Appeal courts  
These hear appeals against the judgments of courts of first instance within their jurisdiction. Appeal courts can be specialized and in some cases can hear cases, in which case they act as a first instance court and not as an appeal court. Three judges sit on the panel and appeals can be made to the Court of Cassation.
- Courts of first instance  
These courts are of general jurisdiction for all civil and commercial litigation in Egypt, except where laws assign jurisdiction to other courts. There are 30 First Instance courts in Egypt, who hear cases sitting as panels of three. Their judgment is subject to appeal and they can hear initial cases and appeals from district courts.
- District courts  
These courts hear cases of limited importance via a single judge. Verdicts can be appealed to first instance courts, except where laws expressly exclude this.
- Public prosecution  
The public prosecution is an integral part of the judiciary, with the role of investigating and directing criminal cases, except where laws state otherwise.

- **SUPREME CONSTITUTIONAL COURT**

Under the 2014 constitution, this is an independent judicial body based in Cairo. Articles 191 – 195 of the constitution and Law 48 (1979) give it exclusive jurisdiction over the constitutionality of laws, regulations and the interpretation of legislative texts. It also has the power to settle disputes of jurisdiction between different state

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<sup>236</sup>Tamir Moustafa, "Rule of Law Quick Scan: Egypt Prospects and Challenges", HiIL Rule of Law Quick Scan Series (The Hague: HiIL, 2012).

organs and judicial bodies. Appeals are not permitted directly to the Supreme Constitutional Court, the court of first instance must authorise an appeal or refer the case directly to the Supreme Constitutional Court.

- **COUNCIL OF STATE**

This is the third judicial body in Egypt, which is specialised to adjudicate exclusively on disputes with the administration and enforcement relating to acts of the administration, including disciplinary appeals. It is also responsible for reviewing legislation, draft bills and resolutions, projects and contracts to which the State or a public body is party. It is established under Article 190 of the constitution and Law 47 (1972).

# CAPACITY: RESOURCES

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## LAW

To what extent are there laws seeking to ensure appropriate salaries and working conditions of the judiciary?

Score: 50

*Despite detailed and specific laws determining the salaries of judges, laws do not provide a framework for keeping judicial salaries apace with inflation and allow for preferential treatment. Currently, the budget for the judiciary is determined by the Ministry of Finance, allowing for executive influence over the judiciary.*

Salaries of members of the judiciary are set by Law 46 (1972).<sup>237</sup> The actual determination of judges' basic salaries is detailed in Article 68 of Law 46 (1972). The basic salary scale established in the law has not been updated since 1972 and thus the basic salary scale it enlists does not account for inflation.<sup>238</sup> The law makes the Court of Cassation responsible for all issues relating to the salaries of judges and prohibits setting salaries on a case-by-case basis in an effort to avoid favouritism. The law also prohibits preferential treatment among members of the judiciary.<sup>239</sup> However, the law also allows for giving fixed, basic and minimum salaries, in addition to a variable salary in the form of reimbursements and incentives,<sup>240</sup> and does not detail conditions for setting the variable salary,<sup>241</sup> providing scope for abuse. In all cases of service termination, the pension or bonus of the judge is settled on the basis of the final salary, and in accordance with the prescribed rules regarding employees who end their service because of the termination of the post.<sup>242</sup>

Article 185 and 191 of the new Egyptian Constitution of 2014, which was passed in a referendum and has been in effect since 18 January 2014, necessitates that each judicial authority in Egypt have a separate budget that is subject to a detailed parliamentary review. The aggregate of the judiciary budget will be included in the state budget.<sup>243</sup> This security could help to enhance the judiciary's independence and decrease cases of corruption.<sup>244</sup> Under the current governance structure, the judiciary's budget is assigned through the Ministry of Finance as part of the public budget set forth at the beginning of each fiscal year.<sup>245</sup> The distribution of the assigned budget among the different constituencies of the judiciary is the responsibility of the Supreme Judicial Council (SJC).<sup>246</sup> However, the budget must be set via negotiation with the

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<sup>237</sup> Law No. 46 for the year 1972 [ قانون السلطة القضائية المصري الحالي رقم 46 لسنة 1972 ومذكرته الإيضاحية والقوانين والقرارات الوزارية المتعلقة ]<sup>237</sup>

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<sup>238</sup> Elbially and García-Rubio, 2011.

<sup>239</sup> Law No. 46, 1972.

<sup>240</sup> Elbially and García-Rubio, 2011.

<sup>241</sup> Law No. 46, 1972.

<sup>242</sup> Ibid.

<sup>243</sup> 2014 Egyptian Constitution.

<sup>244</sup> Interview of a judge of appeal with Ahead of the Curve, autumn 2013.

<sup>245</sup> Law No. 46, 1972; Abdullah Khalil et al., *Towards Establishing a Vision for the Independence and Impartiality of the Egyptian Judiciary* (Cairo: Cairo Institute for Human Rights Studies, 2011).

<sup>246</sup> Khalil et al., 2011.

Ministry of Finance and details of its division among the different constituencies of the judiciary must be approved by the ministry.<sup>247</sup>

## PRACTICE

To what extent does the judiciary have adequate levels of financial resources, staffing, and infrastructure to operate effectively in practice?

Score: 50

*The level of financial resources and infrastructure available to the judiciary is inadequate, hindering it from operating effectively. Issues exist with the sufficiency of available space, numbers of judges, as well as effective criteria for determining the qualifications of members of the judiciary.*

The current governance structure gives the executive arm extensive influence over the judiciary's financial resources through budget negotiations;<sup>248</sup> this executive power has in the past been used to coerce and influence the judiciary.<sup>249</sup>

The SJC is responsible for the allocation of the internal judicial budget within limits agreed by the Ministry of Finance.<sup>250</sup> Proposals for gaining more independence in apportioning the budget have been set forth;<sup>251</sup> however, no sustainable plan has yet been put forward for the allocation of resources.<sup>252</sup>

Judges' salaries are generally low,<sup>253</sup> which is a concern for their independence. A number of judges have voluntarily temporarily occupied administrative jobs within the executive or public sector, with significantly larger financial returns as a consequence of this.<sup>254</sup> Salaries were determined almost 40 years ago and have not increased. The annual total salary (basic and variable) of the head of the Supreme Court is approximately USD 22,226, while a judge in an ordinary court would receive approximately USD 8791.<sup>255</sup> Recently, a fund was established by the judiciary to develop the social welfare of judges. A new health care programme has been created, the development of social clubs for judges outside the capital has been planned and a significant increase in the welfare of judges has been tangible.<sup>256</sup>

While the law requires standard judicial salaries, through differentiating between the benefits and bonuses different judges receive different salary levels.<sup>257</sup> Benefits and bonuses are decided by the Supreme Judiciary Council upon reports issued by an inspection committee based at the Ministry of Justice. An example of this is the Supreme State Security Prosecution, which investigates political cases and whose staff receive significantly higher salaries than their peers. Counselors, who are appointed directly by the Minister of Justice, also receive significantly better pay and other financial advantages.<sup>258</sup> The executive also selects judges for

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<sup>247</sup> Khalil et al., 2011.

<sup>248</sup> *The Reform of Judiciaries in the Wake of the Arab Spring, Proceedings of the seminar* (Copenhagen: Euro-Mediterranean Human Rights Network, 2012).

<sup>249</sup> Khalil et al., 2011.

<sup>250</sup> Ibid.; interview of a judge of appeal with Ahead of the Curve, autumn 2013.

<sup>251</sup> Khalil et al., 2011.

<sup>252</sup> Ibid.; interview of a judge of appeal with Ahead of the Curve, autumn 2013.

<sup>253</sup> Mahmoud Kandil, *The Judiciary in Egypt: Pursuing reform and promoting independence*, Arab Reform Initiative, 2012; Khalil et al., 2011; Elbially and García-Rubio, 2011.

<sup>254</sup> Elbially and García-Rubio, 2011.

<sup>255</sup> Ibid.

<sup>256</sup> Interview of a judge of cassation with Ahead of the Curve, autumn 2013.

<sup>257</sup> Ibid.

<sup>258</sup> Negad El Bora'i, *The Independence of the Judiciary: The Truth as it is!* 2006.

secondment to foreign jurisdictions, appointment to administrative authorities or assignment to additional work; such appointments result in better pay.<sup>259</sup> This system of benefits, bonuses and secondments could be used to influence the judiciary.

Access to resources – particularly modern technology – is limited according to an interviewee. The judiciary has attempted to digitise the courts' systems and documents, which has begun in Cairo and Ismailia.<sup>260</sup> A judge interviewed for this study indicated that there is a lack of physical space available for judges to conduct their day-to-day activities,<sup>261</sup> often judges only have access to the courts themselves and the deliberation rooms for office space.<sup>262</sup>

Annual announcements are made calling for recent graduates of law and sharia' schools to apply to the judiciary.<sup>263</sup> Successful applicants are employed in the public prosecutor's office until they can apply to the judiciary at the age of 30. The retirement age for the judiciary is 70.<sup>264</sup> Slow growth in recruitment rates mean that the judiciary is overstretched,<sup>265</sup> resulting in an extremely slow ruling and resolution process.<sup>266</sup> Authors have expressed concern at the low grades and short period of practical experience required to enter the judiciary.<sup>267</sup>

Opportunities for judicial training for existing judges are limited, despite the huge number of cases and the lack of efficiency in dealing with them. External trainings are sometimes offered by entities like the United Nations Development Programme, Egypt's National Council for Human Rights, and the Council of State's National Center for Judicial Studies. However, current judicial training schemes are missing international human rights norms, and are generally not fully adequate or comprehensive.<sup>268</sup> When asked about training opportunities for members of the judiciary, the interviewed judge of cassation expressed concerns about the lack of knowledge and technical expertise transfer that takes place after trainings and scholarship exchanges. He commented that those trained come back with concerns about the lack of efficiency of the current system, but without practical ideas or actions for addressing inefficiencies.<sup>269</sup>

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<sup>259</sup> Mohamed Nour Farhat and Ali Sadek, *Report on the State of the Judiciary in Egypt*, Arab Center for the Development of the Rule of Law and Integrity.

<sup>260</sup> Interview of a judge of cassation with Ahead of the Curve, autumn 2013.

<sup>261</sup> Ibid.

<sup>262</sup> Ibid.

<sup>263</sup> Ibid.

<sup>264</sup> Ibid.

<sup>265</sup> Moustafa, 2012.

<sup>266</sup> Ibid.; Elbially and García-Rubio, 2011.

<sup>267</sup> Elbially and García-Rubio, 2011.

<sup>268</sup> *Justice at a Crossroads: The Legal Profession and the Rule of Law in the New Egypt* (London: International Bar Association, 2011).

<sup>269</sup> Interview of a judge of cassation with Ahead of the Curve, autumn 2013.

# CAPACITY: INDEPENDENCE

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## LAW

To what extent is the judiciary independent by law?

Score: 50

*While the constitution requires the independence of the judiciary, laws restrict this. The executive plays a role in some key judicial positions and controls the judicial budget, both of which could undermine judicial independence.*

The 2012 constitution guaranteed the judiciary's independence in issuing judgements in accordance with the law and administering its own affairs and budget, as well as prohibiting judicial officials' dismissal without legal grounds.<sup>270</sup> The 2014 draft constitution also addresses the issue of the judicial independence, protecting it under Article 184, which guarantees judicial independence and criminalises interference in judicial affairs. Article 191 of the 2014 constitution mandates the independence of the Supreme Judicial Council.<sup>271</sup>

In general the appointment procedure for judges is an internal process: judges are appointed in accordance with the objective criteria set forth in Law 46 (1972), both for initial appointment of those who reached the age of 30 years and promotion, as well as for President of the Court, who is selection from a list established by the senior judges in that court. The selected judge is then reviewed and approved by the SJC, which is a seven-person board of the most senior judges in Egypt, including the attorney general. The chief justice of the Court of Cassation presides over this process. This is followed by the SJC issuing a decree of appointment, signed by the president of Egypt.<sup>272</sup> Criteria for the appointment of judges can be found in Article 38 of Law 46 (1972). Criteria include a law degree, a minimum age of 30, a good reputation and a clear criminal record. Experts have argued that these criteria do not reflect performance and thus are not based on clear professional criteria.<sup>273</sup>

However, the executive plays a role in the appointment of senior positions in the judiciary:

- The president appoints the chief justice of the Court of Cassation, who is also the head of the SJC, from among the vice-presidents of this court, with the agreement of the SJC (Article 44 of the Judicial Authority Law).
- The president appoints the public prosecutor from among the vice-presidents of the appeal courts, the counselors at the Court of Cassation and the prosecutors, from a selection of three candidates provided by the SJC (Article 119 of the Judicial Authority Law).
- The president appoints the head of the Supreme Constitutional Court from the oldest three deputy heads of the court, after the approval of the court's general assembly (Law on the Supreme Constitutional Court No. 48 of 1979).

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<sup>270</sup>2012 Egyptian Constitution.

<sup>271</sup>2014 Egyptian Constitution.

<sup>272</sup>Articles 38-41 of Law No. 46, 1972.

<sup>273</sup>Elbially and García-Rubio, 2011.

- The Minister of Justice appoints the presidents of the High Courts from among the judges of the appeal courts, with the agreement of the SJC (Article 9 of the Judicial Authority Law).

Article 62 of the Judicial Authority Law authorizes the temporary transfer of a judge to work in a judicial or legal post other than his usual office, by a decision of the Minister of Justice after taking the opinion of the court's general assembly and approval of the SJC, who can decide on the award for these works after completion. The Minister of Justice as supervisor of the judiciary, is entitled to take disciplinary actions against judges.<sup>274</sup> Experts and advocates of judicial independence see these numerous mechanisms of executive control over judicial appointments as a barrier to independence.<sup>275</sup>

The judiciary does have general power over dismissals (except by virtue of the disciplinary board, which is headed by the president of the Court of Cassation, along with three heads of Appeal Courts and the oldest three judges of the Court of Cassation).<sup>276</sup> Judges in Egypt are appointed for life, with the mandatory retirement age being 70.<sup>277</sup> The executive does not have power over disciplinary procedures of the Supreme Constitutional Court,<sup>278</sup> which provides some level of independence.

## PRACTICE

To what extent does the judiciary operate without interference from the government or other actors?

Score: 50

*Over the past two years, the judiciary has taken decisions which are political to a large extent, which threatens commonly held perceptions of its independence during the transition period. Judges are normally not retired before retirement age, despite public prosecutor being dismissed by presidential decree in 2012.*

Since 2011, the judiciary has taken decisions that are political to a large extent. In 2011 it had to dissolve the National Democratic Party (the ruling party under Mubarak's era), in 2012 it dissolved the first constituent assembly and in June 2013 it took two decisions; on the unconstitutionality of the elections of the upper chamber of Parliament and voiding the election, and nullifying the second constituent assembly.<sup>279</sup>

In practice, judges are appointed in accordance with the law, which does not set clear professional criteria for recruitment.<sup>280</sup> Judges are not usually retired before they reach retirement age. However on 22 November 2012, Mohamed Morsi issued a constitutional declaration removing General Prosecutor Abdel Maguid Mahmoud from office.<sup>281</sup> The appeals

<sup>274</sup>A. O. Sherifand N. J. Brown, "Judicial independence in the Arab world", *New York Review of Books*(10), 2002., Law 46 of 1972.

<sup>275</sup>Euro-Mediterranean Human Rights Network, 2012; Khalil et al., 2011.

<sup>276</sup>Interview of a judge of appeal.

<sup>277</sup>Law No. 46, 1972.

<sup>278</sup>Sherifand Brown, 2002.

<sup>279</sup>Daniela Pioppi, "The Judiciary and 'Revolution' in Egypt". *Insight Egypt*(2),2013.

<sup>280</sup>Law No. 46, 1972.

<sup>281</sup>Ethar Shalaby, "Morsy issues new constitutional declaration", *Daily News Egypt*, 22 November 2012.

court in Cairo nullified this decision, upheld by the Court of Cassation; however, the former prosecutor stepped down after being reinstated and was reassigned.<sup>282</sup>

An ethical council investigates complaints filed against judges. It is enough for the council to determine that a judge holds a “bad reputation” in order to have him/her removed.<sup>283</sup> An interviewed judge indicated that the Egyptian judicial system is strict when it comes to a judge’s reputation and that it is common practice to remove a judge for a flawed reputation or where their integrity is in question, even if no charges are brought.<sup>284</sup> Judges are required to work in several districts of Egypt. Transfer to another district is not considered a punishment.<sup>285</sup>

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<sup>282</sup>«اعتذار عبدالمجيد محمود عن الاستمرار بمنصب النائب العام [Abdel Maguid Mahmoud Refrains from Continuing in his Capacity as the Public Prosecutor]», *Al Arabiya*, 5 July 2013.

<sup>283</sup>Interview of a judge of appeal with Ahead of the Curve, autumn 2013.

<sup>284</sup>Ibid.

<sup>285</sup>Interview of a judge of cassation with Ahead of the Curve, autumn 2013.

# GOVERNANCE: TRANSPARENCY

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## LAW

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the judiciary?

Score: 50

*Comprehensive legal provisions with regard to the overall transparency of the judiciary are not in place. While the judiciary is required to disclose information about certain activities, disclosure is limited to select audiences.*

Disclosure of assets to the Central Audit Organisation is a legal requirement for judges.<sup>286</sup> The judiciary is not legally required to publicly disclose information on appointing, moving or removing judges. The SJC is not legally required to provide information to the public.

Laws require the judiciary to disclose case information to the parties to a dispute, but do not mandate the disclosure of this information to the general public.<sup>287</sup> Court and case statistics are not available to the public.<sup>288</sup> Article 18 of Law 46 (1972) requires court hearings to be public. Parties can request private hearings for ethical reasons or to maintain public order, but the judge must announce the verdict in a public hearing,<sup>289</sup> providing some degree of transparency.

## PRACTICE

To what extent does the public have access to judicial information and activities in practice?

Score: 25

The judiciary and the SJC do not publish regular reports on their activities, spending and governance; nor are they legally required to do so. A judicial interviewee indicates that despite legal requirements, judicial asset disclosure is rare. Further, the interviewee indicates, the organisation ( Illicit Enrichment Apparatus) responsible for enforcing disclosure is part of the judiciary and judges rotate into this organisation to inspect public official asset disclosure,<sup>290</sup> meaning there is no independent mechanism to oversee judicial asset disclosure.

Information readily available to citizens is limited to records of court decisions, which are only available through the court that issued the decision.<sup>291</sup>

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<sup>286</sup> Law No. 62 for the year 1975

<sup>287</sup> Procedural Law No. 13 for the year 1968.

<sup>288</sup> Interview of a judge of appeal with Ahead of the Curve, autumn 2013.

<sup>289</sup> Article 18 of Law No. 46, 1972.

<sup>290</sup> Interview of a judge of appeal with Ahead of the Curve, autumn 2013; Law No. 48, 1978.

<sup>291</sup> Law No. 46, 1972.

The judiciary does not issue reports on its spending or its financial activities. The Court of Cassation issues an annual collection of its decisions, entitled *Rulings and Principles of the Court of Cassation*,<sup>292</sup> which a judicial interviewee indicated is primarily a reference for young judges and lawyers on matters relating to the rulings of the Court of Cassation.<sup>293</sup> There is a website for the Court of Cassation on which all judgements issued by the court are available.<sup>294</sup> The SJC is not obliged to publicly provide any information. No reports on its spending or financial status are made public. Information on the appointment and removal of judges is only publicised through the media.

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<sup>292</sup> *Egypt: Legal Research Guide*, Library of Congress.

<sup>293</sup> Interview of a judge of cassation with Ahead of the Curve, autumn 2013.

<sup>294</sup> [www.cc.gov.eg](http://www.cc.gov.eg)

# GOVERNANCE: ACCOUNTABILITY

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## LAW

To what extent are there provisions in place to ensure that the judiciary has to report and be answerable for its actions?

Score: 75

*Laws allow persons to submit complaints about the judiciary and provide some level of protection for persons who submit complaints. Judges can be dismissed on reputational grounds, for which there are no set criteria.*

Judges are answerable for their actions to the SJC. The law requires judgements to be based on legal texts; appeals to a higher court are possible regarding incorrect application of the law.<sup>295</sup>

Citizens are able to file complaints against judges; these cases are referred to the Inspection of Judges Committee.<sup>296</sup> This committee is composed of judges and reports to the Ministry of Justice.<sup>297</sup> An appeal judge indicated that this may limit its independence.<sup>298</sup> If a judge is accused of a crime, the Inspection of Judges Committee has the power to investigate and to dismiss the judge. Reputation is one of the grounds for dismissal, for which there are no objective criteria.<sup>299</sup>

Citizens file complaints against judges to the head of the court they work in and to the Judicial Inspection Department, for all judges beneath the appeal level. Complaints against appeal court judges are presented to the president of the court of appeal and, after a series of steps, go to the disciplinary board. The disciplinary board can investigate or delegate a judge for the investigation. The board has the power to fire the judge. One of the criticisms of this law is that under Article 94 of Law 46 – the head of the court, whether upon her/his own or upon the decision of the general assembly of the court, has the right warn judges that they are in contradiction of their duties or the requirements of their posts, after hearing their oral or written statements. The warning can be orally or written, and in the case of written warning, is to be reported to the Minister of Justice. The Minister of Justice's delegated authority gives him the right of warning the heads and judges of first instance courts orally or written after hearing their statements, conditioned that they have the right to appeal if it is a written warning. If the violation is repeated or continues after the warning becomes final, then a disciplinary case is initiated.

Complainants against judges are not protected by law, but are not condemned by it either. A separate judicial branch is responsible for investigating complaints filed against judges; thus, the link between the complainant and the judge is invisible.<sup>300</sup>

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<sup>295</sup> Interview of a judge of cassation with Ahead of the Curve, autumn 2013.

<sup>296</sup> Moustafa, 2012.

<sup>297</sup> Ibid.

<sup>298</sup> Interview of a judge of appeal with Ahead of the Curve, autumn 2013.

<sup>299</sup> Ibid.

<sup>300</sup> Ibid.

Disciplinary procedures for judges are stated in Articles 93-115 of Law 46 (1972).<sup>301</sup> Arrest of a judge needs the express permission of the Judicial Inspection Committee.<sup>302</sup> In cases where the judge is caught in the act of committing a crime, the Attorney General shall within 24 hours refer the matter to the SJC, who can decide on either continued detention or release with or without bail and can hear statements from the judge in question. In general, investigations of judges require a request from the Attorney General, approved by the SJC.

Judges charged with a crime are tried by the two oldest judges of the Court of Cassation, with some exceptions.<sup>303</sup>

## PRACTICE

To what extent do members of the judiciary have to report and be answerable for their actions in practice?

Score: 75

Judgements contrary to the law in form or content can be and are appealed to higher courts.<sup>304</sup> Judges are not held liable for misapplying the law.<sup>305</sup> Examples of appeals against judgements can be found on the Court of Cassation website.<sup>306</sup>

The Inspection of Judges Committee investigating complaints against judges is formed of judges and reports to the Ministry of Justice, which may limit its ability to make impartial judgements.<sup>307</sup>

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<sup>301</sup> Articles 94-115 of Law No. 46, 1972.

<sup>302</sup> Article 96 of Law No. 46, 1972.

<sup>303</sup> *ibid.*

<sup>304</sup> Interview of a judge of cassation with Ahead of the Curve, autumn 2013.

<sup>305</sup> Interview of a judge of appeal with Ahead of the Curve, autumn 2013.

<sup>306</sup> Court of Cassation website: [www.cc.gov.eg/Courts/Cassation\\_Court/Correctional/Cassation\\_Court\\_Correctional.aspx](http://www.cc.gov.eg/Courts/Cassation_Court/Correctional/Cassation_Court_Correctional.aspx)

<sup>307</sup> Interview of a judge of appeal with Ahead of the Curve, autumn 2013.

# GOVERNANCE: INTEGRITY

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## LAW

To what extent are there mechanisms in place to ensure the integrity of members of the judiciary?

Score: 75

*Several mechanisms exist to ensure the integrity of members of the judiciary, and they are bound by many of the same laws as public employees. No comprehensive conflict of interest law or policy is currently in place.*

A standalone code of ethics policy does not exist for the judiciary. Law 46 (1972), Section 2, Chapter 5, entitled “Duties of Judges”, acts somewhat as a code of ethics policy, but is not comprehensive. The Discipline and Eligibility Council within the Court of Cassation is responsible for ensuring ethics in the judicial system.<sup>308</sup> The penal code covers crimes such as bribery (Articles 103-111), crimes relating to the abuse of public money (Articles 112-119), and illicit gain through the abuse of power (Article 130). Judges can be prosecuted for offences relating to public money.<sup>309</sup>

Judges are treated as public servants in asset disclosure laws.<sup>310</sup> They are required to disclose their assets to the Ministry of Finance (Illicit Gains Apparatus) annually, upon appointment as judges, once every five years until they are no longer in the judiciary and two months after leaving the judiciary.<sup>311</sup>

Conflict of interest is not comprehensively prohibited for members of the judiciary. Law 46 (1972) prevents judges from conducting commercial or other activities that could affect their independence, but allows judges to be assigned as consultants to ministers, which could severely limit their independence.<sup>312</sup> The law does not restrict the post-employment positions of judges.

Judges’ receipt of gifts and crimes involving public money are treated under the same laws governing gifts and hospitality of public employees. The Public Employees Law 48 (1978) establishes that receipt of gifts, whether big or small, bribery and crimes involving public money are punishable under the Egyptian Penal Code.<sup>313</sup>

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<sup>308</sup>Interview of a judge of appeal with Ahead of the Curve, autumn 2013.

<sup>309</sup>Egyptian Penal Code, 1937.

<sup>310</sup>Law No. 62, 1975.

<sup>311</sup>Interview of a judge of cassation with Ahead of the Curve, autumn 2013.

<sup>312</sup>Ibid, Article 3, Law 62, 1975.

<sup>313</sup>Ibid.

## PRACTICE

To what extent is the integrity of members of the judiciary ensured in practice?

Score: 50

*Bribery and misuse of power are effectively monitored and investigated in practice. Asset declarations are seen more as voluntary by the judiciary, however, and are rarely enforced in practice.*

An interviewed appeal judge reports that the Discipline and Eligibility Council acts effectively to investigate and prosecute where appropriate when it is aware of cases of bribery or unlawful hospitality from a party to a case the judge is reviewing.<sup>314</sup> Investigations are frequently carried out immediately and in practice the Discipline and Eligibility Council removes judges from their positions.<sup>315</sup>

Appeal judges are in practice the only persons who verify the disclosure of assets of other public employees. This is done through the Illicit Gains Apparatus. Judges are required by law to disclose their assets, but in practice, an interviewed appeal judge indicated this is seen as a voluntary act.<sup>316</sup> Sanctions are not given for failure to disclose assets, according to the interviewee, though requests to disclose a judge's assets may be sent to their offices.<sup>317</sup> The Disciplinary and Eligibility Council focuses more on reputation, illicit gain or suspicious relationships with the court users rather than asset declarations, according to the appeal judge interviewed.<sup>318</sup> In a recent case, eight judges were referred to the council for "over-appearance in the media" and for expressing political opinions, as well as announcing their participation in protests and marches.<sup>319</sup>

Challenging the impartiality of a judge is a fairly clear procedure and can be done with ease by court users.<sup>320</sup>

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<sup>314</sup>Interview of a judge of appeal with Ahead of the Curve, autumn 2013.

<sup>315</sup>Farhat and Sadek.

<sup>316</sup>Interview of a judge of appeal with Ahead of the Curve, autumn 2013.

<sup>317</sup>Ibid.

<sup>318</sup>Ibid.

<sup>319</sup>Ibrahim Qasim, "Judicial inspector Walid Sharabi refers seven judges to the Disciplinary Board on charges of working in politics", *Youm7*, 23 October 2013: [www.youm7.com/News.asp?NewsID=1309388](http://www.youm7.com/News.asp?NewsID=1309388)

<sup>320</sup>Interview of a judge of cassation with Ahead of the Curve, autumn 2013.

# ROLE: EXECUTIVE OVERSIGHT

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To what extent does the judiciary provide effective oversight of the executive?

Score: 50

The State Council is the legal entity that hears cases regarding decisions of the executive, consisting of the Administrative Courts (first instance and appeal) where lawsuits are filed against the state. There are three main types of appeal against an administrative decision (annulment, disciplinary and payment for damages).<sup>321</sup>

An obvious example of administrative decisions being annulled by the State Council would be the annulment of the privatisation of Omer Effandi, a public sector department store. The decision to privatise Omer Effandi was an executive decision and it was annulled by the Supreme Administrative Court.<sup>322</sup>

Implementation of decisions against the executive is the jurisdiction of law enforcement agencies,<sup>323</sup> while the public prosecutor holds public officials to account for corruption and abuse of power. The presidential role in the appointment of the public prosecutor (selecting one of three proposed candidates)<sup>324</sup> could undermine its independence to do this in practice.

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<sup>321</sup>Administrative Law No. 47 for the year 1972.

<sup>322</sup>Shaima Karanshaw, "Administrative court issues a final judgement on the invalidity of the privatisation of Omar Effandi", *AlMasryAlYom*, 17 June 2013: [www.almasryalyoum.com/news/details/222556](http://www.almasryalyoum.com/news/details/222556)

<sup>323</sup>Interview of a judge of appeal with Ahead of the Curve, autumn 2013.

<sup>324</sup>Article 119 of the Judicial Authority Law.

# ROLE: CORRUPTION PROSECUTION

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To what extent is the judiciary committed to fighting corruption through prosecution and other activities?

Score: 50

Corruption cases are reviewed by criminal courts; they are not dealt with separately, but rather through the penal code. The penal code covers cases of misuse of public money, illicit gain and bribery.<sup>325</sup> There is no separate mechanism for dealing with corruption cases outside of the criminal courts.<sup>326</sup> Criminal court judges review corruption cases.<sup>327</sup>

The criminal courts do not hold records for corruption crimes separate from the records of all the cases they review. Records of cases that the court views are available through the relevant court's archive or in some rare cases the court's website.<sup>328</sup>

There are no records of judicial involvement in proposing anti-corruption measures and reforms based on its expertise. However, on-off initiatives on the topic of corruption exist. For example, an anti-corruption workshop was held in 2012 in Cairo under the auspices of the American Bar Association. 50 Court of Cassation judges reportedly attended the workshop and worked on legal solutions to address corruption in Egypt,<sup>329</sup> and the United Nations Office on Drugs and Crime (UNODC) has been working with judges on addressing cross-border corruption.<sup>330</sup>

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<sup>325</sup> Articles 103-111 of the Egyptian Penal Code, 1937.

<sup>326</sup> Interview of a judge of appeal with Ahead of the Curve, autumn 2013.

<sup>327</sup> Judiciary Procedural Law No. 13 for the year 1968.

<sup>328</sup> Interview of a judge of appeal with Ahead of the Curve, autumn 2013.

<sup>329</sup> "Egyptian Court of Cassation Judges Attend Anti-Corruption Workshops", American Bar Association, 2012.

<sup>330</sup> Steven David Brown, *Independent mid-term project evaluation of Supporting Measures to Combat Corruption and Money Laundering, and to Foster Asset Recovery, in Egypt* (Vienna: UNODC, 2013).

**PUBLIC SECTOR**

**49 / 100**

# SUMMARY

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Corruption levels in the public sector are high.<sup>331</sup> Egypt's scored 32 / 100 in Transparency International's 2013 Corruption Perceptions Index, often used as an indicator of public sector corruption.<sup>332</sup>

Public sector reform since the 1990s has focused on downsizing and privatising state-owned companies.<sup>333</sup> An Economic Reform and Structural Adjustment Programme beginning in 1991,<sup>334</sup> instituted to respond to the low performance of Egypt's economy, aimed to reform public sector companies.<sup>335</sup> Part of this programme looked at privatising poorly performing public sector companies; however, it was suspended in 2010 following public pressure that accused the government of selling well-performing public companies<sup>336</sup> and officially terminated following the uprising in January 2011. In September 2011 the government re-nationalised three companies.<sup>337</sup>

The table summarises the overall score for the public sector in Egypt according to its capacity, governance and role in both law and practice.

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<sup>331</sup>Kamal A. El-Wassal, "Public Employment Dilemma in Egypt: Who pays the Bill?" *Proceedings of 20th International Business Research Conference*, 4-5 April 2013, Dubai.

<sup>332</sup>Transparency International, *Corruption Perceptions Index*, 2013.

<sup>333</sup>Bassem Sabry, "A Guide to Egypt's Challenges: Corruption", *Ahram Online*, 16 August 2012: <http://english.ahram.org.eg/NewsContent/1/0/49614/Egypt/-Corruption.aspx>

<sup>334</sup>Karima Korayem, *Egypt's Economic Reform and Structural Adjustment Programme (ERSAP)*, Egyptian Center for Economic Studies Working Paper no. 19, 1997: <http://eces.org.eg/Publication.aspx?Id=209>

<sup>335</sup>African Development Bank Group, *Egypt Economic Reform and Structural Adjustment Programme: Project Performance Evaluation Report (PPER)*, 2000: [www.afdb.org/fileadmin/uploads/afdb/Documents/Evaluation-Reports/05092259-EN-EGYPT-ECONOMIC-REFORM-AND-SAP.PDF](http://www.afdb.org/fileadmin/uploads/afdb/Documents/Evaluation-Reports/05092259-EN-EGYPT-ECONOMIC-REFORM-AND-SAP.PDF)

<sup>336</sup>Sabry, 2012.

<sup>337</sup>African Development Bank Group, 2000.

OVERALL PILLAR SCORE: 49 / 100			
Category	Index	Law	Practice
Capacity 50 / 100	Resources	-	25
	Independence	75	50
Governance 46 / 100	Transparency	50	50
	Accountability	50	50
	Integrity	50	25
Role 50 / 100	Public education	25	
	Cooperate with public institutions, CSOs and private agencies in preventing/ addressing corruption	50	
	Reduction of corruption risk by safeguarding integrity in public procurement	75	

## STRUCTURE AND ORGANISATION

Egypt's public sector is made up of:

- ministries and their employees<sup>338</sup>
- public universities<sup>339</sup>
- public sector companies<sup>340</sup>

<sup>338</sup> Jamie Boex, *Democratization in Egypt: The Potential Role of Decentralization* (Washington, D.C.: Urban Institute Center on International Development and Governance, 2011): [www.urban.org/UploadedPDF/412301-Democratization-in-Egypt.pdf](http://www.urban.org/UploadedPDF/412301-Democratization-in-Egypt.pdf)

<sup>339</sup> Center for International Private Enterprise Arabia, *Transparency in Government Procurement*, Series of White Papers to Promote Transparency & Combat Corruption in Egypt: [www.cipe-arabia.org/files/pdf/Corruption/Policy\\_Paper\\_Procurement-EN.pdf](http://www.cipe-arabia.org/files/pdf/Corruption/Policy_Paper_Procurement-EN.pdf)

<sup>340</sup> Ibid.

# CAPACITY: RESOURCES

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## PRACTICE

To what extent does the public sector have adequate resources to effectively carry out its duties?

Score: 25

Salaries in the public sector are low<sup>341</sup> and the system provides for promotion based on experience and years in office rather than employee performance.<sup>342</sup>

5.7 million people are employed in the public sector,<sup>343</sup> which has an annual wage bill of approximately EGP 117.5 billion (US\$16.88 billion).<sup>344</sup> The government has primarily used the Central Bank of Egypt or commercial banks to pay public sector wages.<sup>345</sup>

The Ministry of Manpower and Migration is responsible for planning, developing and monitoring the employment market.<sup>346</sup> Public employment accounts for 30-40 per cent of total employment and accounts for 26% of public expenditure.<sup>347</sup>

The nature of local administration in Egypt means that several different administrative bodies at different levels are responsible for budgetary resources, which has led to inefficiencies, according to an interviewee.<sup>348</sup>

While governors are the administrative heads of their respective jurisdictions, they have little authority to control their budget; this creates a gap between the demands of the governorate and the budget the Ministry of Finance allocates for services in their regions.<sup>349</sup>

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<sup>341</sup>Doha Abdelhamid and Laila El Baradei, "Reforming the Pay System for Government Employees in Egypt", *International Public Management Review*, vol. 11, issue 3, 2010: 59: [www1.imp.unisg.ch/org/idt/ipmr.nsf/ac4c1079924cf935c1256c76004ba1a6/0a6bc377c4552cd9c12577d1005957ea/\\$FILE/Abdelhamid%20&%20E1%20Baradei\\_IPMR\\_Volume%2011\\_Issue%203.pdf](http://www1.imp.unisg.ch/org/idt/ipmr.nsf/ac4c1079924cf935c1256c76004ba1a6/0a6bc377c4552cd9c12577d1005957ea/$FILE/Abdelhamid%20&%20E1%20Baradei_IPMR_Volume%2011_Issue%203.pdf)

<sup>342</sup>Analysis of Law No.47 for the year 1978.

<sup>343</sup>Abdelhamid and El Baradei, 2010: 66.

<sup>344</sup>"Egypt's public sector still pays better than private firms: CAPMAS", *Ahram Online*, 5 September 2012: <http://english.ahram.org.eg/NewsContent/3/12/52061/Business/Economy/Egypt-public-sector-still-pays-better-than-privat.aspx>

<sup>345</sup>Ministry of Finance, *Public Expenditure*: [www.mof.gov.eg/English/Papers\\_and\\_Studies/Pages/Expenditure.aspx](http://www.mof.gov.eg/English/Papers_and_Studies/Pages/Expenditure.aspx)

<sup>346</sup>Ghada Ahmed, *Employment and Human Resource Services in Egypt*, Master's thesis, 2010, retrieved from: [www.cgcc.duke.edu/pdfs/Ahmed\\_MP\\_EmploymentHRServices.pdf](http://www.cgcc.duke.edu/pdfs/Ahmed_MP_EmploymentHRServices.pdf)

<sup>347</sup>EI-Wassal, 2013.

<sup>348</sup>Interview of Laila ElBaradei, Acting Dean, Professor of Public Administration, American University in Cairo with Ahead of the Curve, Autumn 2013.

<sup>349</sup>Ibid.

# CAPACITY: INDEPENDENCE

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## LAW

To what extent is the independence of the public sector safeguarded by law?

Score: 75

*Public sector employees in Egypt are governed by several laws depending on the entities they work for. The law does not allow political dismissal of public sector employees.*

Egyptian public employees are governed by seven main laws:<sup>350</sup>

- Law no. 5, 1991
- Law no. 47, 1978
- Law no. 61, 1963
- Law no. 48, 1978
- Law no. 203, 1991
- Law no. 32, 1983
- Law no. 12, 2003

Procedures for appointing a public sector employee are stated under these laws. The procedures include advertising for a vacancy and then selecting the best candidate for the position.<sup>351</sup> Under current laws, it is extremely hard to remove a public employee from office.<sup>352</sup> A public employee's promotion and removal are subject to the law<sup>353</sup> and are not subject to undue influence. Public personnel can challenge administrative decisions taken against them before administrative courts. This form of challenge offers further protection for public employees against undue measures taken against them.<sup>354</sup> Recently, an administrative court issued a verdict prohibiting the transfer of a public employee as a means of his/her harassment or punishment.<sup>355</sup>

No regulations exist to ensure the impartiality of public employees regardless of their level of seniority.

Public employees can challenge dismissal at the State Council, consisting of administrative courts (first instance and appeal). There are three main types of appeal against an administrative decision (annulment, disciplinary action and payment for damages).<sup>356</sup>

Lobbying for the inclusion and/or exclusion of publicly procured projects in plans, programmes and budgets is not regulated by law.

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<sup>350</sup>Laws and Regulations Governing Public Personnel, CAOA, التي تحكم العاملين في الدولة والقوانين و اللوائح.

<sup>351</sup>Analysis of the said laws.

<sup>352</sup>Interview of Dr.Laila ElBaradei.

<sup>353</sup>Reference made to all the laws mentioned above.

<sup>354</sup>Law No. 47 for the year 1972.

<sup>355</sup>القضاء الإداري: لايجوز نقل الموظف لمكان عمل آخر للتكامل به, *Dostor*, 7 April 2014.

<sup>356</sup>Law No. 48 for the year 1972.

## PRACTICE

To what extent is the public sector free from external interference in its activities?

Score: 50

*Over the past two years, incoming governments have replaced senior public officials with their supporters. However, middle and lower-ranked public officials are largely free from political interference, although they can be politically affiliated.*

High-ranked public officials have been replaced with every new government since the 2011 revolution. Allies of the Muslim Brotherhood were appointed as governors<sup>357</sup> during the Freedom and Justice Party's period in office, and were replaced again in July 2013.<sup>358</sup>

Middle and junior officials are very influential in the decision-making process and are protected from dismissal and promotion due to political pressure;<sup>359</sup> however, there are no legal grounds preventing public employees from being politically affiliated.

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<sup>357</sup>"Egypt's newly appointed governors: A 'who's who' ", *Ahram Online*, 17 June 2013: <http://english.ahram.org.eg/NewsContent/1/64/74199/Egypt/Politics-/Egypst-newly-appointed-governors-A-whos-who.aspx>

<sup>358</sup>"New governors to swear in within days: Cabinet source", *Egypt Independent*, 7 August 2013: [www.egyptindependent.com/news/new-governors-swear-within-days-cabinet-source](http://www.egyptindependent.com/news/new-governors-swear-within-days-cabinet-source)

<sup>359</sup>Interview of Dr. Laila ElBaradei, Acting Dean, Professor of Public Administration, American University in Cairo.

# GOVERNANCE: TRANSPARENCY

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## LAW

To what extent are there provisions in place to ensure transparency in financial, human resource and information management of the public sector?

Score: 50

*Laws require public sector employees to ensure that public funds are managed in a proper, transparent and efficient manner. This includes public officials' asset disclosure, procurement rules and annual audit oversight. No access to information law exists.*

All public employees are required to disclose their assets to the CAO upon appointment and every five years thereafter. The CAO is a separate entity set up specifically to oversee public expenditure, and also supervises salaries and financial asset disclosure of public officials.<sup>360</sup> Financial reports are revised by rotating judges and filed with the public prosecution, the illicit gains apparatus or the anti-money laundering unit in case further investigation is needed.<sup>361</sup>

The right to access public information is enshrined in Article 68 of the 2014 Egyptian Constitution,<sup>362</sup> which states that public information is "owned by the people". Non-governmental organisations and specialists presented draft access to information laws to the legislature in 2012 and 2013,<sup>363</sup> but an access to information law has yet to be passed.

Appointment in the public sector is governed by several laws. Law 48 (1978) governs appointments in public sector companies and states that vacancies have to be advertised and appointments should be made based on a decision from the board of the company.<sup>364</sup> Law 47 (1978) requires vacancies to be advertised in at least two newspapers<sup>365</sup> and obliges public and private institutions to report all vacancies and staff changes to local employment offices.<sup>366</sup>

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<sup>360</sup> Law No. 144 for the year 1988.

<sup>361</sup> Interview of a judge of appeal.

<sup>362</sup> 2014 Egyptian Constitution.

<sup>363</sup> Sarah Carr, "Access legalized: A new freedom of information law in the making", *Egypt Independent*, 8 January 2013: [www.egyptindependent.com/news/access-legalized-new-freedom-information-law-making](http://www.egyptindependent.com/news/access-legalized-new-freedom-information-law-making); Transparency International, *It belongs to you: Public information in Egypt*, (Berlin: Transparency International, 2013).

<sup>364</sup> Law No. 48, 1978.

<sup>365</sup> Article 17 of Law No. 47, 1978.

<sup>366</sup> Ahmed, 2010.

## PRACTICE

To what extent are the provisions on transparency in financial, human resource and information management in the public sector effectively implemented?

Score: 50

*There is an effort on behalf of the public sector to publicise some of its activities; the e-tender and other government websites established to enhance communication with the public are examples of this.*

Citizens have a degree of access to information via the various public sector bodies' websites.<sup>367</sup>

The Ministry of Finance's website allows access to the budgets of the state, popular council and local government units,<sup>368</sup> which is a recent development since 2009.<sup>369</sup> Normally the budget is also published in a newspaper and discussed in an open session of Parliament.<sup>370</sup> However, the 2013-2014 budget was presented to the Shura Council before it was dissolved, and was not made publicly available.<sup>371</sup>

The state budget is in the format the International Monetary Fund (IMF) has set for most programme countries.<sup>372</sup> There has been some improvement in the comprehensiveness of the state budget after the IMF unified the format, according to commentators.<sup>373</sup> The government is in the process of consolidating all accounts into a treasury single account.<sup>374</sup>

28 supervisory bodies have varying mandates regarding public funds.<sup>375</sup> However, the existence of a large number of supervisory bodies does not necessarily correspond to action taken. Reports from the European Bank of Reconstruction and Development argue that the anti-corruption instruments in Egypt should be stronger and given recognition as an integral part of the procurement policy.<sup>376</sup>

Public tenders are available on the e-tenders website.<sup>377</sup>

Public sector employees are audited and supervised by the CAO. The CAO does not make its reports public.<sup>378</sup>

In practice a failure by public bodies to advertise their vacancies is not sanctioned.<sup>379</sup> It is very common to find "vacancies" sections of the various public sector websites where vacancies in relevant entities are advertised.

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<sup>367</sup> Egyptian Government Services Portal, *Governorates Directory*: [www.egypt.gov.eg/english/guide/governorsAll.aspx](http://www.egypt.gov.eg/english/guide/governorsAll.aspx)

<sup>368</sup> Ministry of Finance, *The State's General budget for FY 2013/2014*: [www.mof.gov.eg/English/Papers\\_and\\_Studies/Pages/Budget2013-2014.aspx](http://www.mof.gov.eg/English/Papers_and_Studies/Pages/Budget2013-2014.aspx)

<sup>369</sup> "Post Response to Questions on Egyptian Fiscal Transparency", *The Telegraph*, 15 February 2011: [www.telegraph.co.uk/news/wikileaks-files/egypt-wikileaks-cables/8326880/Post-Response-to-Questions-on-Egyptian-Fiscal-Transparency.html](http://www.telegraph.co.uk/news/wikileaks-files/egypt-wikileaks-cables/8326880/Post-Response-to-Questions-on-Egyptian-Fiscal-Transparency.html)

<sup>370</sup> Ibid.

<sup>371</sup> "Release the Public Budget to the People... Now!", Egyptian Initiative for Personal Rights press release, 2013: [www.eipr.org/en/pressrelease/2013/04/21/1694](http://www.eipr.org/en/pressrelease/2013/04/21/1694)

<sup>372</sup> Interview of an anonymous governmental consultant.

<sup>373</sup> *The Telegraph*, 2011.

<sup>374</sup> Ibid.

<sup>375</sup> Tariq Ahmed Sabry, "Statement by former Ministry of Justice Ahmad Soliman", *El Wattan*, 17 June 2013: [www.elwatannews.com/news/details/202975](http://www.elwatannews.com/news/details/202975)

<sup>376</sup> *Public Procurement Sector Assessment: Review of laws and practice in the SEMED region* (London: European Bank for Reconstruction and Development, 2013): [http://semed.ppl.ebrd.com/materials/eng\\_ebrd\\_report.pdf](http://semed.ppl.ebrd.com/materials/eng_ebrd_report.pdf)

<sup>377</sup> E-tenders website: <http://etenders.gov.eg/>

<sup>378</sup> Interview of Judge Hisham Genena, Head of the Central Audit Organisation, October 2013.

<sup>379</sup> Abdelhamid and El Baradei, 2010.

# GOVERNANCE: ACCOUNTABILITY

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## LAW

To what extent are there provisions in place to ensure that public sector employees have to report and be answerable for their actions?

Score: 50

*All public sector employees are required by law to submit an asset declaration to their employer, who provides it to the Illicit Profit Apparatus. Citizens can file corruption complaints against public sector employees before the Illicit Profit Apparatus or the complaints department in the organisation where the wrongdoing occurred.*

Citizens can by law file complaints against public sector employees to the IPA. Post-January 2011, the Ministry of State for Local Development established an inspection committee responsible for conducting scheduled and unannounced inspections and prosecution of cases of corruption in the public sector.<sup>380</sup>

As indicated before, public sector employees are governed by several legal provisions. Further legal provisions were introduced over the course of the past few years, for the purpose of addressing the pressing issue of corruption within the Egyptian public sector. For example, the Egyptian Penal Code does criminalise and sanction cases of active and passive bribery, attempted corruption, abuse of office and use of public resources for private gain.<sup>381</sup> As a step further, a new conflict of interest law<sup>382</sup> was set out in 2013 to enhance the ability of the judiciary in combating corruption.

There remains some insufficiency in provisions responsible for covering the definition or protection of whistleblowing.

Complaints regarding any part of the public procurement process are directed to the relevant administrative court where sanctioning wrongdoers could be carried out.

The external auditor of the public sector is the CAO. The CAO, in its turn, reports to the legislator and the president on an annual basis. The CAO does not hold investigative authority; it merely detects fault and files cases for further investigation with the relevant body.<sup>383</sup>

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<sup>380</sup>Business Anti-Corruption Portal, *Egypt Country Profile: Public Anti-Corruption Initiatives*: [www.business-anti-corruption.com/country-profiles/middle-east-north-africa/egypt/initiatives/public-anti-corruption-initiatives/](http://www.business-anti-corruption.com/country-profiles/middle-east-north-africa/egypt/initiatives/public-anti-corruption-initiatives/)

<sup>381</sup>“President Mansour issues anti-corruption law for government officials”, *Ahram Online*, 14 November 2013: <http://english.ahram.org.eg/NewsContent/1/64/86493/Egypt/Politics-/President-Mansour-issues-anticorruption-law-for-go.aspx>

<sup>382</sup>Ibid.

<sup>383</sup>Interview of Hisham Genena, Head of the CAO, with Ahead of the Curve, October 2013.

## PRACTICE

To what extent do public sector employees have to report and be answerable for their actions in practice?

Score: 25

*Although reporting occurs, the reporting process is too complex to be publicly accessible. The CAO faces structural difficulties in carrying out its auditing work and complaints are limited by the lack of whistleblower protection mechanisms.*

Supervision of public procurement is carried out by the CAO. Acting as an external auditor, the CAO delegates its auditors to inspect and revise the internal audits of public entities.<sup>384</sup> Pre-January 2011, the then Minister of Finance, Samir Radwan, recognised that no solid system for evaluation and monitoring of public expenses was present.<sup>385</sup> The CAO faces structural difficulties, which limits it from conducting its work. Unavailability of data is one of the problems it faces. In all cases, the CAO does not make its reports public.<sup>386</sup>

Public sector employees follow strict reporting procedures that could be considered counterproductive at times.<sup>387</sup> Due to the complexity of the hierarchical structure of the public sector, issues relating to transparency and accountability remain complicated as well.<sup>388</sup> This is mainly because the complicated set of procedures makes it hard for common people to trace and supervise public expenditure.<sup>389</sup>

Citizens have the right to complain to the complaints unit of the relevant public body. The complaint is then transferred to the legal unit of the public body to investigate.<sup>390</sup> However, complaints are uncommon due to the lack of whistleblowing protection mechanisms.<sup>391</sup>

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<sup>384</sup>Interview of Judge Hisham Genena, Head of the CAO, with Ahead of the Curve, October 2013.

<sup>385</sup>Andrew Puddephatt, *Corruption in Egypt*, Global Partners and Associates, 2012: [www.gp-digital.org/wp-content/uploads/pubs/Corruption-in-Egypt-Report-new-cover.pdf](http://www.gp-digital.org/wp-content/uploads/pubs/Corruption-in-Egypt-Report-new-cover.pdf)

<sup>386</sup>Ibid.

<sup>387</sup>Interview of anonymous governmental consultant.

<sup>388</sup>Mohamed Mosallam, *The Illusion Dispelled, Egypt's Economic Crisis: Causes – Alternatives – Remedies* (Cairo: Egyptian Initiative for Personal Rights, 2013): [http://eipr.org/sites/default/files/pressreleases/pdf/egypts\\_economic\\_crisis\\_e.pdf](http://eipr.org/sites/default/files/pressreleases/pdf/egypts_economic_crisis_e.pdf)

<sup>389</sup>Ibid.

<sup>390</sup>Interview of anonymous government consultant.

<sup>391</sup>Business Anti-Corruption Portal, *Egypt Country Profile: Public Anti-Corruption Initiatives*; <http://www.business-anti-corruption.com/country-profiles/middle-east-north-africa/egypt/initiatives/public-anti-corruption-initiatives/> [accessed 5 August 2014].

# GOVERNANCE: INTEGRITY

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## LAW

To what extent are there provisions in place to ensure the integrity of public sector employees?

Score: 50

*Laws prohibit public sector corruption and a conflict of interest law was passed in 2013. The oversight body for conflict of interest has not yet been established however. There is no requirement for anti-corruption clauses in public contracts.*

Laws define and restrict receiving gifts, taking a bribe and illegally using authority; they also set some post-employment restrictions. The public employees law<sup>392</sup> does not mention sanctions for breaches of its articles; these are primarily included in the penal code. The penal code criminalises bribery, illicit gain, and misuse or manipulation of public money among other things.<sup>393</sup>

Law 106 (2013) governs conflict of interest and was ratified by Interim President Adly Mansour. The law defines “conflict of interest” and establishes a committee called the Prevention of Corruption Committee. The definition of “conflict of interest” set forth by the law protects the independence of high-level officials and makes profiting from their position a criminal offence.<sup>394</sup> The bylaws establishing the committee are still to be established.<sup>395</sup>

Public procurement contracts are subject to the Tender Law (Law 89 (1998)), which governs contracts between the public sector and third parties.<sup>396</sup> There is no specific format for contracts and no requirement to include anti-corruption clauses.

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<sup>392</sup>Law No. 48, 1978.

<sup>393</sup>Egyptian Penal Code, 1937.

<sup>394</sup>Article 2 of Law No. 106 for the year 2013.

<sup>395</sup>Law No. 106, 2013.

<sup>396</sup>Tender Law No. 89 for the year 1998.

## PRACTICE

To what extent is the integrity of public sector employees ensured in practice?

Score: 25

*Information about public procurement is lacking, public sector contracts do not include anti-corruption clauses.*

Following the January 2011 protests, several violations<sup>397</sup> including illicit gain, bribery and leaking of classified information on the public employees' end were uncovered by the Administrative Control Authority, the Public Investigation Authority and the Central Agency for Public Mobilization and Statistics. Most cases were referred to courts and hearings were scheduled.<sup>398</sup> However, no records on the exact number of charges were found.

There is an absence of information about public procurement, which has been suggested as a factor in corruption within government contracts.<sup>399</sup> Breaches of the Tender Law can be challenged before the administrative courts, which can annul the contract.<sup>400</sup>

Employment contracts of the public sector personnel do not include anti-corruption clauses.

Public sector employees receive training coordinated by the Supreme Council for Human Resources Development (SCHR).<sup>401</sup> This council plans and implements training aimed at developing and improving public personnel to maximise their potential and use within the public sector.<sup>402</sup> The council has not reported on whether these include training on anti-corruption mechanisms or techniques. The SCHR is headed by the Ministry of Manpower and includes representatives from all relevant ministries. In conjunction with launching the e-tender portal, training was conducted with the ministries and governorates to educate them on how to use the portal.<sup>403</sup>

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<sup>397</sup> Egypt trials: Mubarak officials' charges and verdicts, *BBC News*, 12 June 2014:

[www.bbc.com/news/world-middle-east-14389223](http://www.bbc.com/news/world-middle-east-14389223)

<sup>398</sup> Center for International Private Enterprise Arabia, *Transparency in Government Procurement*.

<sup>399</sup> *Ibid.*

<sup>400</sup> Analysis of the State Council Law.

<sup>401</sup> Amina Semlali and Diego F. Angel-Urdinola, *Public Employment Services and Publicly Provided ALMPs in Egypt* (Washington, D.C: World Bank, 2012): <https://openknowledge.worldbank.org/handle/10986/12993>

<sup>402</sup> *Ibid.*

<sup>403</sup> Egypt – General Authority for Government Services (GAGS), Ministry of State for Administrative Development, *High Level Seminar on e-Procurement, Efficiency and Integrity Challenges and Good Practices*, Rome, June 2010: [www.oecd.org/mena/governance/45511504.pdf](http://www.oecd.org/mena/governance/45511504.pdf)

# ROLE: PUBLIC EDUCATION

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To what extent does the public sector inform and educate the public on its role in fighting corruption?

Score: 25

The report of Middle East and North Africa-Organisation for Economic Co-operation and Development (MENA-OECD) on anti-corruption in Egypt indicated a lack of effort by the government to engage the public on anti-corruption. There is no record of public sector-led initiatives to explicitly promote a culture of anti-corruption or to engage citizens in fighting corruption in the public sector.<sup>404</sup>

The only notable example of public sector efforts in a related area was a state-sponsored media series of public service announcements directed at the public, educating them about their duty to pay taxes. The campaign aimed at encouraging citizens to fulfil their taxation duties since tax evasion is a prominent problem in the country. The campaign gained prominence after running on national television (satellite and local) and was very successful; statistics show a clear rise in tax reports the year of the campaign (2007).<sup>405</sup>

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<sup>404</sup> *Business Climate Development Strategy, Egypt: Phase 1 Policy Assessment: Dimension II-1, Anti-Corruption*, MENA-OECD, 2009: [www.oecd.org/globalrelations/psd/46341460.pdf](http://www.oecd.org/globalrelations/psd/46341460.pdf)

<sup>405</sup> Reem Nafie, "Ad campaign and crackdown changes how Egyptians see taxes", *Masress*, 10 October 2007: [www.masress.com/en/dailynews/104190](http://www.masress.com/en/dailynews/104190)

# ROLE: COOPERATE WITH PUBLIC INSTITUTIONS, CSOS AND PRIVATE AGENCIES IN PREVENTING/ ADDRESSING CORRUPTION

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To what extent does the public sector work with public watchdog agencies, business and civil society on anti-corruption initiatives?

Score: 50

*Efforts have been made to fight corruption in the public sector by various stakeholders including local and international non-governmental organisations.*

Anti-corruption initiatives were only setup by the government after to the January 2011 protests.<sup>406</sup> The United Nations Development Programme was involved with the government in creating an anti-corruption commission in 2013, which was a step forward in the government's commitment to fight corruption.<sup>407</sup>

On the local level, an initiative called ma7aliat, which translates into "local government units", was recently set up by a group of young people. The movement aims at supporting young representatives to enter the local government units' elections as a means of changing the regulations that govern the management of the local government units.<sup>408</sup> There have been no reports on the government cooperating with ma7aliat.

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<sup>406</sup> Business Anti-Corruption Portal, *Egypt Country Profile: Public Anti-Corruption Initiatives*.

<sup>407</sup> Ibid.

<sup>408</sup> Ma7aliat website: [www.ma7aliat.com/about-1](http://www.ma7aliat.com/about-1)

# ROLE: REDUCE CORRUPTION RISKS BY SAFEGUARDING INTEGRITY IN PUBLIC PROCUREMENT

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To what extent is there an effective framework in place to safeguard integrity in public procurement procedures, including meaningful sanctions for improper conduct by both suppliers and public officials, and review and complaint mechanisms?

Score: 75

*The public procurement legal framework is solid. While it minimises corruption risks, it is very time-consuming as multiple steps have to be taken to conclude a public procurement contract. The Egyptian Penal Code is the reference when crimes against public procurement occur and wrongdoers could be sentenced to 15 years in prison.*

Law 89 (1998) – the Tender Law – governs public contracting. All public bodies are required to conform to the law, but not state owned or state controlled companies.<sup>409</sup> Forms of contracting possible under the Tender Law include limited tender, local tender, limited practices and finally direct order.<sup>410</sup> Law 127 (1981) and its bylaw provide instructions on how public procurement budgeting and supervision should be carried out.<sup>411</sup>

## BIDDING

Open bidding is the general rule when contracting with the public sector.<sup>412</sup> However, there are exceptions to the rule allowing the relevant public official to contract using a direct order.<sup>413</sup> A direct order is kept as the last resort for emergency contracting and requires the public body to issue a licence depending on the value of the contract itself.<sup>414</sup> In practice, the right to contract through a direct order has been abused, increasing the levels of corruption within the public sector.<sup>415</sup>

## CONTRACTING

The Tender Law requires the selection process to be based on choosing the best contractor to carry out the public procurement; these regulations are implemented practically as there is no

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<sup>409</sup>European Bank for Reconstruction and Development, 2012 SEMED Public Procurement Assessment, 15 April 2013.

<sup>410</sup>Tender Law No. 89, 1998.

<sup>411</sup>Law No. 127 for the year 1981.

<sup>412</sup>Tender Law No. 89, 1998.

<sup>413</sup>Ibid.

<sup>414</sup>Ibid.

<sup>415</sup>Business Anti-Corruption Portal, *Egypt Country Profile: Public Anti-Corruption Initiatives*.

other legal framework under which the public sector may enter into a contract. The committee designed to make the decision regarding choosing the best contractor consists of public sector employees from the relevant public body, as well as a representative from the State Council and another from the Ministry of Finance should the value of the contract exceed a certain limit (EGP 250,000, or US\$36,000).<sup>416</sup> The committee opening the offer envelopes must be different than the committee responsible for making the decision.<sup>417</sup> Accepted and rejected technical proposals must be published on a public board for one week before financial proposals are opened.<sup>418</sup>

The CAO acts as external auditor of the entire public sector generally and assesses public procurement legislative compliance as part of its review.<sup>419</sup> All tender offers are available on the e-tenders website. The website categorises the tenders at three different stages (opened, closed and awarded).<sup>420</sup>

## OVERALL PROCUREMENT

The central procurement policy body (Public Services Authority) is designated to oversee public procurement. It was established in 1971 and its complaints office was established in 2006.<sup>421,422</sup> The committee responsible for each contract acts as the body responsible for making the decision on the bid. Each government entity employs purchasing staff to implement and manage transactions. This committee is guaranteed independence by the law, and is prohibited from having any relationship with any of the bidders or the subject of the contract at hand.<sup>423</sup>

Procurement decisions are made public through the e-tender website.<sup>424</sup> The website also includes all the procurement advertisements stating the application deadline and the date of opening the envelopes to review the bidders' offers.<sup>425</sup>

Review of procurement decisions is administrative and not judicial. The process of challenging the awards is conducted by a separate body to the tender committee – the Public Contracting Office, which handles but does not make a decision on complaints. Judicial review of these decisions is possible at the Administrative Court.<sup>426</sup> Various sanctions could be imposed on public personnel if found guilty of crimes stated in the Tender Law. Administrative sanctions such as annulment of their decisions or removal from office apply.<sup>427</sup> Criminal sanctions are also applicable in cases where the crime committed by the guilty employee is prohibited by the Egyptian Penal Code.<sup>428</sup> Access to the number of cases and their verdicts is available through a pay-for website.<sup>429</sup>

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<sup>416</sup>Tender Law No. 89, 1998.

<sup>417</sup>Ibid.

<sup>418</sup>European Bank for Reconstruction and Development, 2012 SEMED Public Procurement Assessment, 15 April 2013.

<sup>419</sup>Ibid.

<sup>420</sup>E-tenders website.

<sup>421</sup>Ibid.

<sup>422</sup>Circular No. 9, 2006

<sup>423</sup>Tender Law No. 89, 1998.

<sup>424</sup>E-tenders website.

<sup>425</sup>Ibid.

<sup>426</sup>European Bank for Reconstruction and Development, 2012 SEMED Public Procurement Assessment, 15 April 2013.

<sup>427</sup>State Council Law No. 47 for the year 1972.

<sup>428</sup>Book 2, Part 2 of the Egyptian Penal Code, 1937.

<sup>429</sup>The author could not access such information.

# LAW ENFORCEMENT

44 / 100

# SUMMARY

This section assesses the Ministry of Interior (MoI) in its role supervising the main law enforcement agencies in Egypt, along with investigative entities, such as the public prosecutor, and the police force with its different departments.

Law enforcement suffers from legal loopholes that allow for excessive executive interference in appointments and investigations. The police are perceived as politicised, and there are concerns over selective prosecutions. The lack of an independent police complaints mechanism and transparency in the work of the police impacts its ability to be perceived as a strong anti-corruption actor.

The table summarises the overall score for law enforcement agencies in Egypt according to their capacity, governance and role in both law and practice:

OVERALL PILLAR SCORE: 44 / 100			
Category	Index	Law	Practice
<i>Capacity</i> 50 / 100	Resources	-	100
	Independence	25	25
<i>Governance</i> 33 / 100	Transparency	25	25
	Accountability	25	25
	Integrity Mechanisms	75	25
<i>Role</i> 50 / 100	Corruption prosecution	50	

# STRUCTURE AND ORGANISATION

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The MoI consists of different departments, all of which come together to form the police force of Egypt. The different departments are as follows:<sup>430</sup>

- Department of Administrative Affairs
- Department of Border Security
- Department of Civil Affairs
- Department of Communication Systems and Data Technology
- Department of Economic Security
- Department of Financial Affairs
- Department of Inspection and Supervision
- Department of Legal Affairs
- Department of Medical Services
- Department of the Minister's Office
- Department of National Security
- Department of Officers' Affairs
- Department of Personnel
- Department of Planning
- Department of the Police Academy
- Department of Prisons
- Department of Riot Police
- Department of Security
- Department of Security Forces
- Department of Societal Security
- Department of Specialised Police Forces
- Department of Training

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<sup>430</sup>MoI website: [www.moiegypt.gov.eg/general/generalPopup.aspx](http://www.moiegypt.gov.eg/general/generalPopup.aspx)

In addition to these departments, the MoI has 10 geographically distributed districts, responsible for maintaining security in their designated area.<sup>431</sup>

The police force is supervised by the Supreme Council of the Police (SCP). The Head of the Council is the Deputy Minister of Interior. The SCP is the entity responsible for assisting the Minister of Interior with issues relating to the organisation of the human resources of the force,<sup>432</sup> as well as establishing regulations and policies.<sup>433</sup>

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<sup>431</sup>MoI website.

<sup>432</sup>Article 207 of the 2014 Egyptian Constitution.

<sup>433</sup>Ibid.

# CAPACITY: RESOURCES

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## PRACTICE

To what extent do law enforcement agencies have adequate levels of financial resources, staffing and infrastructure to operate effectively in practice?

Score: 100

*The budget of the MoI is sufficient for it to conduct its duties. The ministry's staff is sustainable as they are recruited upon graduation from the Police Academy in the same year as their graduation.*

In the 2013 budget discussions between the government and the Shura Council (the acting parliament at the time), the government raised the 2014 budget for the MoI to over EGP23 billion.<sup>434</sup> However, the Shura Council withheld its decision until the ministry was able to provide the council with detailed expenditure sheets explaining where these funds would be allocated.<sup>435</sup> The budget allocated for the MoI has been increasing annually and is among the highest of the public sector bodies in Egypt.<sup>436</sup> An examination of the State Budget of 2011/2012 – 2012/2013 indicated a noticeable EGP5 million increase in the Public Order and Safety section.<sup>437</sup> Commentators have raised questions over the increase in the budget of the MoI, at a time when the expenses of other sections of the State Budget, such as the Ministries of Health and Education, decreased.<sup>438</sup>

During the budget discussions of the MoI with the Shura Council, the representative of the MoI explained that the requested increase in the budget was aimed at further increasing the salaries of MoI employees, however without exceeding the maximum wage. He added that the ministry's spending has increased because increased confrontations on the streets require an increased security presence.<sup>439</sup>

As far as technology is concerned, the MoI has recently made some effort towards better using information technology in its interaction with the public. For example, the voter database, part of the responsibilities of the MoI, has recently been computerized with the support of other agencies and is frequently updated.<sup>440</sup> As far as other services provided to the public through the MoI, among other areas, the process of issuing a driving license has been changed to a

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<sup>434</sup>Hend Kortam, "Interior ministry's budget increases", *Daily News Egypt*, 25 May 2013: [www.dailynewsegypt.com/2013/05/25/interior-ministry-rep-asks-for-budget-raise/](http://www.dailynewsegypt.com/2013/05/25/interior-ministry-rep-asks-for-budget-raise/)

<sup>435</sup> Joel Gulhane, "Shura Council postpones decision on MOI budget increase", *Daily News Egypt*, 26 May 2013: [www.dailynewsegypt.com/2013/05/26/shura-council-postpones-decision-on-moi-budget-increase/](http://www.dailynewsegypt.com/2013/05/26/shura-council-postpones-decision-on-moi-budget-increase/)

<sup>436</sup>Wael Gamal, "A budget for Egypt that doesn't kill", *Ahram Online*, 27 May 2013:

<http://english.ahram.org.eg/NewsContent/4/0/72406/Opinion/A-budget-for-Egypt-that-doesn%E2%80%99t-kill.aspx>

<sup>437</sup>"State Budget 2012-2013", Ministry of Finance website: [www.mof.gov.eg/MOFGallerySource/Arabic/budget2012-2013/Part3/M-P3-2.pdf](http://www.mof.gov.eg/MOFGallerySource/Arabic/budget2012-2013/Part3/M-P3-2.pdf) [accessed 4 June 2014]; 2013 - 2012 موازنة في موازنة 5 مليارات جنيه إضافية لوزارة الداخلية في موازنة 2013 - 2012, *Al Youm EISabea*, 26 May 2013.

<sup>438</sup>Gamal, 2013.

<sup>439</sup>Kortam, 2013.

<sup>440</sup>Interview of a representative from the Supreme Elections Committee with Ahead of the Curve, winter 2013.

completely computerised process, where the only physical activity required on the citizen's behalf is the inspection of the car by the relevant traffic unit.<sup>441</sup>

Various units have responsibility for corruption-related offences, depending on the nature of the offence. For example, crimes related to money laundering are investigated by the Anti-Money Laundering Unit (part of the Ministry of Justice). The MoI investigates crimes relating to misuse of public funds through its Department of Combating Crimes against Public Funds. This department is responsible for preventing crimes related to fraud in currency, embezzlement and bribery, among many other crimes relating to public funds.<sup>442</sup>

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<sup>441</sup>Menna Zaki, "MCIT, MOI sign protocol to integrate new technology into transportation sector: Communications ministry", *Daily News Egypt*, 16 April 2014: [www.dailynewsegypt.com/2014/04/16/mcit-moi-sign-protocol-integrate-new-technology-transportation-sector-communications-ministry/](http://www.dailynewsegypt.com/2014/04/16/mcit-moi-sign-protocol-integrate-new-technology-transportation-sector-communications-ministry/)

<sup>442</sup>"Department of Combating Crimes against Public Funds", MoI website: [www.moiegypt.gov.eg/arabic/departments%20sites/antitresure/about/](http://www.moiegypt.gov.eg/arabic/departments%20sites/antitresure/about/) [accessed 4 June 2014].

# CAPACITY: INDEPENDENCE

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## LAW

To what extent are the law enforcement agencies independent by law?

Score: 25

*The legal framework has loopholes that allow for political influence over the police and the public prosecution.*

Article 206 of the 2014 Egyptian Constitution establishes that the police force serves the citizens and guarantees the people's safety.<sup>443</sup> Law 109 (1971) states that the president is the supreme chief of the police and the Minister of Interior is the head of the entity.<sup>444</sup> Being part of the executive, the MoI is, like any other public sector entity, granted enough independence to practise its duty and supervised by the Parliament and the public prosecution in some cases.<sup>445</sup> However, the recruitment and removal procedures for police officers are duties of the SCP. The SCP makes judgements in terms of punishment and reward upon the reports filed by the Inspection Unit of the police department.<sup>446</sup>

The police force is recruited from Police Academy graduates upon their graduation.<sup>447</sup> The Police Authority Law 109 (1971) states the regulations and criteria upon which police officers are promoted. Promotion is granted upon a written assessment in the form of a report that the supervisor is responsible for conducting.<sup>448</sup>

As for the high-ranking police officers such as the assistant ministers, heads of sectors and their deputies, and heads of departments, they are appointed to their positions by a minister and confirmed through a presidential decree.<sup>449</sup> This situation leaves the authority of appointing high-ranking officials with the president, which could compromise their independence due to political influence, especially with the absence of clear legal provisions restricting the president to making a decision based on clear professional criteria.<sup>450</sup>

The public prosecutor's office is the judicial entity responsible for prosecuting criminals. It is the only entity with authority to move investigations forward in the relevant courts.<sup>451</sup> Prosecutors can be instructed not to prosecute in a specific case by the executive. The public prosecution is a nominally a judicial body under the Minister of Justice, and is entrusted with investigating and prosecuting crimes and protecting citizens in the criminal justice system. Despite its formal

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<sup>443</sup> Article 206 of the 2014 constitution.

<sup>444</sup> Article 1 of Law No. 109 for the year 1971.

<sup>445</sup> The conditions of the jail cells in the police stations are checked regularly by relevant members of the public prosecution office to guarantee they are suitable for detention of suspects, in accordance with Article 42 of the Criminal Procedures Law.

<sup>446</sup> Interview of a police officer with Ahead of the Curve, winter2013.

<sup>447</sup> Article 6 of Law No. 109, 1971.

<sup>448</sup> Articles 12-21 of Law No. 109, 1971.

<sup>449</sup> Article 8 of Law No. 109, 1971.

<sup>450</sup> Author's analysis.

<sup>451</sup> Article 1 of the Criminal Procedure Law.

status as a judicial body, the public prosecution is perceived as an instrument of the executive.<sup>452</sup>

The public prosecutor is appointed by the president, who can also appoint other senior staff members of the public prosecution. If the prospective appointees to the public prosecution do not already hold office in the judiciary, the president must secure the approval of the six-member Supreme Judicial Council, a body composed solely of judges. Otherwise, the Supreme Judicial Council is responsible for appointments by promotion within the public prosecution itself. The Minister of Justice formally supervises all public prosecution staff.<sup>453</sup>

The Judicial Authority Law 46 (1972) covers everything to do with prosecutors and their promotions. The promotion of public prosecution personnel is based upon the number of years spent in the public prosecution, i.e. they move up the hierarchical career levels based upon their years of service and the evaluation their supervisors give them. This law is also responsible for defining the time intervals needed for a member of the public prosecution to be promoted to fill positions of judges.<sup>454</sup> Article 38 of the Judicial Authority Law includes only basic conditions based on which a person can be considered for a position in the public prosecution. These criteria include being a holder of Egyptian nationality and of a degree from one of the faculties of law.<sup>455</sup>

A typical prosecutorial career begins with being appointed as an assistant, with an age limit set at 21.<sup>456</sup> Moving up the hierarchical scheme of public prosecution, the highest position is public lawyer, which is one step away from being the public prosecutor.<sup>457</sup>

## PRACTICE

To what extent are law enforcement agencies independent in practice?

Score: 25

*A high level of politicisation and lack of accountability leaves wrongdoings unpunished and allows law enforcement agencies to act with impunity.*

Police officers are hired in the police force upon graduating from the Police Academy.<sup>458</sup> Promotion is regulated by law, however, promotion policies and schemes are not publicly disclosed.

The police force is perceived as politicised and protective of the interests of those in power, including through suppressing opposition. The Mubarak government used the Emergency Law to arrest political activists who peacefully exercised their rights to free expression, association and assembly, and to try them before military courts that did not meet minimum fair trial standards.<sup>459</sup>

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<sup>452</sup> Egyptian Initiative for Personal Rights, *Guarantees of Prosecution Independence Needed for a More Effective Justice System* (Cairo, 2014).

<sup>453</sup> Article 119 of the Judicial Authority Law.

<sup>454</sup> Chapter II, Part I of Law No. 46 for the year 1972.

<sup>455</sup> Article 38 of Law No. 46, 1972.

<sup>456</sup> Article 116 of Law No. 46, 1972.

<sup>457</sup> Author's analysis.

<sup>458</sup> Article 6 of Law No. 109, 1971.

<sup>459</sup> Freedom House, "Egypt", *Freedom in the World 2013*: [www.freedomhouse.org/report/freedom-world/2013/egypt#.U\\_MnD8WSy90](http://www.freedomhouse.org/report/freedom-world/2013/egypt#.U_MnD8WSy90)

Under Mubarak's government, election periods were marred by numerous arrests of Muslim Brotherhood members, who were members of a banned political movement, under the umbrella of the Emergency Law. Before the elections of November 2000, Muslim Brotherhood lawyers claimed that 1,600 of its members had been detained by security officers for several months. 800 members of the Muslim Brotherhood were also arrested in 2005, an act that was also connected to upcoming elections, this time the parliamentary elections. In the month preceding municipal elections in April 2008, 831 Muslim Brotherhood members were arrested, and another 1,000 were arrested in the build-up to the 2010 parliamentary elections.<sup>460</sup>

Security forces and police during Mubarak's regime were often used to protect the government and its interests, as opposed to protecting and providing security for Egyptians. The MoI used practices, such as arresting political dissidents and using various means of intimidation, surveillance of political parties and activists, and the interruption and sabotaging of their activities through the use of secret agents, election rigging, corruption and fraud.<sup>461</sup>

The politicisation of the police force has continued since the revolution. In November 2012, Mohamed Morsi issued a decree granting him sweeping powers and placing his decisions beyond judicial review. Morsi had decided to sack the prosecutor general, Abdel Meguid Mahmoud, and replaced him with Talaat Abdullah. This decision was overturned by an Egyptian court, which in turn ordered Meguid's reinstatement, leading to tension between the presidency and Egypt's judiciary.<sup>462</sup> In March 2013, police officers closed more than 30 police stations in protest against Interior Minister Mohamed Ibrahim.<sup>463</sup> Protesting policemen said they no longer wanted to be used as a political tool.<sup>464</sup>

Since the removal of Morsi in 2013, freedom of expression and political protest have been suppressed. With the issuance of the restrictive 2013 Protest Law,<sup>465</sup> the authorities have prevented opposition protest. The protesters in some cases acquired permission to organise a protest in accordance with the Protest Law, but in many cases were subject nevertheless to arrests and harassment.<sup>466</sup>

Prosecutors are part of the judicial authority, which gives them independence in conducting their work. However, influence is sometimes exerted over the public prosecution, which limits their ability to prosecute members of the executive and high-ranking government and public sector officials.<sup>467</sup>

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<sup>460</sup> Human Rights Watch, "*Work on Him Until He Confesses*": *Impunity for Torture in Egypt*, 2011: [www.hrw.org/sites/default/files/reports/egypt0111webwcover\\_0.pdf](http://www.hrw.org/sites/default/files/reports/egypt0111webwcover_0.pdf).

<sup>461</sup> Freedom House, 2013.

<sup>462</sup> "Egypt court reinstates fired prosecutor", *Al Jazeera*, 27 March 2013:

[www.aljazeera.com/news/middleeast/2013/03/201332711456948646.html](http://www.aljazeera.com/news/middleeast/2013/03/201332711456948646.html)

<sup>463</sup> "UPDATE 1: Over 30 police stations join strike against Egypt's interior minister", *Ahram Online*, 7 March 2013:

<http://english.ahram.org.eg/NewsContent/1/64/66372/Egypt/Politics-/UPDATE--Over--police-stations-join-strike-against-.aspx>

<sup>464</sup> *Ibid.*

<sup>465</sup> US State Department, *Egypt 2013 Human Rights Report*, Country Report on Human Rights Practices for 2013.

<sup>466</sup> *Ibid.*; Egyptian Initiative for Personal Rights, "Rights Groups: Fabricating Charges for Peaceful Protesters and Rights Defenders Continues", 23 June 2014: <http://eipr.org/en/pressrelease/2014/06/23/2134>

<sup>467</sup> Interview of an anonymous staff member of the public prosecutor's office with Ahead of the Curve, spring 2014.

# GOVERNANCE: TRANSPARENCY

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## LAW

To what extent are there provisions in place to ensure the public can access the relevant information on law enforcement activities?

Score: 25

*There are no provisions regulating public access to relevant information about law enforcement agencies. People can however access documents relating to their cases.*

Legal provisions governing the work of law enforcement agencies are silent on disclosure of relevant information.<sup>468</sup> However, certain information regarding the personnel of the MoI can be disclosed, as personnel are treated by law as public sector personnel, supervised by relevant entities in asset disclosure.<sup>469</sup> The Illicit Profit Law 62 (1975) lists all the public office holders who require a disclosure of assets upon hiring, among whom are police officers in their capacity as public servants.<sup>470</sup>

As for other information relating to access to files for ongoing investigations, Article 77 of the Criminal Procedures Law states that relevant persons have the right to access information relating to their case.<sup>471</sup>

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<sup>468</sup> Author's analysis.

<sup>469</sup> *ibid.*

<sup>470</sup> Law No. 62 for the year 1975.

<sup>471</sup> Article 77 of Law No. 150 for the year 1950.

## PRACTICE

To what extent is there transparency in the activities and the decision-making processes of law enforcement agencies in practice?

Score: 25

*There is no requirement solely for the police force to disclose its activities in practice. The only disclosure of activities takes place as part of the reporting of the activities of the executive before the Parliament and president. However, this is not publicly disclosed.*

The Illicit Profit Apparatus is the supervisory authority dedicated to reviewing asset declarations of public sector employees.<sup>472</sup> In practice, there are no mechanisms to ensure that public sector employees present their asset declarations in due time. Moreover, it is practically impossible to have all the asset declarations thoroughly reviewed due to the high number of public sector employees. Instead, samples are reviewed by the delegated judge.<sup>473</sup>

A brief overview of the structure of the MoI demonstrates that the ministry's functions are interlinked and co-dependent. For example, the police force has a unit called the Department of Inspection and Supervision. This department is meant to supervise the work of all other departments of the police force. As for the investigation of wrongdoing within the MoI, the Department of General Security is responsible for carrying this out and referring the findings to the relevant department for sanctions to be imposed.<sup>474</sup>

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<sup>472</sup>Law No. 62, 1975.

<sup>473</sup>Interview of a representative of the National Coordination Committee for Combating Corruption (NCCCC) with Ahead of the Curve, spring 2014.

<sup>474</sup>Interview of a police officer with Ahead of the Curve, spring 2014.

# GOVERNANCE: ACCOUNTABILITY

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## LAW

To what extent are there provisions in place to ensure that law enforcement agencies have to report and be answerable for their actions?

Score: 25

*There are some channels for investigating and punishing wrongdoers, such as through the hierarchy or the SCP, but procedures are internal and not disclosed to the public.*

The MoI is answerable before the Parliament in the same way that all public sector entities are.<sup>475</sup> The government is responsible for delivering its annual report and discussing it with the Parliament in due course. Moreover, should the Parliament find a matter to be urgent or important, the law grants it the authority to schedule a hearing with the relevant minister.<sup>476</sup>

The SCP has the final say in matters relating to disciplinary action taken against police officers, be it transfer from a post or removal from the force.<sup>477</sup> The existence of the SCP limits the ability of the Parliament and/or the public to criticise and evaluate the work of the police force, as matters relating to the human resources of the police are handled internally without reference to a supervising entity.<sup>478</sup>

As for prosecutors, each annual report presented to the Supreme Judiciary Council reporting on the performance of the staff of the public prosecution contains the cases they investigated and referred to the courts.<sup>479</sup> Their decisions regarding referral and closing cases have to be based on legal provisions and supported by sufficient evidence for their files not to be considered flawed. If fraud or fault is detected by their supervisors, prosecutors are referred to the Disciplinary Unit of the Supreme Judiciary Council and could face removal.<sup>480</sup>

Court verdicts are considered information owned by the people. This concept stems from the fact that court verdicts are issued “in the name of the people”.<sup>481</sup> In other words, the public has the right to access verdicts issued by the courts. Cases that are still under investigation are not accessible to the public, but are accessible by relevant stakeholders.<sup>482</sup>

The reality of the situation is different when it comes to victims of the police force itself. The law does not offer clear mechanisms whereby citizens can file complaints against police officers and ensure the impartiality of investigations. Even when citizens have documented evidence, such as a video or a medical report proving torture or abuse of authority by the police, the involved

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<sup>475</sup> Article 129 of the 2014 constitution.

<sup>476</sup> Chapter 7 of the Internal Regulation of the Parliament states the rules and procedures of questions to the office holders.

<sup>477</sup> Analysis of Law No. 109, 1971.

<sup>478</sup> Author's analysis.

<sup>479</sup> Interview of a staff member of the public prosecutor's office with Ahead of the Curve, spring 2014.

<sup>480</sup> *Ibid.*

<sup>481</sup> Interview of a representative of the NCCCC with Ahead of the Curve, spring 2014.

<sup>482</sup> Article 77 of the Criminal Procedures Law.

forces often escape punishment due to the failure of present laws to address abuse of authority.<sup>483</sup>

Although police officials are not immune from criminal proceedings,<sup>484</sup> the reality of the procedures does not allow for impartial investigation into police officers. There is no independent entity to investigate and prosecute corruption committed by law enforcement officials, as the police are involved in investigating allegations of corruption or abuse within their own ranks. The Mol's Inspection Unit is responsible for internal investigations into police abuses and can recommend that an officer be tried before a disciplinary council composed of two high-ranking Mol officials and a senior judge. There is no transparency in this process and the Mol does not make public the disciplinary measures that it takes in specific cases.<sup>485</sup>

The Egyptian legal framework is silent on the measures a citizen should follow in order to issue a complaint against a police officer.

## PRACTICE

To what extent do law enforcement agencies have to report and be answerable for their actions in practice?

Score: 25

*Reports are filed with supervisors of police officers and reports on the performance of the public prosecutor's staff are filed with the Supreme Judiciary Council. However, such reports are not disclosed to the public.*

The prosecutors file annual reports on their work to their supervisors. Evaluations are made on the basis of the quality of investigation they conducted in the given year.<sup>486</sup> Priorities are not an issue that the public prosecutor's staff account for; cases are investigated in order of the date they were reported to the public prosecutor. Should the prosecutor not find enough evidence, for instance, the case is sealed and not referred to the relevant court. The reasons for the public prosecution's decisions are not publicly announced and/or available for public viewing.

In an effort towards establishing trust between the citizens and the Mol, the ministry's website has a complaints section to enable citizens to file complaints.<sup>487</sup> Also on its website is a section dedicated to inspecting complaints and the follow-up from them.<sup>488</sup> It has to be noted that there is no independent inspection entity, i.e. citizen complaints against the ministry are dealt with internally.<sup>489</sup>

The lack of an independent entity investigating complaints against police officers leads to a clear case of conflict of interest. Officers are expected to investigate allegations of abuse within their own ranks. Prosecutors rely on criminal investigation divisions in police stations where abuse allegedly occurred to investigate, collect evidence, and produce witnesses related to the complaint. A 2011 Human Rights Watch report indicated that at that time prosecutors often

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<sup>483</sup>Human Rights Watch, 2011: 3.

<sup>484</sup>Human Rights Watch, 2011.

<sup>485</sup>Ibid.

<sup>486</sup>Interview of a staff member of the public prosecutor's office with Ahead of the Curve, spring 2014.

<sup>487</sup>"Complaints and reports of citizens", Mol website: [www.moiegypt.gov.eg/Arabic/Complaints/showComplains/](http://www.moiegypt.gov.eg/Arabic/Complaints/showComplains/)

<sup>488</sup>Ibid.

<sup>489</sup>Human Rights Watch, 2011.

lacked time or the political will to properly assess and scrutinise the evidence that police produced or the quality of their investigation and that police often delayed implementing a prosecutor's order to bring the complainant to a forensic medical doctor for examination so that physical marks of abuse faded.<sup>490</sup>

To a very large extent, law enforcement officials are immune to criminal proceedings. A clear example is in the case of law enforcement officials who have committed acts of torture. A number of factors impede torture victims gaining redress for abuses, and contribute to abusers enjoying impunity for torture and ill-treatment.<sup>491</sup> For this reason, many Egyptian human rights lawyers have called for reinstatement of the now-defunct Office of the Investigative Judge so that investigations are conducted by a party fully independent of the executive.<sup>492</sup>

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<sup>490</sup> Ibid.

<sup>491</sup> Amnesty International, "Egypt - Hold army accountable for abuses", 16 April 2013: [www.amnesty.ca/news/public-statements/egypt-hold-army-accountable-for-abuses](http://www.amnesty.ca/news/public-statements/egypt-hold-army-accountable-for-abuses)

<sup>492</sup> Ibid.

# GOVERNANCE: INTEGRITY

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## LAW

To what extent is the integrity of the law enforcement agencies ensured by law?

Score: 75

*Police officers are treated before the law as public personnel subject to the same codes as other public personnel. As for prosecutors, the code of the Judicial Authority applies.*

Law 48 (1978) states the basic foundation upon which public sector personnel are treated. The law refers issues related to bribery, embezzlement, illicit gain, abuse of authority and other finance-related crimes to the Egyptian Penal Code.

In late October 2011, the MoI issued a code of conduct and ethics that serves as an honour code for all officers.<sup>493</sup> The code is the first in the history of the MoI. The document was prepared using the United Nations Law Enforcement Code of Conduct issued in 1979.<sup>494</sup> The code consists of six sections. It requires all police officers to adhere to the provisions and spirit of the law in all tasks they are assigned, protect rights and freedoms, preserve human dignity, and respect democratic values and human rights in accordance with the constitution and the law. The code prohibits police officers from taking any action that might influence the democratic process, such as joining any party or group (political, religious or ethnic), showing political bias to any party, or accepting compensation, money or gifts from any party.<sup>495</sup>

Prosecutors abide by the same code of conduct as judges, which is referred to in Law 46 (1972). The Conflict of Interest Law applies to high-ranking officials holding public office. There is no separate conflict of interest law designed for police officers.<sup>496</sup> The law includes post-employment restrictions and sets a period of six months where public personnel subject to the law are not to hold other positions.<sup>497</sup> Since members of the police force perform public duties, they thus abide by the Code of Conduct for Public Personnel, which refers crimes relating to public funds to the Egyptian Penal Code. Under this, bribery and receiving gifts are punishable.<sup>498</sup>

If an error is detected in the disclosure of assets of law enforcement officials, their file is transferred to the relevant investigative entity, such as the Public Funds Prosecution or the Illicit Gains Apparatus.<sup>499</sup> Should the investigative entity confirm the illicit gain, bribery or embezzlement, the case should be referred to the relevant court for trial.<sup>500</sup>

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<sup>493</sup>[http://egyptwindow.net/ar\\_print.aspx?print\\_ID=15030](http://egyptwindow.net/ar_print.aspx?print_ID=15030)

<sup>494</sup> Mohamed Mahmoud, "Egypt Issues Code of Ethics for Police", *Al-Shorfa*, 2 November 2011: [http://al-shorfa.com/en\\_GB/articles/meii/features/main/2011/11/02/feature-01](http://al-shorfa.com/en_GB/articles/meii/features/main/2011/11/02/feature-01)

<sup>495</sup> Ibid.

<sup>496</sup> Article 1 of Law No. 106 for the year 2013.

<sup>497</sup> Article 15 of Law No. 106, 2013.

<sup>498</sup> Article 111 of the Egyptian Penal Code.

<sup>499</sup> Interview of a representative of the NCCCC with Ahead of the Curve, spring 2014.

<sup>500</sup> Interview of a judge of appeal, spring 2014.

## PRACTICE

To what extent is the integrity of members of the law enforcement agencies ensured in practice?

Score: 25

*The existing legal framework is ineffective in protecting citizens from unjust use of power by the police. Human rights violations occur on a regular basis with little or no prosecution initiated by the supervisory body – be that the SCP or the Judiciary.*

The newly formed code of conduct for police officers offers no mechanisms for ensuring police officers are punished in cases of wrongdoing. Furthermore, there are no mechanisms to ensure police officers abide by its content. A department in the MoI is dedicated to delivering training to the police force.<sup>501</sup> Disciplinary mechanisms are not disclosed but are believed to be handled by the SCP.

Amnesty International's 2013 Annual Report identifies a number of cases of impunity post-2011 revolution where police officers and senior officials have escaped prosecution and/or punishment for human rights abuses.<sup>502</sup>

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<sup>501</sup>The Training Department of the MoI is dedicated to providing the training the officers need.

<sup>502</sup>Amnesty International, "Egypt", *Annual Report 2013: The state of the world's human rights*.

# ROLE: CORRUPTION PROSECUTION

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To what extent do law enforcement agencies detect and investigate corruption cases in the country?

Score: 50

*The past few years witnessed a relatively high number of prosecutions of Mubarak-era officials for crimes involving public funds. However, law enforcement in this case is unsystematic, selective and could be interpreted as public pressure driven.*

The Supreme Public Funds Prosecution is a judicial entity responsible for investigating crimes related to public funds.<sup>503</sup> This branch of the prosecution has the access and power to enable it to operate and prosecute wrongdoers.

Former president Hosni Mubarak's sons and a former presidential candidate were investigated and tried for corruption in 2013; however, all were acquitted.<sup>504</sup> Suzanne Mubarak, the wife of the former president, was arrested on corruption charges in 2011 but freed on bail after handing over her assets.<sup>505</sup>

Other Mubarak-era officials have been referred to courts in crimes referring to public funds. The investigative authority in their cases was the Supreme Public Funds Prosecution.<sup>506</sup>

Due to the very exceptional situation that Egypt has been faced with over the course of the last few years, it is difficult to evaluate the partiality and authority of the law enforcement agencies and their prosecutions for corruption. The referral of high-level officials prosecuted for corruption to trial is a very situation-driven occurrence that, although having a legitimate channel, is not common practice in Egypt.

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<sup>503</sup>Article 1602 of the Prosecution Code of Procedures.

<sup>504</sup>"Hosni Mubarak allies cleared of corruption charges", *BBC News*, 19 December 2013.

<sup>505</sup>"Egypt's Suzanne Mubarak freed after handing over assets", *BBC News*, 17 May 2011.

<sup>506</sup>Hazem Youssef and Yasser Hussein, «هدايا وزارة الإعلام», *AlMasryAlYoum*, 15 May 2013: [www.almasryalyoum.com/news/details/312473](http://www.almasryalyoum.com/news/details/312473)



# **ELECTORAL MANAGEMENT BODY**

**51 / 100**

# SUMMARY

The Supreme Election Committee (SEC), established under Decree 46 (2011) which amended Law 73 for the year 1956, is Egypt's electoral management body (EMB). The SEC is made up of judges, appointed according to their position in the judicial hierarchy (see below). The SEC president issues decrees to organise presidential or parliamentary elections.

Constitutionally the SEC's budget is independent; the SEC's budget is a distinct category within the state budget. Depending on the type of election, sub-bodies are formed to manage the electoral process. For example, the presidential elections are managed by the Supreme Committee for Presidential Elections under Law 174 (2005), whereas the parliamentary elections are managed by the Supreme Committee for Parliamentary Elections under Law 37 (1972) for the People's Assembly elections.

The table summarises the overall score for the EMB in Egypt according to its capacity, governance and role in both law and practice.

OVERALL PILLAR SCORE: 51 / 100			
Category	Index	Law	Practice
Capacity 75 / 100	Resources	N/A	75
	Independence	75	75
Governance 40 / 100	Transparency	50	75
	Accountability	25	25
	Integrity	25	N/A
Role 38 / 100	Campaign regulation	0	
	Election administration	75	

# STRUCTURE AND ORGANISATION

## STRUCTURE<sup>507</sup>

The SEC consists of seven judges:

- the head of the Cairo Court of Appeal
- two delegated judges from the Court of Cassation
- two deputies of the head of the State Council
- two appeal court heads

## SECRETARIAT

The SEC is responsible for forming the secretariat, consisting of:

- the deputy to the head of the Court of Cassation
- judges, selected at the SEC's discretion
- a representative of the Ministry of Interior
- a representative of the Ministry of Communications
- a representative of the Ministry of Information Technology
- a representative of the Ministry of Local Development

## LOCAL ELECTION COMMITTEES

The secretariat is responsible for establishing local election committees consisting of five judges:

- a head of the Court of Appeal
- a judge from the State Council
- a head of a preliminary court
- a deputy head of the State Council
- a deputy head of the administrative prosecution

<sup>507</sup>This is based upon analysing provisions of Decree 46 for the year 2011, its amendments and its bylaws.

# CAPACITY: RESOURCES

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## PRACTICE

To what extent does the EMB have adequate resources to achieve its goals in practice?

Score: 75 / 100

*While the SEC is allocated an independent and adequate budget to perform its duties, this does not necessarily translate into a well-trained workforce and acceptable working conditions for completing the elections process across the country.*

The SEC has an independent budget line within the state budget;<sup>508</sup> its budget is not a part of the Ministry of Justice or the judicial budget. It independently distributes and allocates its own budget and is responsible for issuing the regulations governing its financial affairs and expenditure.<sup>509</sup>

There have not been any reports of insufficient or late receipt of the budget having a negative impact on the voting procedures. The SEC's current budget is 15 million Egyptian pounds (US\$2.1 million)<sup>510</sup> and may be increased during the upcoming fiscal year in response to a request of the committee.<sup>511</sup>

Electoral resources vary dramatically across the country, however. Local committees are responsible for running elections (including receiving voters and counting votes at local public institutions, primarily schools), but not all are sufficiently equipped, meaning that some local committee staff are left to perform their duties in challenging conditions.<sup>512</sup> The secretariat has sufficient space and resources to carry out its role.<sup>513</sup>

The SEC's staff are delegated from the Ministry of Justice, while for technical support, several representatives of different ministries are appointed to the secretariat. These ministries include the Ministry of Interior, the Ministry of Communications and the Ministry of Local Development. The secretariat is responsible for all technical and administrative support to the committee in the electoral process.<sup>514</sup> During the last constitutional referendum in Egypt,<sup>515</sup> military transportation planes carried judges to the local committees they were supervising.<sup>516</sup> There is no legal limit to the number of staff who can be hired by the SEC. The law also clearly states that the SEC has the right to consult any expert it sees fit on matters relating to the electoral process.<sup>517</sup> There

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<sup>508</sup> Article 6, Law 174 (2005).

<sup>509</sup> Ibid.

<sup>510</sup> Oanda.com, 3 July 2014.

<sup>511</sup> Al-Dostor, *Statement by Judge Hamdan Fahmy*, 15 February 2014: [www.dostor.org/372737](http://www.dostor.org/372737) [accessed 4 July 2014].

<sup>512</sup> Mary Mourad, "Behind the scenes of Egypt's presidential elections", *Ahram Online*, 21 June 2012.

<sup>513</sup> Ahead of the Curve visited the headquarters of the SEC and concluded that there was no lack of office space or resources inside the headquarters.

<sup>514</sup> Interview of a representative of the SEC with Ahead of the Curve, winter, 2013.

<sup>515</sup> The last constitutional referendum took place in Egypt on 14 and 15 January 2014.

<sup>516</sup> Dalia Osman, "Sisi to ratify transportation of judges to their local committees", *Al-Masry Al-Youm*, 31 January 2014.

<sup>517</sup> Article 3 of Decree 46 (2011)

have been reports, however, about a lack of sufficient training for those overseeing the election process.<sup>518</sup>

The SEC has a database listing all voters, collected by the Ministry of Interior.<sup>519</sup> No further information is available on other archives present other than the voters' list. In March 2014, the Supreme Committee for Presidential Elections issued a decision ordering a renewal of the voters' list in preparation of the upcoming presidential elections.<sup>520</sup>

Sustainability is an issue with the High Board of the SEC, which consists of seven judges appointed to the committee according to their seniority in the judicial sector. That is, upon reaching retirement age, the judges of the board are replaced by the next most senior judge. With each new referendum, there is a new board for the SEC reflecting retirement and replacement within the judiciary, limiting its sustainability.<sup>521</sup> The secretariat is also hired with each new board,<sup>522</sup> raising questions about its efficiency. This constant shuffling creates an efficiency gap where each new board and secretariat do not follow the methods and paths created by their former boards.

Staff recruitment procedures for the SEC secretariat are unclear.<sup>523</sup> Although the members of the secretariat are judges, there are no requirements for qualifications in electoral management. Moreover, nor do there appear to be set rules and regulations for the recruitment of staff in the secretariat. As for the board members, they issue administrative decisions and assign their own positions in the SEC based upon their position in the judiciary. Thus, there is no process to decide whether they are qualified to run the electoral process. Women are not currently and have not been represented in the SEC, due to a lack of women holding the necessary judicial positions.

Judges supervising local election committees<sup>524</sup> receive training before they join the local committee. The training covers topics such as their rights within their committee and their role as supervisors of the electoral process.<sup>525</sup> According to a Carter Center report on election monitoring in Egypt during the 2014 constitutional referendum, the SEC needs to place more focus on developing and tailoring training programmes for the judges as well as the staff of the SEC.<sup>526</sup>

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<sup>518</sup> Carter Center Reports, مركز كارتر يرحب على عملية شاملة للإصلاح الدستوري توسيع المجال السياسي قبيل الاستفتاء في مصر , 6 January 2014: [www.cartercenter.org/resources/pdfs/news/pr/egypt-010614-arabic.pdf](http://www.cartercenter.org/resources/pdfs/news/pr/egypt-010614-arabic.pdf) [accessed 4 July 2014].

<sup>519</sup> Amr Hisham Rabei, *Management of Records in the Egyptian General Elections*, Al-Ahram Center for Political and Strategic Studies.

<sup>520</sup> Aswat Masriya, "No amendments to voter list after the call for elections", 17 March 2014: [www.aswatmasriya.com/news/view.aspx?id=a56d4886-abee-47d7-985f-98ddf1714bf2](http://www.aswatmasriya.com/news/view.aspx?id=a56d4886-abee-47d7-985f-98ddf1714bf2) [accessed 4 July 2014].

<sup>521</sup> Interview of an election analyst who requested anonymity with Ahead of the Curve, winter 2013.

<sup>522</sup> Representative of the SEC, 2013.

<sup>523</sup> *Ibid.*

<sup>524</sup> Local committees are the election committees set out across the governorates of Egypt according to geographic division. These committees are supervised and managed by judges until counting of ballots ends.

<sup>525</sup> Representative of the SEC, 2013.

<sup>526</sup> Carter Center Reports, 2014.

# CAPACITY: INDEPENDENCE

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## LAW

To what extent is the EMB independent by law?

Score: 75 / 100

*The independence of the SEC is enshrined in the constitution and the law, allowing it full authority over the management of the electoral process.*

The SEC is a legally independent body responsible for managing the electoral and referendum processes. Each previous constitution established the committee within their articles. However, the 2014 constitution changed its name to the National Institution for Elections (NIE).<sup>527</sup> This institution will only start working after the first presidential and parliamentary elections take place; until then the SEC will continue its role.<sup>528</sup>

The constitutional text establishing the NIE addresses the issues relating to the frequent shifts in the staff and board of the SEC. The NIE Board would consist of ten judges, appointed through a presidential decree for a period of six years.<sup>529</sup>

Decree 46 (2011) on the Practice of Political Rights emphasises the constitutional independence of the committee's budget in Article 1, stating that the committee's budget comes directly from the state budget.<sup>530</sup>

According to articles of Decree 46 (2011) and its bylaw,<sup>531</sup> the legal framework allows the committee to practice its role in an impartial manner, unaffected by budget cuts or political influence.

Decree 46 (2011) establishes a clear separation between the board of the SEC and the secretariat. While the board is appointed –according to seniority – by a presidential decree,<sup>532</sup> the secretariat is appointed by the board of the SEC.<sup>533</sup>

The recruitment criteria for the secretariat are imprecise. The law states that the board of the SEC can choose “whomever they see fit” from experts or public personnel to assist the SEC with its work.<sup>534</sup> It should be noted here that SEC personnel are not employees solely employed within the SEC. The secretary general and the board of the SEC are either judges or public personnel. In all cases, there are no legal provisions to ensure non-discrimination when hiring either judges or public personnel. The board members are hired based on their seniority within the judiciary, disregarding their capabilities and/or their experience in management of the

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<sup>527</sup> Article 208, 2014 Constitution of the Arab Republic of Egypt [دستور جمهورية مصر العربية ٢٠١٤]: [www.sis.gov.eg/Newvr/consttt%202014.pdf](http://www.sis.gov.eg/Newvr/consttt%202014.pdf)

<sup>528</sup> Article 228, 2014 constitution.

<sup>529</sup> Article 209, 2014 constitution.

<sup>530</sup> Article 1, Decree 46 (2011).

<sup>531</sup> General analysis of the articles with no set reference to certain articles.

<sup>532</sup> Article 2, Decree (2011).

<sup>533</sup> Article 1, Decree 46 (2011).

<sup>534</sup> Article 3, Decree 46 (2011).

electoral process. As for the secretariat appointed by the board, there are no clear criteria set that should be followed for them to hold their positions within the SEC.<sup>535</sup>

The president of the SEC is the most senior judge in the Cairo Court of Appeal.<sup>536</sup> As for the rest of the board members, they are all appointed to the SEC based on their position in the judicial hierarchy except for the MoI representative and six independent figures.<sup>537</sup> That is, they are not appointed based on their professional attributes but rather on the positions they hold when the SEC is formed to hold certain elections.

Protection of the president of the SEC is established through membership of the judiciary, as the president is protected from dismissal.<sup>538</sup> This also applies to other members of the board, who are also judges.

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<sup>535</sup> Representative of the SEC, 2013.

<sup>536</sup> Article 1, Decree 46 (2011)

<sup>537</sup> Ibid.

<sup>538</sup> Article 67, Law 46 (1972).

## PRACTICE

To what extent does the EMB function independently practice?

Score: 75 / 100

*Practically speaking, the SEC has independence and manages the electoral process in an independent manner.*

Judging by the statements from the government<sup>539</sup> and civil society organisations<sup>540</sup> engaged with the electoral process of the last constitutional referendum, it is safe to say that the SEC has the trust of the people and the government. On an international level, there have been some violations reported including undue arrests of activists and restraints on advocates of voting against the amendments on the constitution.<sup>541</sup>

There have been no reports regarding undue influence over the SEC. However, a briefing paper issued in April 2013 by Democracy Reporting International recommended regulating the scope of support given by the executive bodies to the SEC. The report states that regulating this would ensure the elimination of any influence that could be exercised by executive bodies supporting the SEC in the electoral process, thus protecting the SEC against undue influence.<sup>542</sup> The establishment of the NIE in the 2014 constitution is a positive move towards an independent and permanent electoral body that has the potential to enhance transparency and integrity in the Egyptian electoral process.<sup>543</sup>

Researchers did not find any reports questioning the impartiality or the involvement of the SEC in any sort of political influence over the electoral process.

The independence of the SEC is secured through legal provisions. A breach of any of the procedures regulated through the relevant laws and bylaws can be brought before the Supreme Administrative Court.<sup>544</sup> Researchers did not find reports of breaches of independence provisions in the 2014 constitutional referendum.

The SEC board members cannot be removed from their positions, due to strict constitutional articles protecting their positions and securing their independence; these leave no channel for removing a SEC member. Researchers did not find any incidents of removal from office of the SEC board. However, in December 2012 the secretary general of the SEC, Judge Zaghloul El Belshy, resigned before the second stage of the referendum was concluded. Conflicting statements emerged as to the basis of his resignation, ranging from a medical condition to a refusal on his side to participate in a referendum where, as he stated, judicial supervision was “restricted”.<sup>545</sup>

<sup>539</sup>Marsad Masr, اللجنة العليا، المجلس الأعلى للقوات المسلحة يؤكد ثقته بالقضاء و اللجنة العليا، [www.marsadmasr.com/viewarticle.php?id=7833](http://www.marsadmasr.com/viewarticle.php?id=7833) [accessed 4 July 2014].

<sup>540</sup>Jamal Abu Dahab, شبكة مراقبون بلا حدود: اللجنة العليا للانتخابات في مصر أدارت عملية انتخابية بصورة غير مسبوق، *Al Ahram*, 16 January 2014: <http://gate.ahram.org.eg/News/444427.aspx> [accessed 4 July 2014].

<sup>541</sup>Transparency International, *Transparency International makes recommendations after observing the Egypt referendum*:

[www.transparency.org/news/pressrelease/TI\\_makes\\_recommendations\\_after\\_observing\\_Egypt\\_referendum\\_AR](http://www.transparency.org/news/pressrelease/TI_makes_recommendations_after_observing_Egypt_referendum_AR) [accessed 4 July 2014].

<sup>542</sup>Democracy Reporting International, *A Concept for a New Election Administration in Egypt*, Briefing Paper 37, April 2013.

<sup>543</sup>Democracy Reporting International, 2013.

<sup>544</sup>Noor Rashwan, مجلس الدولة: المرشحون للرئاسة فقط سيكون لهم الحق في الطعن على قرارات «العليا للانتخابات»، *AlShorouk News*, 3 March 2014: [www.shorouknews.com/news/view.aspx?cdate=03032014&id=35dec23b-a288-429c-8ff8-cccb4eb05050](http://www.shorouknews.com/news/view.aspx?cdate=03032014&id=35dec23b-a288-429c-8ff8-cccb4eb05050) [accessed 4 July 2014].

<sup>545</sup>Joel Gulhane, “Supreme Electoral Committee defends referendum process”, *Daily News Egypt*, 18 December 2012: [www.dailynewsegypt.com/2012/12/18/supreme-electoral-committee-defends-referendum-process/](http://www.dailynewsegypt.com/2012/12/18/supreme-electoral-committee-defends-referendum-process/) [accessed 4 July 2014].

# GOVERNANCE: TRANSPARENCY

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## LAW

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the EMB?

Score: 50 / 100

*While administrative decisions are required to be published by law, as are voting lists and details of elections, the meetings and decision-making processes of the SEC are not subject to transparency rules.*

Meetings of the SEC are held in secrecy – by law.<sup>546</sup> Administrative decisions of the SEC are available through its website and also published in the official gazette. There are no legal provisions requiring the public availability of these decisions, which could indicate that these are an independent initiative of the SEC.

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<sup>546</sup>Article 3, Decree 46 (2011).

## PRACTICE

To what extent are reports and decisions of the EMB made public in practice?

Score: 75 / 100

*The decisions of the SEC are available on its website. However, its meeting minutes and its decision-making procedures are unavailable.*

Decisions of the SEC are available to the public on its website.<sup>547</sup> Also available on the website are basic statistics about voter turnout, results and local percentages for each governorate of “yes” and “no” votes.<sup>548</sup>

As for the information required by law to be made public, the local election committees do put up the voter list and voters are able to check their names in the voter list on the SEC website year round.<sup>549</sup>

The SEC announces the results of the elections or referendums in a live press conference.<sup>550</sup> Schedules are made public through the SEC’s website and available year round.<sup>551</sup> The schedule includes dates of referendums, dates of issuing results and dates of registration of Egyptians living abroad.

The SEC website also includes information about the members of the board and the general secretary and the decisions the SEC issues alongside the rules and regulations governing the electoral process.<sup>552</sup> Alternatively, there is a hotline (#140) where citizens can enquire about their local voting committee and its location.<sup>553</sup>

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<sup>547</sup> Referendum website: <https://referendum2014.elections.eg/results/referendum-results> [accessed 4 July 2014].

<sup>548</sup> Ibid.

<sup>549</sup> SEC website: [www.elections.eg](http://www.elections.eg)

<sup>550</sup> Shaimaa Raafat, “Egypt Politics Unrest Vote”, *Daily News Egypt*, 19 January 2014:

[www.dailynewsegypt.com/2014/01/19/referendum-results-garner-international-response/egypt-politics-unrest-vote-62/](http://www.dailynewsegypt.com/2014/01/19/referendum-results-garner-international-response/egypt-politics-unrest-vote-62/) [accessed 4 July 2014].

<sup>551</sup> SEC website.

<sup>552</sup> Ibid.

<sup>553</sup> Ibid.

# GOVERNANCE: ACCOUNTABILITY

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## LAW

To what extent are there provisions in place to ensure that the EMB has to report and be answerable for its actions?

Score: 25 / 100

*Few provisions exist to ensure the SEC is answerable for its decisions and actions. The 2014 amendments to the Presidential Elections Law prevent any challenge to a SEC decision.*

The key external stakeholders in relation to the SEC are the voters, the different executive branches assisting the SEC with managing the electoral process, and the president, who, in his capacity, issues and appoints SEC members in accordance with the names provided to him through the Ministry of Justice. The legal framework mentions the roles of each stakeholder in the electoral process and leaves no room for undue interference in the duties of the SEC, giving the SEC total control over the electoral process.<sup>554</sup>

Decree 46 (2011) does not contain any legal provisions relating to a timely and enforceable review of the SEC's decisions.

The SEC is required to issue results of the elections taking place. However, the law does not require that the SEC issue its reports to any entity.<sup>555</sup>

The SEC's decisions can be challenged by filing a lawsuit before the Supreme Administrative Court.<sup>556</sup> As for the Supreme Administrative Court, the State Council amended its law to accommodate challenges to the procedures of the elections before the administrative courts.<sup>557</sup> Amendments to the Presidential Elections Law were carried out in 2014. The amendments to the law protect the decision of the Supreme Committee for Presidential Elections against challenges before any court.<sup>558</sup>

The 2014 constitution implicitly grants the Central Audit Organisation (CAO) the power to act as an external auditor and supervisor of the expenditure of the SEC, as the CAO has the power to monitor all expenditure of the state budget, whether in an independent budget (as is the case with the SEC) or any other part of state expenditure listed within the state budget.<sup>559</sup> However, no legal provisions require the SEC to issue financial reports.

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<sup>554</sup> Author's analysis based on provisions of Decree 46 (2011) and its bylaw.

<sup>555</sup> Analysis of the Law on the Practice of Civil and Political Rights and its bylaw.

<sup>556</sup> Article 3, Decree 46 (2011)

<sup>557</sup> تعديل قانون مجلس الدولة للسماح للإدارة العليا بتلقي الطعون على الرئاسة [www.akhbarak.net/articles/m/14861600#.UxM04eOSyNY](http://www.akhbarak.net/articles/m/14861600#.UxM04eOSyNY)

<sup>558</sup> Al Hayat, «تحصين» قرارات لجنة انتخابات الرئاسة, مصر: 8 March 2014: <http://tinyurl.com/oocrysu>

<sup>559</sup> 2014 constitution.

## PRACTICE

To what extent does the EMB have to report and be answerable for its actions in practice?

Score: 25 / 100

*The SEC holds press conferences to declare results of elections or referendums. However, no information about its financial status is available.*

The SEC is responsible for issuing the results of the elections.<sup>560</sup> There are no other obligations on the SEC's behalf to issue financial or performance reports. While the SEC is subject to external auditing from the CAO, researchers could find no reports on whether this process of external auditing takes place in practice.

As mentioned above, the decisions of the SEC for the 2014 presidential elections are not able to be challenged before the courts.<sup>561</sup>

Former presidential candidate Ahmed Shafik filed a challenge before the SEC after the SEC announced Mohamed Morsi as the president in the 2012 presidential elections. Shafik's challenge to the result of the elections was reviewed by the same committee that announced the results,<sup>562</sup> restricting the ability of the process to independently review the results.

Researchers found no reports on meetings of the SEC with international or regional representatives.

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<sup>560</sup>Referendum website.

<sup>561</sup>Al Hayat, مصر: جدل بعد «تحصين» قرارات لجنة انتخابات الرئاسة, March 2014: <http://tinyurl.com/oocrysu>

<sup>562</sup>Ibrahim Qasim, مصدر: قبول الطعن شكلا يعنى سماع المرافعات, واللجنة العليا لانتخابات الرئاسة تحدد جلسة الثلاثاء لنظر طعن شفيق على تزوير الانتخابات.. بمقر الدستورية العليا.. والمفاجآت تهدد بصيف سياسى ملتهب, *Al Youm Al Sabah*, 22 June 2013: [www1.youm7.com/News.asp?NewsID=1127098#.UxXfXT-SyNY](http://www1.youm7.com/News.asp?NewsID=1127098#.UxXfXT-SyNY) [accessed 4 July 2014].

# GOVERNANCE: INTEGRITY

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## LAW

To what extent are there mechanisms in place to ensure the integrity of the EMB?

Score: 25 / 100

*The SEC's board members answer as judges to the Supreme Judicial Council. They are not answerable for their positions as members of the board of the SEC.*

The board of the SEC follows the general judicial code of conduct, while the secretariat follows the code of conduct of public sector employees, as they are seconded from various executive branches to assist the SEC with the electoral process. There is no separate code of conduct for the SEC; however, as the board of the SEC is composed of judges, the judicial code of conduct applies to them. Law 46 (1972), Section 2, Chapter 5, entitled "Duties of Judges", acts somewhat as a code of ethics policy, but is not comprehensive. The Discipline and Eligibility Council inside the Court of Cassation is responsible for ensuring ethics in the judicial system.<sup>563</sup> The penal code covers crimes such as bribery (Articles 103-111), crimes relating to the abuse of public money (Articles 112-119) and illicit gain through the abuse of power (Article 130). Judges can be prosecuted for crimes relating to public money.<sup>564</sup> As for the secretariat staff, the code of conduct applicable in their case is Law 48 (1978), which defines "public sector employees" and refers crimes committed against public money to the Egyptian Penal Code.

The board, secretariat and staff of the SEC do not take any further oaths and/or declarations once they are assigned to their positions within the SEC.<sup>565</sup>

## PRACTICE

To what extent is the integrity of the EMB ensured in practice?

Score: N/A

*The rules governing the integrity of the judges are very strict; no accusations of corruption have been directed at the SEC. However, due to a lack of information on the behaviour of judges in regard to an integral election management process, this indicator was not scored.*

Legally speaking, the duty of the SEC is to manage the electoral process. Researchers could find no reported violations of the SEC's role. Violations reported concerning the 2014 constitutional referendum were mostly committed by voters against other voters, with no interference from the SEC.<sup>566</sup>

Practically speaking, researchers could find no reports or accusations directed at the SEC of any unlawful or suspicious actions.

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<sup>563</sup> Interview of a judge of appeal with Ahead of the Curve, autumn 2013.

<sup>564</sup> Egyptian Penal Code, 1937.

<sup>565</sup> Representative of the SEC, winter 2013.

<sup>566</sup> Passant Darwish, "Monitoring Bodies Observe Violations of Egypt", *Ahram Online*, 15 January 2014: <http://english.ahram.org.eg/NewsContent/1/64/91617/Egypt/Politics-/Monitoring-bodies-observe-violations-on-Egypt-fir.aspx>

# ROLE: CAMPAIGN REGULATION

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Does the EMB effectively regulate candidate and political party finance?

Score: 0

*The regulations intended to monitor expenditure of campaigns are very weak and vague. Mechanisms to monitor campaigns are non-existent.*

Although it is within the duties of the SEC to monitor the spending of candidates on their campaigns,<sup>567</sup> in practice the SEC does not supervise or approve campaign expenditure.<sup>568</sup> The SEC does not have the required means or mechanisms to monitor the spending of the presidential candidates, parliamentary candidates or spending in referendums.<sup>569</sup> This was very apparent in the 2014 constitutional referendum where the “yes for the constitution” campaign did not face any monitoring or control, despite estimates of millions of Egyptian pounds being spent.<sup>570</sup>

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<sup>567</sup> Article 1, Decree 46 (2011)

<sup>568</sup> Interview of an anonymous election analyst with Ahead of the Curve, winter 2013-2014.

<sup>569</sup> Ibid.

<sup>570</sup> Ibid.

# ROLE: ELECTION ADMINISTRATION

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Does the EMB ensure the integrity of the electoral process?

Score: 75 / 100

*The SEC has made serious effort towards making the voting process as easy as possible for members of the public.*

The website of the SEC has made locating the voting committee very easy and accessible to all voters. Using their national ID numbers, voters are able to find out their local voting committees and their addresses. Alternatively, voters can call #140 and request their local committees' details via any landline.<sup>571</sup>

Voters have the chance to check that their details are correct before the elections. They also have the right to request amendments to these details prior to the elections through filing a request with the desired amendments before the relevant primary court.<sup>572</sup>

In the 2014 referendum there were reports of voters not being able to access their voting committees due to high turnout preventing them from casting their votes.<sup>573</sup> The reported numbers, however, were insignificant and they did not affect the result of the referendum, according to reports.<sup>574</sup>

The voting ballots are marked with a watermark, as well as stamped and signed by the judge supervising the local committee to prevent the ballots from being forged.<sup>575</sup> Prior to the first presidential elections, the SEC led a TV campaign to educate voters about their rights and duties in casting their votes.

The charts on the website are all clear and show a detailed count of votes in every Egyptian governorate,<sup>576</sup> indicating a high level of efficiency of the SEC in managing the electoral process during the last referendum.

The SEC has issued Decision 3 (2013), stating the rules and regulations for observers of the electoral process. Article 8 of this decision grants observers the right to attend the election voting and polling committees.<sup>577</sup>

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<sup>571</sup>SEC website.

<sup>572</sup>Article 20, Decree 46 (2011)

<sup>573</sup>Ahmed Yousef, «المشرف على «عمليات القضاة»: الإقبال على التصويت تجاوز 70% (حوار)», *Egypt Independent*, 14 January 2014: [www.almasryalyoum.com/news/details/375601](http://www.almasryalyoum.com/news/details/375601)

<sup>574</sup>Yousef, 2014.

<sup>575</sup>Representative of the SEC, winter 2013.

<sup>576</sup>SEC website.

<sup>577</sup>Article 8, SEC Decision 3 (2013).



**OMBUDSPERSON**

**49 / 100**

# SUMMARY

Egypt does not have a separate ombudsperson. This function has been partially fulfilled by the National Council for Women (NCW) and the National Council for Human Rights (NCHR). Both councils have ombudsperson offices covering the governorates of Egypt where citizens can go to file complaints relating to women's issues or human rights violations. The ombudsperson offices of both councils are mandated to address citizens' complaints to the relevant entities and follow up with them until the problem is resolved. The reports of the ombudsperson offices are filed within the reports of the councils to the president, the prime minister and the Parliament but there is no requirement for a response.

Commentators criticise the law on implementation mechanisms and enforcement power for both councils. The recommendations of the councils are not binding and neither council has investigative powers.

During Mohamed Morsi's presidency, he established an ombudsperson to address citizen complaints directly, which was based in the presidential palace. Reports have estimated that the percentage of complaints resolved by the ombudsperson did not exceed 15 per cent.<sup>578</sup> The last report on the status of the ombudsperson after the removal of Morsi in July was a meeting between the head of the ombudsperson office and the head of National Post discussing the use of post offices as outlets to file citizens' complaints in June 2013.<sup>579</sup>

For this chapter, the author assessed the closest structure to an ombudsperson in Egypt: the ombudsman project of the NCW and the ombudsman office project of the NCHR.

The table summarises the overall score for the ombudsperson in Egypt according to its capacity, governance and role in both law and practice.<sup>580</sup>

OVERALL PILLAR SCORE: 49 / 100			
Category	Index	Law	Practice
Capacity 50 / 100	Resources	-	75
	Independence	50	25
Governance 46 / 100	Transparency	25	50
	Accountability	50	50
	Integrity	50	50
Role 50 / 100	Investigation	75	
	Promoting good practices	25	

<sup>578</sup> مصدر بقصر عابدين: ديوان المظالم استقبل 300 ألف شكوى... وقام بحل 15 % فقط *AlMasrAlYoum*, 16 March 2013: [www.almasryalyoum.com/news/details/295663](http://www.almasryalyoum.com/news/details/295663)

<sup>579</sup> «ديوان المظالم» يجمع مكاتب البريد *AlMasrAlYoum*, 24 June 2013: [www.almasryalyoum.com/news/details/225357](http://www.almasryalyoum.com/news/details/225357)

<sup>580</sup> The assessment uses the NCW and the NCHR ombudsman projects.

# STRUCTURE AND ORGANISATION

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Due to the lack of an ombudsperson institution – after the removal of Morsi in July 2013, no information on the ombudsperson office established during his year in office has been available – the NCW and the NCHR are reviewed here, as they contain ombudsperson offices where citizens can file complaints relating to violations committed against women’s rights or human rights.

Both councils are independent entities, separate from the executive branch. The NCW was established in 2000 under the president of the republic, while the NCHR, established in 2003, falls under the auspices of the Shura Council. The 2014 constitution does not establish a Shura Council, leaving the question of how the NCHR members will be appointed very vague.<sup>581</sup>

The structure of the councils is as follows:

- Appointments to the NCW are by presidential decree, appointing 30 members for three years, and its president is elected from among the 30 members in their first meeting.<sup>582</sup>
- Appointments to the NCHR are by a Shura Council decree appointing the 25 public figures, the chairman and the deputy chairman for three years.<sup>583</sup>

The NCW established an ombudsperson office in 2002 in order to receive complaints from women who have faced discrimination. Between 2002 and 2004, it received 7,000 complaints. The NCW has also installed a toll-free hotline to receive complaints, and appointed lawyers to address them. Complaints vary from gender discrimination in the workplace to inheritance-related issues, personal status law, and cases of domestic violence.<sup>584</sup>

The NCHR established a permanent Complaints Committee in 2004, adding to the committees of the council that are established by its governing law. However, in 2007, the Complaints Committee became an independent entity receiving citizen complaints and was renamed the ombudsman office. Since 2007, the ombudsman office has been supported by the EU through a cooperation agreement supporting the office staff and providing tools intended for increasing the effectiveness of the ombudsman office.<sup>585</sup>

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<sup>581</sup> Analysis of the 2014 Egyptian Constitution.

<sup>582</sup> Article 2 of Presidential Decree No. 90 for the year 2000.

<sup>583</sup> Article 2 of Law No. 94 for the year 2003.

<sup>584</sup> NCW website: [www.ncwegypt.com](http://www.ncwegypt.com), last updated 16 November 2013.

<sup>585</sup> NCHR website: [www.nchregypt.org](http://www.nchregypt.org)

# CAPACITY: RESOURCES

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## PRACTICE

To what extent does an ombudsperson or its equivalent have adequate resources to achieve its goals in practice?

Score:75

*There have not been any reports of financial shortages or a lack of human resources in either council.*

In the case of the NCW, the ombudsperson offices allocated in each governorate receive external funding from various donors. No budgetary insufficiency has been reported since its establishment. As for the NCHR's ombudsman office, no budget insufficiency has been reported since the project launched in 2007. A solid sustainability plan was put forward by the EU at the start of the project so that even if EU funding ends, the NCHR ombudsman office will still be able to continue in its role.

The staff of the ombudsman offices of the NCW are considered public personnel by law,<sup>586</sup> meaning that they are protected by the labour guarantees afforded to public personnel. The NCHR ombudsman office staff are hired specifically for their posts in the ombudsman office and are completely separate from their NCHR-based counterparts,<sup>587</sup> seemingly meaning that they are governed by the internal policies and regulations of the project and are not treated as public personnel before the law.

The staff of the NCW ombudsman offices receive training and attend workshops targeted at increasing their skills and efficiency. Similarly, when the EU started supporting the NCHR ombudsman office, the staff received training and attended workshops to increase their efficiency and the efficiency of the ombudsman office as a whole. As for the NCW's training and development of staff, the Department of Training of the NCW published its activities on the council's website.<sup>588</sup> The training covers a variety of topics, from computer skills to language courses; however, no specific training sessions on confidentiality, ombudsperson ethics, conflict resolution and styles, etc. are listed on the website.

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<sup>586</sup>Law No. 48 for the year 1978.

<sup>587</sup>Interview of an anonymous expert at an international development organisation with Ahead of the Curve, January 2014.

<sup>588</sup>NCW website.

# CAPACITY: INDEPENDENCE

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## LAW

To what extent is the ombudsman independent by law?

Score: 50

*The ombudsperson offices are not established in the constitution but they are established in the laws establishing the NCW and the NCHR. The independence of both ombudsperson projects is set out through these legal provisions.*

The 2012 Egyptian Constitution mentioned the NCHR in Article 80 but did not establish it under its own articles and did not mention the NCW. The NCHR was established by Law 94 (2003) and the NCW was established by Presidential Decree 90 (2000).

In the 2014 constitution the NCW and the NCHR maintained their status as independent bodies with independent budgets.<sup>589</sup> The ombudsperson offices, however, are not mentioned per se in the constitution. The ombudsperson offices of the NCW and NCHR are also not mentioned in the laws governing the councils; they are projects separate from the councils and receive their own separate funds.

No legal texts are designed for the specific reason of protecting the ombudsperson offices of both councils.

The laws establishing the councils do not set any criteria upon which appointments are based. The president appoints members of the NCW, while the Shura Council formerly appointed NCHR members.<sup>590</sup>

The head of the NCW is appointed by the rest of the board members during their first meeting for their term, while the whole NCHR is appointed by the Shura Council. The political appointment process leaves room for favouritism as well as leaving actions on the executive authority's behalf unquestioned. It has to be noted that the new Egyptian Constitution of 2014 does not establish a Shura Council within its provisions, leaving the question of how the NCHR would be appointed unanswered.

The NCW elects its own president at its first meeting after its members are appointed by the executive authority. In the case of the NCHR, the Shura Council appoints the president of the council when appointing the rest of the council. There are no legal provisions restricting the political affiliation of NCHR staff members.

The staff of both councils have fixed terms in the office. The Board of the NCHR is established by a Shura Council decree once every three years. As for the NCW, the council members are hired by the presidential decree establishing the council for a fixed term of three years as well. There are no restrictions on the reappointments of the members of either council.<sup>591</sup>

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<sup>589</sup>NCHR: Article 11 of Law No. 94 for the year 2003; NCW: Article 9 of Presidential Decree No. 90 for the year 2000.

<sup>590</sup>Article 2 of Presidential Decree No. 90, 2000; Article 2 of Law No. 94, 2003.

<sup>591</sup>Ibid.

Salaries at both the NCW and the NCHR are comparable to the salaries of other high-level officials.<sup>592</sup> Adding to the average public personnel salaries is an extra salary that is provided from the funds the NCW receives relating to certain projects that the personnel work on.<sup>593</sup> It has to be noted that the staff of the NCHR ombudsman office are project-based staff who are not considered public sector employees. They are hired as project staff for the ombudsman office and most of them are lawyers or have a legal background. Thus, their salaries are not comparable with those of public sector personnel.<sup>594</sup>

The president of the NCW has the authority to appoint and remove staff in accordance with the law governing public personnel, Law 48 (1978). The case is different with the NCHR. Its staff are hired specifically for the ombudsman office and abide by the internal regulations of the project itself.<sup>595</sup>

The NCW ombudsperson staff are more privileged than the NCHR staff in matters relating to their unjust removal from their positions. The NCW staff abide by the same regulations governing public sector personnel. This privilege protects them against removal through a complicated set of rules and procedures that are to be followed by their supervisors if they want to remove the staff from office. This is not the case with the NCHR ombudsman project employees, as they are governed by the internal regulations of the ombudsman office project.<sup>596</sup>

There are no regulations specifically to protect ombudsperson staff while they perform their duties. The author could not find any public reports of harassment faced by staff of either institution while addressing citizen complaints.

Under the 2014 constitution, the NCW and the NCHR report their activities to the president, prime minister and Parliament. The constitution does not subject the reports to judicial review.

The powers of the ombudsperson are not established in the constitution or in the establishing decrees of either council. In the case of the NCW, the ombudsperson can appeal before the courts on behalf of citizens. Examples can be found in news reports on the NCW and the NCHR assisting citizens with filing lawsuits as means of addressing their problems and the ombudsperson offices supporting them with the legal and court work.<sup>597</sup>

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<sup>592</sup> Interview of Ambassador Mona Omar, Secretary General of the NCW with Ahead of the Curve, winter 2013.

<sup>593</sup> Ibid.

<sup>594</sup> Ibid.

<sup>595</sup> Author's analysis of the website content of the ombudsman project.

<sup>596</sup> The internal regulations of the NCHR ombudsman project are unavailable online.

<sup>597</sup> Examples can be found on the website relating to resorting to civil courts and administrative courts to resolve citizens' complaints.

## PRACTICE

To what extent is the ombudsperson independent in practice?

Score:25

*Current political instability has led to replacements in the boards of both institutions. However, the staff of the ombudsperson offices of the NCW and the NCHR ombudsman project remain unaffected.*

Political replacements of the boards of both institutions has affected their ability to work free of political influence. Reshuffles within the NCHR have been particularly criticised by activists<sup>598</sup> as being in violation of the Paris Principles, which state that national human rights institutions must be appointed by a legislative body. In August 2013, Prime Minister Hazem ElBiblawy appointed the members of the NCHR in the absence of a legislative body after it was dissolved on 3 July 2013.<sup>599</sup> Reappointments to the bodies have not been publicly declared. Removal of board members is relatively easy as they are presidential or Shura Council appointees. Staff of both institutions have been unaffected by the political changes though and are not subject to political removal.<sup>600</sup>

In 2012, former prime minister Kamal El Ganzoury appointed a new board after a lawsuit was filed demanding the formation of a new NCW. The said council remains in office but there is speculation that it will be reappointed after the 2014 presidential elections.

The NCHR Board was appointed by the Shura Council in September 2012 and reappointed by Prime Minister Hazem El Biblawy in 2013 after the Shura Council was dissolved by court order.

It has to be noted here that the ombudsperson offices of the NCW and the ombudsperson staff of the NCHR ombudsman office are not affected by the replacing of board members. Staff are required to abide by the internal regulations governing the staff of the ombudsperson offices of the NCW and the internal regulations of the NCHR ombudsman office.

Filing complaints to the ombudsperson is generally a safe process.<sup>601</sup> The NCW ombudsman office can be reached through the website, a hotline, email or making the complaint in person at the office in the relevant governorate. As for the ombudsman office of the NCHR, there is a complaint form available on the website; there are also two mobile offices that reach out to citizens across the country. Researchers for this report could find no reports regarding harassment faced when complaints are filed for either office.

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<sup>598</sup>Rana Muhammad Taha, "NCHR reshuffle receives mixed reactions", *Daily News Egypt*, 24 August 2013: [www.dailynewsegypt.com/2013/08/24/nchr-reshuffle-receives-mixed-reactions/](http://www.dailynewsegypt.com/2013/08/24/nchr-reshuffle-receives-mixed-reactions/)

<sup>599</sup>ibid.

<sup>600</sup>Interview of Ambassador Mona Omar, Secretary General of the NCW.

<sup>601</sup>There have been no reports about intimidating and/or inflicting harm on complainants.

# GOVERNANCE: TRANSPARENCY

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## LAW

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the ombudsperson?

Score: 25

*The legal texts establishing the councils do not include provisions to ensure that the public can obtain relevant information on the activities and decision-making processes of the ombudsperson.*

There are no legal provisions regarding confidentiality of the complainant. Sample complaints on the NCW website are anonymised. No examples were found on the NCHR ombudsman website.

There is no legal text requiring the ombudsperson offices to make details of the complaints publicly available. However, both councils publish their reports on their websites,<sup>602</sup> which include numbers of complaints filed at the ombudsperson offices and the percentage of complaints in which solutions were reached. Since publishing such reports is not legally mandated, there are no deadlines by which these reports are required to be published.

Since the ombudsperson office personnel of the NCW are treated before the law as public personnel, a disclosure of assets has to be filed with the Ministry of Justice once they take office, once every five years until they leave office and two months after leaving office. Such disclosures are not required to be made public. As for the NCHR ombudsman office's personnel, there are no legal texts requiring the staff to file a disclosure of assets as they are not treated as public personnel before the law.

There are no regulations on the involvement of the public in the activities of either institution.

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<sup>602</sup>NCHR: [www.nchregypt.org/index.php/en/activities/publications/annual-reports.html](http://www.nchregypt.org/index.php/en/activities/publications/annual-reports.html); NCW: <http://ncwegypt.com/index.php/ar/docswomen/2013-03-11-14-50-50>

## PRACTICE

To what extent is there transparency in the activities and decision-making processes of the ombudsperson in practice?

Score: 50

*The websites of both councils are up-to-date with relevant information on their activities as well as their schedules of workshops and training sessions offered to the public.*

The reports on the ombudsperson offices of the NCW website include studies and research papers, statistics about women's rights and examples of complaints that the ombudsperson offices receive.<sup>603</sup>

As for the ombudsman office of the NCHR, information made publicly available through the website includes reports on its activities, facts and international human rights standards. A complete section of the NCHR Annual Report for the year 2012 is dedicated to the ombudsperson's activities. It lists details such as the number of complaints received, the main themes emerging after an analysis of their content (issues most frequently complained about), and selected cases under each main theme, with demonstrations of investigations that took place and responses that have been received from the relevant authorities to citizen complaints. The report also lists details of all fact-finding missions the office has engaged in, activities of its mobile offices, and its own awareness and outreach events with regard to dealing to issues of priority in the country.<sup>604</sup>

Article 5 of the presidential decree establishing the NCW clearly states that the council has a committee entitled the Civil Society Committee but fails to define the functions of that committee. The same article also authorises the NCW Board to seek expert opinion in the matters it sees fit.

Accessing the complaints mechanisms is relatively easy. The NCHR has faced criticism though for failing to involve the public and civil society in its work.<sup>605</sup>

The Secretary General of the NCW, Ambassador Mona Omar, indicated in an interview for this study that the employees of the ombudsperson offices of the NCW send their financial disclosures to the CAO in accordance with Law 62 for the year 1975 and the internal regulations of the councils.

Public sector employees are audited and supervised by the Central Audit Organisation (CAO). The CAO does not make its reports public.<sup>606</sup>

In practice there are no mechanisms to ensure that vacancies in the public sector are advertised for; that is, there are no sanctions imposed on entities that do not advertise their vacancies.<sup>607</sup>

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<sup>603</sup>NCW website.

<sup>604</sup>NCHR website.

<sup>605</sup>Amira Howaidy, "In the Absence of Will", *Al Ahrām Weekly*, 4 March 2010.

<sup>606</sup>Interview of Judge Hisham Genena, Head of the CAO, with Ahead of the Curve, October 2013.

<sup>607</sup>Doha Abdelhamid and Laila ElBaradaei, "Reforming the pay system for government employees in Egypt",

*International Public Management Review*, vol. 11, issue 3, 2010:

[www1.imp.unisg.ch/org/idx/ipmr.nsf/ac4c1079924cf935c1256c76004ba1a6/0a6bc377c4552cd9c12577d1005957ea/\\$FILE/Abdelhamid%20&%20El%20Baradei\\_IPMR\\_Volume%2011\\_Issue%203.pdf](http://www1.imp.unisg.ch/org/idx/ipmr.nsf/ac4c1079924cf935c1256c76004ba1a6/0a6bc377c4552cd9c12577d1005957ea/$FILE/Abdelhamid%20&%20El%20Baradei_IPMR_Volume%2011_Issue%203.pdf)

# GOVERNANCE: ACCOUNTABILITY

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## LAW

To what extent are there provisions in place to ensure that the ombudsperson has to report and be answerable for its actions?

Score: 50

*The NCW and the NCHR present their reports to the president and the prime minister. Neither council is required to publish its reports.*

The NCW is only accountable to the president and the prime minister. The establishing laws<sup>608</sup> of both councils require that the reports of both bodies also be provided to the legislature. It has to be noted here that the ombudsperson offices are not required to report to these entities separately. Their statistics and reports are included in the reports of the NCW and the NCHR.

All governmental anti-corruption agencies must submit annual reports to the executive authority, which they are all held accountable to, but this information is not required to be made public. The ombudsman office of the NCHR is a separate project that is not required to report to the executive authority. As for the NCW, the ombudsperson office does not report separately to the executive authority but their statistics are often included in the executive reports filed annually.

There is no timeframe in the law for the submission of annual reports.

The NCW and NCHR reports are not subject to judicial review. The Egyptian legal framework does not provide protection for whistleblowers. NCW ombudsperson staff are treated before the law as public sector employees. Any misconduct should be reported to their supervisors or addressed through filing a complaint with the NCW itself. As for the NCHR, the staff abide by the internal regulations of the ombudsman project and is not subject to public sector employees' legal framework.

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<sup>608</sup> Presidential Decree No. 90, 2000 and Law No. 94, 2003 establishing the NCW and the NCHR respectively.

## PRACTICE

To what extent does the ombudsperson report and is answerable for its actions in practice?

Score: 50

*The NCW files annual reports to the president and the prime minister. The NCHR files its reports to the president, the head of the People's Assembly and the head of the Shura Council.*

The law requires that the NCW submit annual reports to the president and the prime minister.<sup>609</sup> The reports are also published on the website of the council. As for the NCHR, the law requires its reports to be filed to the president, the head of the People's Assembly and the head of the Shura Council.

No further information is available on the reports after they are directed to the relevant entities. There were no instances found of the ombudsperson reports being discussed before the Parliament or any other entity. Also, there is no timeline as to when the reports should be presented to the relevant entities.

NCW staff are audited by the CAO, acting as the external auditor.<sup>610</sup> No information about the practices of the staff of the NCHR is available.

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<sup>609</sup>Interview of Ambassador Mona Omar, Secretary General of the NCW.

<sup>610</sup>During the interview with Ambassador Mona Omar, a representative from the financial department in the NCW was present. This is how the author acquired such information.

# GOVERNANCE: INTEGRITY

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## LAW

To what extent are there provisions in place to ensure the integrity of the ombudsperson?

Score: 50

*There are no specific regulations designed exclusively for the purpose of maintaining a level of integrity within the ombudsperson staff.*

NCW ombudsperson staff are treated before the law as public personnel. Public sector employees are bound by several laws as mentioned above. These laws contain articles on receiving gifts, taking bribes and illegally using authority; they also set some post-employment restrictions.<sup>611</sup>The public employees law does not mention sanctions that should be imposed for breaches of its articles; most sanctions are referred to the penal code. The penal code contains sanctions for bribery, illicit gain, public money misuse or manipulation and other criminal offences that are exclusive to public sector employees. These provisions are not specific to the ombudsperson and thus do not address issues such as confidentiality of complainants and communications.

Law 106 (2013) governs conflict of interest within the public sector. The law defines conflict of interest and establishes a committee called the Prevention of Corruption Committee, which exercises its functions in conjunction with the law's bylaws. The committee and the bylaws are still to be established.

The case is different with the NCHR ombudsperson office staff. They are not treated before the law as public sector employees but rather abide by the internal regulations of the ombudsperson office project. Such regulations are unavailable online, and thus are not assessed in this chapter. There are no restrictions on the political engagement of ombudsperson personnel anywhere in the NCHR's legal framework.

The NCW ombudsperson staff must declare their assets to the Ministry of Justice upon taking office, once every five years until they leave office and after leaving office.

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<sup>611</sup>Law No. 48, 1978 refers all offences relating to public funds to the Egyptian Penal Code, 1937.

## PRACTICE

To what extent is the integrity of the ombudsperson ensured in practice?

Score:50

*No reports were found on corruption of the ombudsperson staff or the internal regulations governing their work ethics.*

In the NCW, the ombudsperson office employees have their assets declared as part of their appointment procedures and once every five years as long as they hold office. The NCHR ombudsman office is a separate project where staff follow the internal regulations set forth by the project itself; the legal framework for public personnel does not apply to them. No legal context requires the ombudsperson staff to make their asset declarations publicly available. In general, no public reports were found with regard to ombudsperson staff violating any of the legal provisions that govern them.

Staff of both councils' ombudsperson offices receive training and organise training sessions and workshops as well.<sup>612</sup> However, no record was found of a specific kind of integrity training in either ombudsperson office.

When complaints are published on the website, the personal details are removed. Having the complaints on the website offers examples of the complaints the ombudsperson offices receive as a type of incentive to encourage other citizens to seek refuge in the ombudsperson offices.

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<sup>612</sup>Information gathered from both interviews conducted for this section.

# ROLE: INVESTIGATION

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To what extent is the ombudsperson active and effective in dealing with complaints from the public?

Score: 75

*The procedures for filing a complaint in either ombudsperson office are fairly easy. Assistance from the staff is offered. Ombudsperson offices are reached in person or via a hotline, email or fax.*

Filing a complaint with either ombudsperson office is fairly easy. The NCW ombudsman offices are present in all Egyptian governorates for women to file complaints and meet with officers to assist them with the procedures.

For a complaint to be accepted and reviewed by the NCW, it must meet the following criteria:<sup>613</sup>

- fall within the competence of the ombudsman's office
- carry the signature of the complainant and indicate in a legible manner her name, identity number, address, telephone number or any other means of contact
- be submitted by the complainant herself, not by anyone on her behalf
- specify the type of complaint and whether it is of an individual or collective nature
- indicate the name and address of the institution against which the complaint is filed
- specify the name of the person against whom the complaint is lodged
- specify the relationship between the complainant and the subject of the complaint
- include a summary of the complaint indicating relevant dates
- provide documents proving the validity of the events indicated in the complaint
- indicate the present status of the complaint if it was previously submitted to another authority

No complaint taken up with the judiciary shall be considered unless it relates to a ruling that has not been implemented. Eligibility to present a complaint<sup>614</sup> extends to all women who have been subject to any form of discrimination in public life or in personal affairs.

It is possible to register a complaint on the NCW website,<sup>615</sup> in the office, on the telephone, by email and by fax.

Complaints to the NCHR can be submitted on its website<sup>616</sup> and through mobile offices touring the country, telephone numbers, email, fax and through six branches in the provinces of Kafr el-Sheikh, Ismailia, BeniSuef, Sohag, Port Said and Suez. Branch offices' role is limited to

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<sup>613</sup>NCW website.

<sup>614</sup>ibid.

<sup>615</sup>[www.oo-ncw.org/NCW\\_CP/Net/CitizensRegistration.aspx](http://www.oo-ncw.org/NCW_CP/Net/CitizensRegistration.aspx)

<sup>616</sup>[www.nchregypt.org/index.php/en/complaint-english.html](http://www.nchregypt.org/index.php/en/complaint-english.html)

receiving complaints from local residents and sending these to the Complaints Committee (a committee separate from the complaints office is working under the supervision of the Executive Secretariat) at the headquarters of the Council in Cairo, who then forward them to the competent authorities. There are no set criteria for filing a complaint.

It is not reported how many complaints have been received and investigated in the past year. However, it is estimated that the NCW ombudsman office resolved 50 per cent of the complaints addressed to it last year.<sup>617</sup> As for the NCHR, no statistics are available on the percentage of resolved complaints.

The NCW proactively engages in investigating issues of high relevance to its mandate. For example, it has conducted and published a report titled *Egypt Violence against Women Study: Summary of Findings*.<sup>618</sup>

There are cases when the ombudsperson has engaged in consultations prior to criticising an agency. The NCHR for example has developed a fact-finding committee for investigations regarding human rights violations during the dispersal of the Rabaa sit-in.<sup>619</sup>

A fact-finding committee was set up by the NCHR to investigate human rights violations starting 25 January 2011. Several similar committees have been set up over the course of the last few years. The reports are available on the NCHR website and document police brutality among several other human rights violations. Furthermore, another fact-finding committee was set up to investigate human rights violations in the Maspero clashes between citizens and the army forces in front of the Maspero building in downtown Cairo.<sup>620</sup>

Findings of the committees remain ineffective in the process of holding wrongdoers liable for their violations. The NCHR has no power to impose sanctions on wrongdoers.<sup>621</sup>

Due to the national councils' relationship with the government and the executive powers, Egyptian people tend to generally perceive the ombudsperson's office as a defender of the government, rather than as a defender or mouthpiece for the concerns of citizens as the constitution mandates.

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<sup>617</sup>Interview of Ambassador Mona Omar, Secretary General of the NCW.

<sup>618</sup>National Council for Women, *Violence against Women Study: Summary of Findings* (Cairo: NCW, 2009): [www.ncwegypt.com/images/research/egypt\\_violence\\_against\\_women\\_study\\_summary%20of%20findings%20english\\_with\\_cover.pdf](http://www.ncwegypt.com/images/research/egypt_violence_against_women_study_summary%20of%20findings%20english_with_cover.pdf)

<sup>619</sup>Rana Muhammad Taha, "NCHR releases full report on Rabaa sit-in dispersal", *Daily News Egypt*, 17 March 2014: [www.dailynewsegypt.com/2014/03/17/nchr-releases-full-report-rabaa-sit-dispersal/](http://www.dailynewsegypt.com/2014/03/17/nchr-releases-full-report-rabaa-sit-dispersal/)

<sup>620</sup>[www.nchregypt.org/media/ftp/maspero%20report.pdf](http://www.nchregypt.org/media/ftp/maspero%20report.pdf)

<sup>621</sup>Interview of Ambassador Mona Omar, Secretary General of the NCW.

# ROLE: PROMOTING GOOD PRACTICE

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To what extent is the ombudsperson active and effective in raising awareness within government and the public about standards of ethical behaviour?

Score: 25

*The NCW has various publications ranging from findings to research to statistics relating to women's issues in Egypt. The publications are available in the ombudsperson offices in every Egyptian governorate as well as on the website.*

The NCHR website has published the reports of the fact-finding committees. The reports criticise the government and offer recommendations on what should be done to resolve the violations.<sup>622</sup> There are no documented cases of NCW or NCHR offices engaging in campaigns to inform and educate public officials.

The NCW and the ombudsperson office of the NCHR follow up with the relevant institution until the complaint is resolved.<sup>623</sup> If filing a lawsuit is the proper procedure to address a complaint, the relevant officer at the ombudsperson office will assist the citizen with their complaint until the situation is resolved.<sup>624</sup>

The NCHR ombudsperson office has mobile offices visiting Egyptian governorates to promote awareness of the ombudsman office project as well as collect complaints from citizens in the rural parts of Egypt.<sup>625</sup>

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<sup>622</sup> Examples include: <http://www.nchregypt.org/index.php/en/component/content/article/171-projects/ombudsman-office/963-the-report-of-the-fact-finding-mission-on-the-imbaba-events.html>, <http://www.nchregypt.org/index.php/en/media-center/news/915-2012-02-09-09-28-09.html>, <http://www.nchregypt.org/index.php/en/media-center/news/1307-rabaa-report-translation.html> [accessed 8 August 2014].

<sup>623</sup> Analysis of interviews conducted.

<sup>624</sup> Analysis of the content of the complaints found on the website.

<sup>625</sup> [www.nchregypt.org/index.php/en/complaints.html](http://www.nchregypt.org/index.php/en/complaints.html) [accessed 5 August 2014].

# CENTRAL AUDIT ORGANISATION

61 / 100

# SUMMARY

Historically speaking, the Central Audit Organisation (CAO) has undergone several shifts regarding its placement within Egypt's governance structure. Law 129 (1964) established the CAO as an independent entity under the presidency. Law 31 (1975) placed the CAO as an independent body under the House of Representatives, assisting the House with monitoring public expenditure and with supervision over public money. Currently, the CAO is governed by Law 144 (1988), as amended by Law 157 (1998), which again placed it as an independent entity under the president.

Currently the CAO's main role is the external auditor of the state and local administration, local governments, public bodies, political parties, trade unions and federations. The head of the CAO is hired through a direct presidential decree for a period of four years and is irremovable, unless s/he resigns. The CAO, however, has little authority beyond detecting and reporting issues of corruption and lack of accountability within the state administration and public sector; this significantly limits its activities from having a tangible impact on the state of integrity in Egypt. The CAO is only required to disclose information and send reports to the president, prime minister, and Parliament upon request, with the Egyptian public having very limited access to the CAO's reports and activities. Moreover, the CAO's subordination to the executive poses a risk to its independence and impartiality.

The table summarises the overall score for the CAO according to capacity, governance and role, in both law and practice.

OVERALL PILLAR SCORE: 61 / 100			
Category	Index	Law	Practice
<i>Capacity</i> 75 / 100	Resources	N/A	75
	Independence	75	75
<i>Governance</i> 50 / 100	Transparency	50	50
	Accountability	50	50
	Integrity	75	25
<i>Role</i> 58 / 100	Effective financial audit	75	
	Detecting and sanctioning misbehavior	50	
	Improving financial management	50	

# STRUCTURE AND ORGANISATION

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According to Law 144 (1998), the CAO is a legally independent organisation and manages its own resources. The CAO supervises the management of public sector companies and departments and monitors money under the control of state civil servants.<sup>626</sup>

The CAO is responsible for auditing central government departments, service agencies, governorates, trade unions, state-owned enterprises, political parties, state newspapers and other governmental entities.<sup>627</sup> It also assists the House of Representatives in its financial control role.

The head of the CAO is hired directly via presidential decree upon the approval of the majority of the House of Representatives and is directly subordinate to the president.<sup>628</sup>

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<sup>626</sup>Global Integrity, "Egypt: Integrity Indicators Scorecard", *The Global Integrity Report: 2008* (Washington, DC: Global Integrity, 2008).

<sup>627</sup>International Association of Anti-Corruption Authorities, "Central Auditing Organisation", 9 February 2012: [www.iaaca.org/AntiCorruptionAuthorities/ByCountriesandRegions/Egyptjigou/201202/t20120209\\_801456.shtml](http://www.iaaca.org/AntiCorruptionAuthorities/ByCountriesandRegions/Egyptjigou/201202/t20120209_801456.shtml)

<sup>628</sup>Article 216, 2014 Constitution of the Arab Republic of Egypt.

# CAPACITY: RESOURCES

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## PRACTICE

To what extent does the CAO have adequate resources to achieve its goals in practice?

Score: 75 / 100

*The CAO exercises a relative degree of independence when it comes to internally allocating its financial resources; however, the financial resources at its disposal may not be always sufficient.*

Law 144 (1988) requires the CAO to have an independent budget, set out by Parliament when setting the state budget. The budget is annually prepared and negotiated with the Ministry of Finance as part of the negotiations the ministry conducts over the state budget. After negotiations between different public authorities, the state budget is presented and discussed with the legislature.<sup>629</sup> The CAO budget is one line within the state budget, which is then distributed by the head of the CAO, meaning that the CAO manages and controls its own resources.<sup>630</sup> There are no publicly available reports detailing the CAO's budget.

The CAO's human resources policy states that holders of senior positions are appointed by decrees of the head of the CAO. Requirements and credentials of potential employees in general are set in accordance with the job description. The requirements listed in the policy are: having a good reputation and track record, having completed a bachelor's degree, fulfilling the set job requirements and qualifications, and being in good physical condition.<sup>631</sup> Annual performance reviews should be completed and are rated on a five-point scale of Excellent to Weak. A thorough list of credentials and requirements is needed to screen external auditors who are to join the CAO. These include academic credentials and membership of relevant international societies of Egyptian and international auditors.<sup>632</sup>

The CAO has a department solely dedicated for training and development – the Department of Research and Training. The department is responsible for providing internal training to employees, ensuring their participation in external training, and keeping the auditors up to date with international best-practice auditing techniques. According to an interviewee, membership and participation in international societies ensure that CAO staff are up to date with international best practice.<sup>633</sup> A recent example of such cooperation on career development was a “boot camp” held in cooperation with the World Bank during which 30 CAO representatives joined

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<sup>629</sup> Judge Hisham Genena, Head of the CAO, interview by Ahead of the Curve, October 2013.

<sup>630</sup> Law 144 (1988), Law 157(1998).

<sup>631</sup> Central Auditing Organisation, *Central Auditing Organisation Human Resources Policy* [لائحة العاملين بالجهاز المركزي للمحاسبات]: [www.cao.gov.eg/CAO\\_WEB/uploads/Dpages/About\\_CAO/layha.pdf](http://www.cao.gov.eg/CAO_WEB/uploads/Dpages/About_CAO/layha.pdf)

<sup>632</sup> Central Auditing Organisation, *Register of Auditors from outside of the Public Sector* [سجل قيد مراقبي الحسابات من خارج النطاق الحكومي]: [www.cao.gov.eg/CAO\\_WEB/uploads/Dpages/Accounting\\_criteria/AuditingEnrollement.pdf](http://www.cao.gov.eg/CAO_WEB/uploads/Dpages/Accounting_criteria/AuditingEnrollement.pdf)

<sup>633</sup> Genena interview, 2013.

experts from other Supreme Audit Institutions (SAIs) in discussing and exchanging experiences on SAI legal frameworks.<sup>634</sup>

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<sup>634</sup>“Egypt: Amendments to Legislation and Training on SAI Legal Frameworks”, *International Journal of Government Auditing*, Vol. 40, No. 3, July 2013.

# CAPACITY: INDEPENDENCE

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## LAW

To what extent is there formal operational independence of the CAO?

Score: 75 / 100

*The central audit institution is in general independent; however, the law gives the president the power to appoint the head of the CAO upon a majority vote in the House of Representatives, limiting its legal independence.*

Law 144 (1988), amending Law 129 (1964), mandates the independence of the CAO but also places it as subordinate to the president.<sup>635</sup> The head of the CAO is hired via a direct presidential decree, upon a majority vote in the House of Representatives.<sup>636</sup> The head of the CAO was appointed by Parliament until 1988; the Global Integrity scorecard indicated that this gave the organisation more independence than the current presidential appointment system.<sup>637</sup> The 50-person committee responsible for drafting Egypt's most recent constitution received requests from interest groups, including the CAO. The CAO made a request to make the appointment of its head independent from the Parliament and the president, to provide the CAO with further independence and enhance its transparency.<sup>638</sup> The most recent constitution (2014) requires the independence of the CAO, leaving the power to appoint its head through presidential decree but requiring a majority vote in the House of Representatives.<sup>639</sup>

The 2014 constitution furthermore makes the term of office of the CAO head renewable only once.<sup>640</sup> This represents a conflict with the current law governing the CAO, which does not place restrictions on re-appointment as head of the CAO.

CAO employees are hired as per the set requirements for each position. Entry-level positions are filled with graduates, and holders of more senior positions can be hired by the head of the organisation should they possess the required qualifications.<sup>641</sup> According to the CAO's human resources policy, its members and head are not allowed to engage in any commercial activities or activities that would conflict with the independence and integrity of their positions.<sup>642</sup> Members and the head of the CAO are not allowed to join political parties.<sup>643</sup> No legal provisions exist with regard to immunity of the head of the CAO from prosecution resulting from the normal discharge of duties.

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<sup>635</sup> Law 10 (2009), Law 129 (1964), Law 144 (1988).

<sup>636</sup> Ibid.; Article 216, 2014 constitution.

<sup>637</sup> Global Integrity, 2008.

<sup>638</sup> Genena interview, 2013; Karim Sarhan, "Parliament and Oversight Agencies: The Central Auditing Organization and Administrative Control Authority as Models", *The Role of Parliament in the Egyptian Constitution* (London: Global Partners and Associates, 2013).

<sup>639</sup> Article 216, 2014 constitution.

<sup>640</sup> Ibid.

<sup>641</sup> Central Auditing Organisation, *Central Auditing Organisation Human Resources Policy*.

<sup>642</sup> Ibid.

<sup>643</sup> Ibid.

## PRACTICE

To what extent is the CAO free from external interference in the performance of its work in practice?

Score: 75 / 100

*The CAO is relatively protected from external interference in general. However, in the past heads of the organisation have not completed their terms, which may indicate political pressure, and the budget is not sufficient to carry out its activities.*

Given that the CAO is under the authority of the president, its independence is strongly linked to the will of the executive in guaranteeing that independence.<sup>644</sup> The head of the CAO can only be removed by resignation, which must be accepted by the president.<sup>645</sup>

Current and previous directors of the CAO have come from distinguished professional and academic backgrounds.<sup>646</sup> The current head of the CAO exercises his role with freedom and independence; he has openly critiqued conditions and actively made several corruption allegations in Egypt, as well as pointed out several weaknesses in the governance system, without undue interference from external actors.<sup>647</sup> There are no reported cases of the heads of the CAO holding positions or conducting activities that could compromise their independence.<sup>648</sup> Furthermore, there have been cases of renewal or re-appointment of CAO heads.<sup>649</sup> Despite the fact that by law the head of the CAO cannot be removed before the end of the four-year term, the CAO's website indicates that there have been several instances of heads of the CAO not completing their four-year term.<sup>650</sup>

The CAO has professional full-time staff. According to the 2008 Global Integrity Assessment, CAO staff have come to be experienced in their domain, given the over 50 year existence of the entity.<sup>651</sup> This is especially true since employees of the CAO abide by the regulations and laws of public sector personnel, which secure their promotion and stability within their positions, according to the head of the CAO.<sup>652</sup>

The head of the CAO indicated that, due to Egypt's status as a developing country, public expenditure and thus the resulting available budget for the CAO are not sufficient.<sup>653</sup>

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<sup>644</sup> Abu Gabal, *The Central Auditing Organization: The Supreme Audit Institution in Egypt* [الجهاز المركزي للمحاسبات جهاز [الرقابة والمحاسبة الأعلى في مصر] (Cairo: Egyptian Center for Economic and Social Rights, 2011).

<sup>645</sup> Global Integrity, 2008.

<sup>646</sup> Central Audit Organisation, *Previous Heads of the Organisation* [رؤساء الجهاز السابقين]: [www.cao.gov.eg/index\\_files/cao\\_previous\\_presidents.htm](http://www.cao.gov.eg/index_files/cao_previous_presidents.htm)

<sup>647</sup> Auditing agency calls for greater oversight of government bodies", *Egypt Independent*, 16 April 2013.

<sup>648</sup> Genena interview, 2013.

<sup>649</sup> Central Audit Organisation, *Previous Heads of the Organisation*.

<sup>650</sup> Ibid.; Law 144 (1988).

<sup>651</sup> Global Integrity, 2008.

<sup>652</sup> Genena interview, 2013.

<sup>653</sup> Ibid.

# GOVERNANCE: TRANSPARENCY

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## LAW

To what extent are there provisions in place to ensure that the public can obtain relevant information on the relevant activities and decisions by the CAO?

Score: 50 / 100

*While the Parliament has the right to access all CAO reports and proceedings, the general public's access to CAO reports is limited. Specific reports about a given public sector entity are generally not publicly accessible, and full discussions of the CAO's annual report on the state's budget and expenditure in the Parliament are not aired.*

There are no legal provisions that require the CAO to make its reports publicly available.<sup>654</sup> Article 18 of Law 144 for the year 1988 obliges the CAO to present to the legislature any reports the legislature requests, along with an annual report on the results of its audits, a report with notes on the state budget, and a report on the sufficiency and efficiency of public expenditure.<sup>655</sup> As such, reports are only submitted to the president, and if requested to the legislature; they are only accessible by the president, the Parliament, bodies being audited and the auditors who work on them.<sup>656</sup> The fact that the CAO is not required to submit reports to the legislature (except upon request and the reports mentioned above) significantly limits transparency.

The CAO is a member of international SAIs and organisations including the International Organisation of Supreme Audit Institutions (INTOSAI).<sup>657</sup> According to head of the CAO, this ensures congruence with international best practices through continuous engagement with international professional bodies.<sup>658</sup>

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<sup>654</sup> Abu Gabal, 2011.

<sup>655</sup> Ibid.; Article 18, Law 144 (1988).

<sup>656</sup> Genena interview, 2013.

<sup>657</sup> Central Auditing Organisation, *Central Auditing Organisation Human Resources Policy*.

<sup>658</sup> Genena interview, 2013.

## PRACTICE

To what extent is there transparency in the activities and decisions of the CAO in practice?

Score: 50 / 100

*While the CAO reports transparently to Parliament, transparency to the general public – as per the legal framework – is limited.*

The CAO's unified auditing standards and mechanisms are all available on its website,<sup>659</sup> along with a set of supplements that complement the unified standards. The supplements detail issues such as auditing contracts, supplies, costs of loans and several other issues.<sup>660</sup> A planned new website<sup>661</sup> will offer a publicly available briefing of its reports, but public accessibility of full reports is not allowed by law.<sup>662</sup>

The CAO provides the Parliament with all the reports the Parliament deems necessary, along with an annual report on activities, a report with notes on the state budget, and a report on the efficiency and sufficiency of public expenditure that is required under the 2014 constitution.<sup>663</sup> A recent report on the performance of the CAO reflected the amount of public corruption and misuse of public money, which was revealed after the revolution.<sup>664</sup> Accordingly, the author questions the degree to which the CAO was able to effectively perform its duty prior to the 25 January 2011 protests.

The CAO is not required to and thus does not publicise reports of its audits. The CAO does however submit a yearly update to Parliament.<sup>665</sup> Given that segments of parliamentary meetings are aired on TV, portions of the annual updates are made public.<sup>666</sup> Public demands for publishing CAO reports have yet to be met.<sup>667</sup>

While, as previously mentioned, the CAO is not required to make reports public, the current website lists information about its composition, auditing standards and methods, and history.<sup>668</sup> Publicised information does not provide the public with enough information to assess the effectiveness of the CAO and its activities.

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<sup>659</sup> Ibid.

<sup>660</sup> Central Auditing Organisation, *Auditing Standards* [معايير المحاسبة]: [www.cao.gov.eg/index\\_files/audinting\\_criteria.htm](http://www.cao.gov.eg/index_files/audinting_criteria.htm)

<sup>661</sup> The planned launch date of the website is not known.

<sup>662</sup> Genena interview, 2013.

<sup>663</sup> Article 125, 2014 constitution.

<sup>664</sup> Abu Gabal, 2011.

<sup>665</sup> Ibid.

<sup>666</sup> "New state-run satellite channel to broadcast parliament sessions", *Egypt Independent*, 22 January 2012.

<sup>667</sup> Genena interview, 2013.

<sup>668</sup> CAO website: [www.cao.gov.eg](http://www.cao.gov.eg)

# GOVERNANCE: ACCOUNTABILITY

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## LAW

To what extent are there provisions in place to ensure that the CAO has to report and be answerable for its actions?

Score: 50 / 100

*The CAO is required by law to report to the executive and to the Parliament on its activities, and on the state budget and expenditure. However, the extent of its own accountability is limited due to the fact that the organisation is only audited internally.*

CAO internal audits are, by law, carried out and reported to the Department of Technical Supervision of the CAO. According to the law, the House of Representatives, the president and the prime minister also receive briefings on the CAO's reports and activities.<sup>669</sup> An annual report must be presented to the Parliament on the state budget, as well as the sufficiency and efficiency of public expenditure. Other additional reports are presented by the CAO to Parliament upon parliamentary request.<sup>670</sup>

CAO reports presented to the relevant administrative bodies must include recommendations resulting from the audits performed, and information on whether audited entities have presented the CAO with all required supporting information, as well as the final financial statements of the audited entity that clarify its actual financial performance.<sup>671</sup> Reports presented to the executive and audited bodies must also include corrective actions needed.<sup>672</sup> The CAO debates its audit reports with the concerned body until a result that satisfies both parties is reached. If a breach of law is detected, the case is referred to the relevant investigative authorities.<sup>673</sup>

All of the previously mentioned provisions safeguard the CAO's accountability in performing its duty of auditing public expenditure. The CAO itself, however, is only audited internally,<sup>674</sup> which limits its own accountability under law.

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<sup>669</sup> Genena interview, 2013.

<sup>670</sup> Abu Gabal, 2011.

<sup>671</sup> Ibid.

<sup>672</sup> Ibid.

<sup>673</sup> Genena interview, 2013.

<sup>674</sup> Ibid.

## PRACTICE

To what extent does the CAO have to report and be answerable for its actions in practice?

Score: 50 / 100

*CAO accountability is relatively high in regard to auditing state expenditure and public sector institutions in general. The lack of independent CAO audits limits its accountability in practice.*

The CAO issues approximately 30,000 reports annually. The reports are very technical, including all fields of public work ranging from banking to logistics and the funds of a political party.<sup>675</sup> Annual audit reports on the work of the CAO are presented to the president, prime minister and Parliament. Analysts have questioned the degree to which such a report is comprehensive and thus sufficient for holding the CAO accountable.<sup>676</sup>

The Parliament can ask the CAO to provide a report on a certain public figure or a certain public entity; the CAO is required by law to provide such reports and this is what happens in practice.<sup>677</sup> The reports are not debated in Parliament with the CAO, but with the relevant person or public entity.<sup>678</sup>

Disputed audit results are discussed between the CAO and the relevant public entity in practice. The results of audits conducted by the CAO are sent back and forth between both parties until they are both satisfied with the result. If the public entity insists on a matter that constitutes a breach of law, the relevant investigative bodies become involved.<sup>679</sup>

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<sup>675</sup>Genena interview, 2013.

<sup>676</sup>Abu Gabal, 2011.

<sup>677</sup>Ibid.

<sup>678</sup>Genena interview, 2013.

<sup>679</sup>Ibid.

# GOVERNANCE: INTEGRITY

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## LAW

To what extent are there mechanisms in place to ensure the integrity of the CAO?

Score: 75 / 100

*Laws are in place to effectively ensure the integrity of the CAO and its employees.*

CAO employees are bound by the Code of Conduct of Public Employees, which includes provisions on integrity (Law 48 [1978]). CAO employees can be charged under the Penal Code for crimes related to public money if they are found guilty of crimes committed in relation to their work as external auditors of public funds.<sup>680</sup>

Under the CAO's human resources policy, its members and head are not allowed to engage in any commercial activities or activities that would conflict with their positions' independence and integrity.<sup>681</sup> Members and the head are not allowed to join political parties.<sup>682</sup> The code regulates and covers issues relating to gifts and hospitality. Breaches of the code of conduct or the internationally recognised ISSAI 30 Code of Ethics by INTOSAI are dealt with by the Legal Department of the CAO, which has the power to sanction employees.<sup>683</sup>

CAO has post-employment restrictions, prohibiting auditors from holding office for three years within the institutes that they were auditing during the time they held office in the CAO. This applies to all the employees of the Auditing Department. The code of conduct of the CAO states that it is independent and objective.

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<sup>680</sup> Egyptian Penal Code, 1937.

<sup>681</sup> Article 26, Law 144 (1988).

<sup>682</sup> Ibid.

<sup>683</sup> Genena interview, 2013.

## PRACTICE

To what extent is the integrity of the CAO ensured in practice?

Score: 25 / 100

*Enforcement of integrity in the CAO is weak; the code of conduct has not acted as an effective barrier to corruption in all instances.*

CAO employees, as public employees, are bound by a general code of conduct that has not been effective in protecting the public sector and its employees from corruption according to the head of the CAO.<sup>684</sup>

There are concerns regarding corruption and lack of accountability within the CAO. A group of auditors from within the CAO itself created a movement called “Auditors against Corruption”, dedicated to detecting and fighting corruption within the CAO. The group presented the Supreme Council of Armed Forces with requests to remove the previous head of CAO from his position, accusing him of conspiring with the executive to conceal corruption.<sup>685</sup>

Nevertheless, the Department of Research and Training at the CAO offers training on issues of integrity as a way of enhancing the transparency and integrity of the institution.<sup>686</sup>

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<sup>684</sup> Genena interview, 2013.

<sup>685</sup> H. Nafaa', “Corruption and Audit Institutions” [الفساد والأجهزة الرقابية], *Al-Masry Al-Youm*, 10 March 2011.

<sup>686</sup> Genena interview, 2013.

# ROLE: EFFECTIVE FINANCIAL AUDIT

To what extent does the CAO provide effective audits of public expenditure?

Score: 75 / 100

*The CAO provides thorough and effective audits of public expenditure on a regular basis and presents them to the executive.*

An integral part of CAO's auditing processes and mechanisms is assessing the audited entity's internal audit. Three types of auditing exercises can be conducted on any given body; the types vary in terms of extensiveness and scope. The presence or lack of a strong internal audit function is a major component of the CAO's assessment of each institution.<sup>687</sup> The CAO conducts not only financial and legal audits but also performance audits for all public entities.<sup>688</sup> The House of Representatives and the Ministry of Finance also have auditing oversight functions of public institutions.<sup>689</sup>

Reports are comprehensive and are completed on a regular basis, but are usually very technical and require expertise to assess them.<sup>690</sup> The CAO issues approximately 30,000 reports per year, covering all public sector activities.<sup>691</sup> Audit reports are presented to the prime minister and president and, when requested, to the Parliament. Reports on the budget and expenditure are presented to the list of entities mentioned earlier along with the Ministry of Finance.<sup>692</sup>

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<sup>687</sup> Genena interview, 2013.

<sup>688</sup> Ibid.

<sup>689</sup> Article 1, Law 144 (1988).

<sup>690</sup> Genena interview, 2013.

<sup>691</sup> Ibid.

<sup>692</sup> Abu Gabal, 2011.

# ROLE: DETECTING AND SANCTIONING MISBEHAVIOUR

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Does the CAO detect and investigate misbehaviour of public officeholders?

Score: 50 / 100

*The CAO has extensive powers to audit public office holders; powers to prosecute those who breach accountability and integrity standards are weaker.*<sup>693</sup>

One of the main duties of the CAO is reporting on financial corruption of public office holders. Under Egyptian law, the CAO has the right to access all records that it deems relevant and would help its auditing.<sup>694</sup> However, the CAO only reports misconduct to the relevant organ (the public prosecution or illicit gains apparatus) and does not have investigative powers. As per Law 144 (1988), the CAO also does not have the authority to sanction public bodies found to be corrupt during an audit.<sup>695</sup> The criminal courts and administrative authorities, rather than the CAO, have the jurisdiction to deem whether and what sanctions are applied.<sup>696</sup>

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<sup>693</sup> Genena interview, 2013.

<sup>694</sup> Ibid.

<sup>695</sup> Abu Gabal, 2011.

<sup>696</sup> Ibid.

# ROLE: IMPROVING FINANCIAL MANAGEMENT

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To what extent is the CAO effective in improving the financial management of government?

Score: 50 / 100

*Recommending the better use of public money is the core concern of the CAO, but its effectiveness in doing so is limited.*

The CAO's mission to improve the government's financial management is carried out through a joint effort with the Ministry of Finance. They work together in providing better management systems for public money.<sup>697</sup>

While audited entities are mandated to respond to CAO reports, which include recommendations, within one month of their receipt, there are no effective sanctions or mechanisms to ensure a response. Accordingly, not all audited institutions consider and reply to the CAO audits.<sup>698</sup>

Ensuring that proposed audit recommendations are implemented is the responsibility of the executive, to which the CAO is subordinate. The lack of authority to ensure implementation within the CAO significantly limits its ability to improve performance and financial management.<sup>699</sup>

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<sup>697</sup> Genena interview, 2013.

<sup>698</sup> Ibid.

<sup>699</sup> Abu Gabal, 2011.

# **NATIONAL COORDINATION COMMITTEE FOR COMBATING CORRUPTION**

**38 / 100**

# SUMMARY

In the anti-corruption agency section, we evaluate the National Coordinating Committee for Combating Corruption (NCCCC).

Due to the high number of supervisory authorities in Egypt,<sup>700</sup> the NCCCC was formed in 2010 to coordinate all the relevant entities in the field of fighting corruption. The NCCCC includes representatives from all the supervisory authorities in Egypt and is focused on combating corruption in the public sector.

It therefore includes the coordination and leadership role of an anti-corruption agency, without having some of the other functions, which are the role of the supervisory authorities. Consequently, this pillar has been named the “National Coordinating Committee for Combating Corruption” to reflect the situation in Egypt.

The table summarises the overall score for the NCCCC in Egypt according to its capacity, governance and role in both law and practice:

OVERALL PILLAR SCORE: 38 / 100			
Category	Index	Law	Practice
<i>Capacity</i> 44 / 100	Resources	75	50
	Independence	25	25
<i>Governance</i> 38 / 100	Transparency	25	75
	Accountability	25	25
	Integrity mechanisms	25	50
<i>Role</i> 33 / 100	Prevention	50	
	Education	50	
	Investigation	0	

<sup>700</sup>Egypt is host to 28 supervisory authorities, as concluded from a statement by the former Minister of Justice: [www.elwatannews.com/news/details/202975](http://www.elwatannews.com/news/details/202975)

# STRUCTURE AND ORGANISATION

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The NCCCC was established by Prime Ministerial Decree no. 2890 (2010). The establishing decree designates the Minister of Justice as head of the NCCCC, whose membership is made up of the Minister of Legal and Representative Councils and the Public Prosecutor, as well as representatives of the following entities:<sup>701</sup>

- Administrative Supervision Authority
- Anti-Money Laundering Unit
- Ministry of Foreign Affairs
- Ministry of Interior
- Ministry of Justice
- Ministry of State of Administrative Development
- Public Intelligence
- Public Prosecution

The NCCCC has four subcommittees:<sup>702</sup>

- Awareness and Training Committee
- International Cooperation and National Experts Committee
- Legislative Reform Committee
- Strategy and Planning Committee

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<sup>701</sup> Article 1 of Prime Minister Decision No. 2890 for the year 2010, for the establishment of the National Coordinating Committee for the Fight against Corruption.

<sup>702</sup> Minister of Justice Decree No. 9236 for the year 2012:  
[www.ncccc.gov.eg/project\\_documents/Decisions/9236\\_2012.pdf](http://www.ncccc.gov.eg/project_documents/Decisions/9236_2012.pdf)

# CAPACITY: RESOURCES

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## LAW

To what extent are there provisions in place that provide the NCCCC with adequate resources to effectively carry out its duties?

Score: 75

*The law provides the NCCCC with the human resources and financial stability necessary to carry out its duties.*

Fighting corruption is listed as a primary concern of the state; Article 128 of the Egyptian Constitution declares that “the state is committed to fighting corruption.”<sup>703</sup> The article is unique in outlining the issue of corruption as a duty of the state in a clear, unmistakable manner.

The article also adds that competent oversight bodies and organisations are to commit to coordinating with one another to fight corruption, to enhance the values of integrity and transparency in order to ensure sound performance of public functions, to preserve public funds, and to develop and follow up on the national strategy to fight corruption, in collaboration with other competent control bodies and organisations, to be set out in law.<sup>704</sup>

With the high number of supervisory and executive entities in Egypt, creation of a coordinating body linking the already existing expert bodies became a pressing issue addressed in 2010, with the creation of the NCCCC to carry out this duty.<sup>705</sup> The NCCCC receives its budget as a part of the Ministry of Justice’s funds allocated for fighting corruption.<sup>706</sup> The Financial Resources Committee has to allocate the funds necessary for the Anti-Corruption Ministerial Committee to perform its tasks from the Ministry of Justice’s budget.<sup>707</sup> There are no further details on whether the committee can propose its own budget to the government, or whether there are opportunities for the committee to acquire further funding for its work. Adding to the budget allocated from the Ministry of Justice to the committee, the committee receives funding from other sources to finance its projects, including from international organisations such as the United Nations Development Programme (UNDP), which is also responsible for evaluating the progress of projects conducted by the committee using its funding.<sup>708</sup>

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<sup>703</sup> Article 128 of the 2014 Egyptian Constitution.

<sup>704</sup> 2014 Egyptian Constitution.

<sup>705</sup> Prime Minister Decision No. 2890, 2010.

<sup>706</sup> Interview of a representative of the NCCCC with Ahead of the Curve, spring 2014.

<sup>707</sup> Prime Minister Decision No. 2890, 2010.

<sup>708</sup> Interview of a representative of the NCCCC with Ahead of the Curve, spring 2014.

## PRACTICE

To what extent does the NCCCC have adequate resources to achieve its goal in practice?

Score: 50

*There have not been any reports or complaints relating to the insufficiency of the NCCCC's budget.*

The latest annual report of the committee (December 2013) mentions that donations received from the Ford Foundation and the UNDP reached US\$600,000.<sup>709</sup> However, it was not mentioned whether this amount has been found to be sufficient for the committee to perform its duties. The committee also receives funding from the Ministry of Justice as an entity functioning under the ministry's auspices.<sup>710</sup>

The committee technically does not have any employees; its human resources consist of representatives from different public sector entities, as well as different supervisory bodies. They are treated before the law as public sector employees.<sup>711</sup> Although the Ministry of Justice has witnessed numerous reshuffles to its minister, the committee has remained functional and has maintained its performance level during the turbulent period Egypt is undergoing.<sup>712</sup> This suggests there is not undue political influence over the work of the committee and indicates a level of sustainability for the committee.<sup>713</sup> Members of the committee are delegated from the different entities constituting the committee, in accordance with the establishing decree of 2010. Thus, there is no clear recruitment process that guarantees a level of integrity for the representatives, as each entity represented appoints the delegation it sees fit to the committee.

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<sup>709</sup> *Support to the National Coordinating Committee for Combating Corruption: Annual Report, December 2013:* [www.ncccc.gov.eg/project\\_documents/Progress\\_Report\\_2013/Final\\_NCCCC\\_progress\\_report\\_2013.pdf](http://www.ncccc.gov.eg/project_documents/Progress_Report_2013/Final_NCCCC_progress_report_2013.pdf)

<sup>710</sup> Interview of a representative from the NCCCC with Ahead of the Curve, spring 2014.

<sup>711</sup> *Ibid.*

<sup>712</sup> *Ibid.*

<sup>713</sup> Author's analysis.

# CAPACITY: INDEPENDENCE

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## LAW

To what extent is the NCCCC independent in law?

Score: 25

*The committee's work is supervised by the Ministry of Justice but the establishing ministerial decree does not state any restriction on the independence or the work of the NCCCC.*

The ministerial decree creating the NCCCC does not restrict the authorities of the members of the committee. In fact, members of the committee are high-ranking officials enjoying the authority and access to tools that enable them to carry out their duties in combating corruption. The legal provisions establishing the NCCCC stress assigning further duties to the members of the committee while remaining silent on granting them further authorities and/or powers other than those granted to them as officials of the entities they are representing on the committee.<sup>714</sup>

The NCCCC is an independent body; it is subsumed under the Ministry of Justice, and is headed by the Minister of Justice. His/her term as the head of the committee is based on his term as the minister, and he/she cannot lose his/her position as head of the committee unless he/she is no longer the minister. The law also grants the NCCCC the right to draw upon the necessary experts, ministry members, relevant agencies and members of universities, research centres and civil society; the committee can also request information and studies to assist it in its work.<sup>715</sup>

Members of the NCCCC do not abide by an additional code of conduct or internal regulations other than the rules suggested by their own delegating entities.<sup>716</sup> This results in varying levels of immunity enjoyed by the members of executive entities represented on the committee. For example, the representatives of the Ministry of Interior and the Ministry of Communication lack immunity, while a certain degree of immunity is granted to the representatives of the Anti-Money Laundering Unit and the Public Prosecution as their positions in their delegating entities enjoy a certain degree of immunity.<sup>717</sup>

It should be noted that there are no set criteria for appointing representatives of entities to take part in the committee. That is, the relevant entity does not follow any declared procedures and/or general rules throughout its selection of its representative on the NCCCC.<sup>718</sup>

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<sup>714</sup>Author's analysis.

<sup>715</sup>Prime Minister Decision No. 2890, 2010.

<sup>716</sup>Interview of a representative from the NCCCC with Ahead of the Curve, spring 2014.

<sup>717</sup>Author's analysis.

<sup>718</sup>Interview of a representative from the NCCCC with Ahead of the Curve, spring 2014.

## PRACTICE

To what extent is the NCCCC independent in practice?

Score: 25

*There have been no practices that suggest any political influence on behalf of the members of the committee.*

The NCCCC is a delegation made up of various governmental bodies, and is not independent or politically impartial. Law enforcement agencies are already members of the committee, and would be directly involved in any activity the committee is engaged in,<sup>719</sup> but the committee is not involved directly in any investigative procedures.<sup>720</sup> Further investigation of how the political shifts that Egypt has been witnessing have affected the committee was carried out during the interview with its representative. The committee remained unaffected by the Minister of Justice being replaced more than four times over the last three years. Furthermore, the committee expanded its work in 2012 to include a new subcommittee called the Legislative Reform Committee.<sup>721</sup>

The NCCCC is responsible for providing technical support on issues of corruption to enable the already existing entities to carry out their normal role in investigating and prosecuting corruption; that is, the committee does not hold any investigative or prosecuting power. It exists to ease the cooperation of the different public entities in fighting and preventing corruption.<sup>722</sup> Having excluded investigation from the duties of the NCCCC, there are fewer possibilities of it being involved in corruption as the investigation is carried out by other entities. This division of labour thus limits the possibility of corruption.

There is very little reporting on how the committee operates; the organisation was not active for a long period after its establishment, only meeting twice between its 2010 establishment and October 2013.<sup>723</sup> However, a report on the activities of the NCCCC is published on its website.<sup>724</sup>

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<sup>719</sup>Prime Minister Decision No. 2890, 2010.

<sup>720</sup>Yara Helmy, "Finally the National Committee for Anti-Corruption Begins its Work". *Al Dostor Al Asly*, 23 October 2013.

<sup>721</sup>Minister of Justice Decree No. 9236, 2012.

<sup>722</sup>Author's analysis.

<sup>723</sup>Helmy, 2013.

<sup>724</sup>*Activities of the NCCCC*: [http://ncccc.gov.eg/Pages\\_ar/Activities.aspx](http://ncccc.gov.eg/Pages_ar/Activities.aspx)

# GOVERNANCE: TRANSPARENCY

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## LAW

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the NCCCC?

Score: 25

*No specific articles indicate a commitment to make the NCCCC's reports publicly available.*

Although the Egyptian constitution stipulates the right of citizens to access information,<sup>725</sup> the provisions establishing the NCCCC have completely disregarded the right of the public to access the committee's activities. There are no provisions that specify what documents must be prepared by the committee nor any deadlines for doing so. There are also no laws requiring the committee to make information on its activities publically available.

The relevant ministers or their representatives are to attend the committee's meetings to discuss any matters that are within their jurisdiction or are relevant to their ministry's activities. Furthermore, the committee should form subcommittees from within its members for the purpose of researching a particular subject and displaying the results of the study to the rest of the organisation. The committee should meet at the Ministry of Justice once a month or whenever the need arises.<sup>726</sup>

## PRACTICE

To what extent is there transparency in the activities and decision-making process of the NCCCC in practice?

Score: 75

*Relevant information is available on the website of the NCCCC, including information about its activities and sources of funding.*

The NCCCC has its own website<sup>727</sup> and is present on social media through its Facebook<sup>728</sup> page. The information available on the website includes the administrative decisions issued by the Minister of Justice (the head of the NCCCC) as well as reports on the committee's activities and recent initiatives in the fight against corruption.<sup>729</sup> The information presented on the website is very clear; the annual report includes the amount of funds allocated for financing the reported-on activities as well as the sources from which the funds were received.<sup>730</sup>

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<sup>725</sup> Article 68 of the 2014 Egyptian Constitution.

<sup>726</sup> Prime Minister Decision No. 2890, 2010.

<sup>727</sup> [www.ncccc.gov.eg](http://www.ncccc.gov.eg)

<sup>728</sup> [www.facebook.com/pages/National-Coordinating-Committee-for-Combating-Corruption/187169804782351](https://www.facebook.com/pages/National-Coordinating-Committee-for-Combating-Corruption/187169804782351)

<sup>729</sup> *Activities of the NCCCC*, [http://ncccc.gov.eg/Pages\\_ar/Activities.aspx](http://ncccc.gov.eg/Pages_ar/Activities.aspx)

<sup>730</sup> *Support to the National Coordinating Committee for Combating Corruption: Annual Report*, 2013.

# GOVERNANCE: ACCOUNTABILITY

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## LAW

To what extent are there provisions in place to ensure that the NCCCC has to report and be answerable for its actions?

Score: 25

*Legal provisions regarding the mechanisms of reporting on the activities of the NCCCC are unclear.*

The NCCCC is answerable for its actions before the Ministry of Justice, which in turn is responsible to the Parliament. This process allows indirect supervision of the NCCCC on the Parliament's behalf.

Legally speaking, supervision of the activities of the NCCCC is not required by any explicit legal text. Furthermore, the legal provisions establishing the committee are silent about which entity is responsible for carrying out the external audits of the committee's activities.

The committee falls under the Ministry of Justice, which is the responsible ministry for reviewing the progress of the NCCCC. There are no requirements by law for the committee to file annual reports, and no mention of a whistleblower policy.<sup>731</sup>

## PRACTICE

To what extent does the NCCCC have to report and be answerable for its actions in practice?

Score: 25

*There is no authority concerned with the direct supervision of the activities of the NCCCC other than the Ministry of Justice. However, the NCCCC is keen on having the reports on its activities published on the website for public access.*

The head of the NCCCC is the Minister of Justice, and therefore has to account for the activities of all staff to the ministry as part of its annual reporting mechanism.

Practically speaking, there are no citizen accountability mechanisms; that is, there is no direct public oversight on the activities of the NCCCC. To put things into perspective, the reports on the work of the NCCCC have not been reviewed by the Parliament due to the lack of a legislative authority that is elected through direct popular elections during preparation of these reports. However, it has to be noted that the reports on the activities of the committee are published on its website, which enables public opinion to hold it accountable for its activities to an extent.<sup>732</sup>

However, the website of the committee contains a form for citizens' and residents' complaints of corruption.<sup>733</sup> There is a lack of information as to the content of the complaints filed to the

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<sup>731</sup> Author's analysis of the legal provisions of Ministerial Decree No. 2890, 2010.

<sup>732</sup> Author's analysis.

<sup>733</sup> *Reporting on Corruption*: [http://ncccc.gov.eg/Pages\\_ar/Reporting.aspx](http://ncccc.gov.eg/Pages_ar/Reporting.aspx)

committee, as well as whether the corruption complaints filed are resolved through the relevant entities.

There have not been any reports on the effectiveness of the supervision practised through the Parliament over the committee. However, the NCCCC website has one report published on its activities from 2013. This is considered a step forward as there are no provisions forcing the committee to make its reports public; however, an annual report is available.<sup>734</sup>

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<sup>734</sup> *Support to the National Coordinating Committee for Combating Corruption: Annual Report, December 2013.*

# GOVERNANCE: INTEGRITY

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## LAW

To what extent are there mechanisms in place to ensure the integrity of the NCCCC?

Score: 25

*There is no set code of conduct for the NCCCC collectively; instead, each representative abides by the regulations governing their represented entity.*

There is no separate code of conduct for the members of the NCCCC. The code of conduct of the members' relevant entity is applied to them. For example, members representing executive bodies abide by the frame of work and code of conduct stated in the Public Sector Employees Law (48/1978). Other members, such as representatives of supervisory authorities like the Public Prosecutor, for instance, abide by the Judicial Authority Law (46/1972).<sup>735</sup> The code differs depending on the entity the member represents.<sup>736</sup>

Recently, the Conflict of Interest Law for public office holders was introduced. Law 106 (2013) is specifically designed for limiting conflicts of interest among high-level public sector employees.<sup>737</sup> There are members of the NCCCC who abide by this law and members whose scope of work falls outside of the application of the Conflict of Interest Law. For instance, the Minister of Justice abides by the Conflict of Interest Law, which, through its provisions, restricts employment in the same field to six months after leaving office.<sup>738</sup>

## PRACTICE

To what extent is the integrity of the members of the NCCCC ensured in practice?

Score: 50

No suspicious behaviour has been reported on the NCCCC's members' behalf.

There are also no reports on whether the members of the NCCCC receive sufficient training; the only information available in regard to training is on those offered to different stakeholders as means and/or methods adopted by the committee to combat corruption.<sup>739</sup>

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<sup>735</sup> Further details on mentioned laws are to be found in the public sector and the judiciary pillar reports, respectively.

<sup>736</sup> Interview of a representative from the NCCCC with Ahead of the curve, spring 2014.

<sup>737</sup> Law No. 106 for the year 2013.

<sup>738</sup> Article 18 of Law No. 106, 2013.

<sup>739</sup> *Activities of the NCCCC*: [http://ncccc.gov.eg/Pages\\_ar/Activities.aspx](http://ncccc.gov.eg/Pages_ar/Activities.aspx)

# ROLE: PREVENTION

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To what extent does the NCCCC engage in preventive activities regarding fighting corruption?

Score: 50

The committee performs the following functions:

- effectively enforcing the provisions of the United Nations Convention against Corruption (UNCAC), as well as regional and international conventions and other relevant bilateral agreements, and coordinating among national stakeholders in this regard
- creating a unified Egyptian vision for combating corruption to be expressed to the international community, which reflects all the legal, political, and security-related aspects of the subject
- following up on the implementation of Egypt's international obligations arising from the UNCAC and other international agreements, as well as coordinating and participating in relevant conferences
- periodically evaluating legislation, regulations, and national decisions related to combating and preventing corruption, with the purpose of determining their adequacy and their compatibility with the provisions of international conventions ratified by Egypt, and making suggestions, recommendations and draft laws in this area with the competent authorities and ministries
- working to strengthen the bonds of international judicial cooperation in the field of anti-corruption and asset recovery, as well as strengthening cooperation with committees and similar bodies in other countries<sup>740</sup>

The new Conflict of Interest Law is a preventive method adopted in 2013 to limit conflict among private interests and those holding public office.<sup>741</sup>

Several initiatives have taken place since the committee began carrying out its duties again, including workshops<sup>742</sup> on disseminating advice on the immorality of corruption through religious institutes, a round table on the purification of the supervisory authorities from corrupting factors,<sup>743</sup> and a workshop offering an introduction to the convention.<sup>744</sup>

Furthermore, the Legislative Reform Committee is responsible for compiling local and international legislation, regulations, decisions, legal references, and regional and international conventions relevant to combating corruption. It is also tasked with updating the data in light of new developments in the local and international legal and legislative framework.<sup>745</sup>

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<sup>740</sup>Prime Minister Decision No. 2890, 2010.

<sup>741</sup>Analysis of articles of Law No. 106, 2013.

<sup>742</sup>*Activities of the NCCCC*: [http://ncccc.gov.eg/Pages\\_ar/Activities.aspx](http://ncccc.gov.eg/Pages_ar/Activities.aspx)

<sup>743</sup>*Ibid.*

<sup>744</sup>*Ibid.*

<sup>745</sup>Prime Minister Decree No. 2890, 2010.

The activities of this subcommittee are to research and develop the provisions and regulations of laws needed for communicating a unified anti-corruption methodology and technique for all relevant entities of the public sector.<sup>746</sup> The Legislative Reform Committee is relatively new; thus, its impact remains limited so far. Its efforts fall within the preventive techniques in terms of amending legal provisions, creating a wider space for combating corruption and prosecuting wrongdoers in court.<sup>747</sup>

The standing political situation in Egypt has not been enabling in terms of assessing the impact of the NCCCC and its subcommittees in the fight against corruption.<sup>748</sup>

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<sup>746</sup> Interview of a representative from the NCCCC with Ahead of the Curve, spring 2014.

<sup>747</sup> Author's analysis.

<sup>748</sup> Author's analysis.

# ROLE: EDUCATION

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To what extent does the NCCCC engage in educational activities regarding fighting corruption?

Score: 50

*There are efforts towards educating decision-makers and the public about corruption; however, they lack follow-up and evaluation.*

The Awareness and Training Committee is responsible for raising awareness of the negative effects of corruption on the overall performance of the public sector bodies, along with planning and laying out training plans for relevant stakeholders on issues of corruption and how to combat it.<sup>749</sup> The duties of this subcommittee are part of the educational efforts exerted towards limiting everyday corrupt practices.<sup>750</sup>

Among the educational activities of the NCCCC are the workshops and roundtables it organises in collaboration with relevant civil society organisations. Training is offered to public sector officials in collaboration with other relevant public sector bodies in order to offer an academic and practical overview of their responsibility to combat corruption. In November 2013, training sessions were conducted by the Department of Legal Administration in the Ministry of Justice with the executives of the legal departments in different public sector entities to educate them on their authorities and powers that can be directed towards combating corruption.<sup>751</sup>

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<sup>749</sup> *Subcommittees*: [http://ncccc.gov.eg/Pages\\_ar/SubCommittees.aspx](http://ncccc.gov.eg/Pages_ar/SubCommittees.aspx)

<sup>750</sup> Author's analysis.

<sup>751</sup> *Activities of the NCCCC*: [http://ncccc.gov.eg/Pages\\_ar/Activities.aspx](http://ncccc.gov.eg/Pages_ar/Activities.aspx)

# ROLE: INVESTIGATION

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To what extent does the NCCCC engage in investigation regarding alleged corruption?

Score: 0

*The NCCCC does not have investigative powers.*

The role of the committee is to coordinate among different governmental bodies and not to investigate. For this reason, the committee is not involved in investigating cases of administrative and financial corruption by previous regimes.<sup>752</sup>

When the committee encounters a particular case of corruption, it can report it to the relevant body. However, Counsellor Ezzat Khamis, Deputy Minister of Justice, has said that there are 28 anti-corruption watchdog organisations that are working in cooperation with the committee, and that there will be a great deal of emphasis on improving the coordination among these different bodies. This can potentially strengthen the organisation's ability to identify cases of corruption and engage with the relevant investigative bodies. Khamis has stated that the main role of the committee is to prevent corruption, recover Egyptian money that has been taken abroad, and implement the UNCAC.<sup>753</sup>

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<sup>752</sup> Helmy, 2013.

<sup>753</sup> Ministry of Justice: 29 Watchdog Organizations are Cooperating with the Anti-Corruption Committee", *Veto Gate*, 2013.



# POLITICAL PARTIES

52 / 100

# SUMMARY

Since the 25 January 2011 revolution, Egypt has witnessed a significant shift in terms of the policies and practices of political parties towards greater plurality. There has been a steep rise in the number of registered parties due to a more flexible registration process. According to Egypt's State Information Service (SIS), as of 2014 there were 83 registered political parties, 62 of which registered after 25 January 2011.<sup>754</sup> However, legal structures and tight government control of political parties limit opportunities for reform.

The table summarises the overall score for political parties in Egypt according to their capacity, governance and role in both law and practice.

OVERALL PILLAR SCORE: 52 / 100			
Category	Index	Law	Practice
<i>Capacity</i> 56 / 100	Resources	75	50
	Independence	75	25
<i>Governance</i> 50 / 100	Transparency	50	25
	Accountability	50	25
	Integrity	75	75
<i>Role</i> 50 / 100	Interest aggregation and representation	50	
	Anti-corruption commitment	50	

<sup>754</sup>Egypt's Information Portal: <http://www.eip.gov.eg/Directories/Directory.aspx?id=56> [accessed 8 January 2014]. For a complete list of registered political parties, please see Annex 1.

# STRUCTURE AND ORGANISATION

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## HISTORY AND LEGAL CONTEXT

The emergence of political parties in Egypt was concurrent with the rise of modern government and administrative institutions able to support the establishment of political parties, including the 1923 constitutional declaration, which included the concept of political pluralism.<sup>755</sup> Following the army's overthrow of the monarchy in 1952, it disbanded political parties and the country entered the one-party rule of the Arab Socialist Union under President Gamal Abdel Nasser.<sup>756</sup> In 1976, President Anwar El Sadat re-instituted a multi-party system<sup>757</sup> and ratified the 1977 Law on Political Party Systems (LPPS).<sup>758</sup> During President Hosni Mubarak's rule (1980-2011) 24 political parties were established, but the political sphere was dominated by the rule of the National Democratic Party.<sup>759</sup> Since 2011, Egypt has experienced periods of greater political pluralism, despite a turbulent political environment.

Passed in 1956, the Law on the Exercise of Political Rights (73/1956) set out the rules for the eligibility of candidates and voters and described the manner in which elections should be conducted. It has been amended over 20 times since 1956,<sup>760</sup> most recently in 2013 by Interim President Adly Mansour amending some of the procedures of voting for Egyptians abroad.

In July 2005, the People's Assembly (the lower chamber of Parliament) passed much-awaited amendments to the political parties law, one of a series of touted political reforms the National Democratic Party (the ruling party at the time) introduced that year. Law 177 (2005) made many long-overdue improvements to the old law on parties, but failed to remove vague, subjective and unnecessarily restrictive criteria that allowed the government and the Political Parties Committee (a body charged with regulating and approving political parties) to continue to prevent the establishment of new political parties and to restrict existing ones.<sup>761</sup> Further amendments made in 2007 included Article 5, which prohibited the establishment of religious parties, and Article 76, allowing political parties to nominate a candidate for the presidency.

The 2011 amendments to the law made by the Supreme Council of Armed Forces (SCAF)<sup>762</sup> changed the nature of the Political Parties Committee. Authority was shifted from the president of Egypt and the ruling party to a new committee consisting of seven judges. Since then, the committee has simplified the process of establishing a political party, replacing government approval of an application with the founder's notification of their party's foundation.<sup>763</sup>

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<sup>755</sup>State Information Service, *Future of partisan life in Egypt after January 25 revolution?* 2011.

<sup>756</sup>Ibid.

<sup>757</sup>Ibid.

<sup>758</sup>State Information Service, 2009.

<sup>759</sup>U.S. Department of State, *Egypt*. [www.state.gov/documents/organization/160456.pdf](http://www.state.gov/documents/organization/160456.pdf)

<sup>760</sup>"Elections Laws and Processes, Egypt's Main Political Rights Law", *Ahram Online*, 4 December 2013.

<sup>761</sup>Human Rights Watch, *Monopolizing Power: Egypt's Political Parties*, 2007.

<sup>762</sup>Law No. 12 for the year 2011 amending the LPPS.

<sup>763</sup>LPPS 2011.

## CURRENT ENVIRONMENT

During Hosni Mubarak's presidency until January 2011 and despite the constitution providing for a multi-party system, the president's National Democratic Party (NDP) was virtually the sole political party, with opposition parties limited in their power and reach. After Mubarak stepped down in 2011, the first district of the Supreme Administrative Court dissolved the NDP on 16 April 2014. The SCAF, which governed Egypt in 2011, amended the political parties law; it issued Law 12 (2011) in March, amending Law 40 (1977). Two principal changes included banning state funding for political parties and establishing registration of political parties through "conditioned notification".<sup>764</sup> According to Al-Ahram, Egypt's state-owned media organisation, registering a new political party previously involved complicated procedures that frequently led nowhere as the Political Parties Committee in the previous law was the sole body authorised to reach a decision as to whether the party should be registered or not.<sup>765</sup>

Significant changes were made during the SCAF era, among which was the stipulation that two-thirds of the seats for Parliament would be elected based on party listing, with the other one-third elected by individual candidacy. This was a major development, as it meant that both independent and party-based candidates would be able to run in the elections, which in turn helped fuel the proliferation of new electoral coalitions in Egypt such as the Democratic Coalition and the Egyptian Bloc Coalition.<sup>766</sup>

In June 2012, Mohamed Morsi, a member of the Freedom and Justice Party (FJP), was elected president of Egypt. On 3 July 2013, Defence Minister General Abdel-Fattah El Sisi announced on national television the removal of President Morsi, the appointment of Adly Mansour, head of the Constitutional Court as interim president, and the suspension of the 2012 constitution.<sup>767</sup>

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<sup>764</sup> Dina Gurguis, "Egypt Opposition Divided over New Political Parties Law", Washington Institute, 2011.

<sup>765</sup> M. El Nahhas, "Party time", *Al-Ahram Weekly* (4), 2011.

<sup>766</sup> United Group, *Parliamentary Elections 2011-2012: Report Summary of Egyptian Alliance for Election Monitoring* (Cairo: United Group, 2012).

<sup>767</sup> Oliver Laughland, "Egyptian military removes President Mohamed Morsi - as it happened", *The Guardian*, 4 July 2013.

# CAPACITY: RESOURCES

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## LAW

To what extent does the legal framework provide an environment conducive to the formation and operations of political parties?

Score: 75 / 100

*Political parties are relatively free to form and operate following the 2011 amendments to the political parties law. The law is not clear however on how political parties can challenge rejections of registration requests.*

The formation of political parties is a right under the 2014 constitution.<sup>768</sup> The 2011 amendments to Law 73 (1956) on the Exercise of Political Rights modified a number of articles containing punitive measures for using violence, bribes or religious slogans in elections. Articles 43, 45, 46, 47 and 48 set the penalty for insulting election officials, damaging election facilities, hiding or damaging voter rosters, and registering names of voters through illegal means at one to five years in prison, and a fine from EGP 10,000 EGP (US\$1,433) to EGP 100,000 (US\$14,334).<sup>769</sup> Using force to prevent someone from voting, forcing anyone to vote for a certain candidate, and spreading rumours about the elections or candidates in a bid to influence the outcome of voting are also punishable by imprisonment. The offenders may be banned from running for office for five years.<sup>770</sup> Article 22 of the LPPS furthermore punishes the founding or establishing of an illegal political party with imprisonment.<sup>771</sup>

After the 2011 revolution, SCAF made amendments to political parties law to improve the operating environment for political parties. Under an amendment to Law 40 (1977) governing political parties, notification by would-be founders of a political party to the Political Parties Committee (composed of seven judges) replaced the application procedure under which the committee retained the power to deny registration for political reasons. Articles 4 to 7 set forth the conditions required by law for a political party to gain validity before the law.<sup>772</sup>

Under the 2011 amendments, 5,000 founding members are required to register a party, whose names and notarised signatures should be attached to the application sent to the Political Parties Committee.<sup>773</sup> Of the 5,000 members, at least 300 must be registered residents of at least 10 different governorates.<sup>774</sup> Any newly formed political party must provide a written notification of its formation to the Political Parties Committee. If no objection to the establishment of the new party is reported within 30 days, then the party is considered registered.<sup>775</sup> Grounds for objection exist when the party is unable to satisfy the criteria set for

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<sup>768</sup>2014 Egyptian Constitution.

<sup>769</sup>Oanda.com, 8 January 2014.

<sup>770</sup>Law 73 (1956).

<sup>771</sup>Article 22 of the LPPS.

<sup>772</sup>LPPS.

<sup>773</sup>Article 7 of the LPPS.

<sup>774</sup>Ibid.

<sup>775</sup>Article 8 of the LPPS.

political parties under the LPPS. Lacking in the law is an article specifying the possibility of appealing against the committee's decision to reject a party's registration.

Other requirements include submitting:

- the name of the party, headquarters and subsidiary branches (if applicable), and the party's manifesto, as well as the party's principles, platforms and methods of operation
- membership criteria, methods and procedures of party formation
- method and procedures of constituting the formation of the party, electing its leadership and governing bodies, carrying out activities, organising its relations with its members on democratic grounds, and determining the political, organisational, financial and administrative powers of the leadership and governing bodies, while securing the largest extent of democratic discussion within these governing bodies and committees
- the party's financial system, including the determination of its different resources, the bank where its funds are deposited, the rules and procedures regulating the spending from these funds, and the rules and procedures of holding, auditing, and approving the party's accounts as well as preparing and endorsing its annual budget
- rules and procedures of voluntary dissolution and merger of the party, as well as regulation of its funds liquidation<sup>776</sup>
- the party's principles, goals, methods, organisations, financing tools and origins to the public<sup>777</sup>

There are also some activities that are prohibited for political parties:

- being a branch or chapter of a foreign party
- methods of operation that include paramilitary or military formations<sup>778</sup>
- being based on religion, gender, language, creed or any other grounds, as per the new law<sup>779</sup>

Membership issues fall under Article 6 of the LPPS; it states that the party's founders should be Egyptians of Egyptian fathers, which restricts the right to found a political party. It also stipulates that members of a political party must be of Egyptian nationality with no limitation to the exercise of political rights, such as convicted felons or persons under prison sentence by a court ruling. The article further stipulates that members may not belong to judiciary bodies, the army, the police force, administration, intelligence agencies, or the diplomatic or commercial corps.

If the Political Parties Committee reports no objection to the establishment of the new party within 30 days, the party is considered registered.<sup>780</sup>

Articles 5 and 7 of the political parties law provide that parties with 10 or more seats in the Parliament are exempted from taxes. They also have the right to issue a newspaper without having to seek approval from the Supreme Council of Journalism.<sup>781</sup>

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<sup>776</sup>Article 5 of the LPPS.

<sup>777</sup>Article 4 of the LPPS.

<sup>778</sup>Ibid.

<sup>779</sup>Ibid.

<sup>780</sup>Article 8 of the LPPS.

<sup>781</sup>Articles 5 and 7 of Law No. 40 for the year 1977.

## PRACTICE

To what extent do the financial resources available to political parties allow for effective political competition?

Score: 50 / 100

*The state does not provide funding for political parties and an interviewee indicated that this lack of public funding is an obstacle to effective political competition.*

Following its abolition in 2011, public funding to sustain the financial resources of political parties does not currently exist.<sup>782</sup> Some parties rely on support from the private sector while others depend on donations and membership subscriptions.

One interviewee cited the lack of public funding as a major obstacle to the long-term stability and sustainability of political parties.<sup>783</sup> Current sources of private funding may affect the views of political parties, in particular regarding the campaign funding needed for parliamentary races.<sup>784</sup> The high cost involved in obtaining notarised signatures from the founding members acts as a barrier to registration.<sup>785</sup>

The table below shows the financial resources of a selection of Egyptian political parties.

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<sup>782</sup> Article 18 of SCAF Decree No. 12 for the year 2011.

<sup>783</sup> Interview of Nader Bakkar, former spokesman of the Al Nour Party, with Ahead of the Curve, August 2013.

<sup>784</sup> Ibid.

<sup>785</sup> Article 7 of the amended 2011 LPPS increases the number of founding members from 1,000 to 5,000 and requires notarisation of each member's signature. Article 8 requires the party to publish the names at its own expense in two widely circulated newspapers. Democracy International estimated this cost to be around US\$100,000. Democracy Reporting International, *Comprehensive Assessment of Egypt's Electoral Framework*, 2011.

POLITICAL PARTY	FINANCIAL RESOURCES
Al Wafd Party	20 per cent of the Al Wafd Party's funds come from its founder, businessman Al-Sayyid al-Badawi. Members of the party, which gained legal status in 1978, contribute the remainder of the budget. <sup>786</sup>
Egyptian Social Democratic Party	The Egyptian Social Democratic Party, founded in 2011, limits donations to 250,000 Egyptian pounds (US\$36,000), "in order to prevent rich people controlling the party". <sup>787</sup>
Al Nour Party	The Al Nour Party relies on donations from members and sympathisers and faces financial difficulty. <sup>788</sup>
Free Egyptians Party	The Free Egyptians Party, founded in 2011, relies on businessman Naguib Sawiris for 20 per cent of its funds. <sup>789</sup>
Freedom and Justice Party	The FJP, established in 2011, relies on fees of EGP 150 (US\$21.78) from its 9,000 members, and on donations from wealthy members. <sup>790</sup> Its funding is separate from the Muslim Brotherhood. <sup>791</sup>
The Tagammu Party	The Tagammu Party, established in 1976, relies on members' subscriptions and donations, but suffers financial problems. <sup>792</sup>

<sup>786</sup> Said Shehata, "Profiles of Egypt's political parties", *BBC*, 25 November 2011.

<sup>787</sup> Shehata, 2011.

<sup>788</sup> Interview of Nader Bakkar, former spokesman of the Al Nour Party, with *Ahead of the Curve*, August 2013.

<sup>789</sup> Shehata, 2011.

<sup>790</sup> *ibid.*

<sup>791</sup> "Freedom and Justice Party", *Ahram Online*, 3 December 2011.

<sup>792</sup> Shehata, 2011.

# CAPACITY: INDEPENDENCE

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## LAW

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of political parties?

Score: 75 / 100

*No legal safeguards explicitly prevent external interference in the activities of political parties, including in the registration procedure; however, once parties are registered, the state cannot interfere in party finances.*

In the case of a registration dispute between the Political Parties Committee and a political party, the Supreme Administrative Court adjudicates the claims independent of executive influence.<sup>793</sup> Once a party is registered, the law prohibits the state from controlling party finances.

However, the law considers party finances to be public finances and entrusts financial oversight to the government.<sup>794</sup> This oversight includes supervision by the Central Audit Organisation (CAO).<sup>795</sup>

To be lawful, a political party must not form militias or discriminate against members, and should have a uniquely recognisable name.<sup>796</sup>

The current legal framework does not provide for:

- the equal treatment of candidates and parties without discrimination by public authorities
- the equal treatment of candidates or parties by commercial vendors
- the right of candidates and parties to publicly display campaign material and access public spaces for campaign events
- the obligation of candidates and parties to publicly disclose campaign expenditure and professionally audit campaign expenditure
- periods in which campaigning is not allowed (silence periods)<sup>797</sup>

There are no provisions mandating the party to hold meetings with the attendance of state representatives.

Although the Egyptian constitution has always guaranteed the right to assembly, under the law, a political party may not hold a public rally unless it first notifies the authorities.<sup>798</sup>

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<sup>793</sup> Article 8 of the LPPS.

<sup>794</sup> Article 14 of the LPPS.

<sup>795</sup> Ibid.

<sup>796</sup> Article 4 of the LPPS.

<sup>797</sup> Democracy Reporting International, 2011.

<sup>798</sup> Article 8 of the 2013 Protest Law.

## PRACTICE

To what extent are political parties free from unwarranted external interference in their activities in practice?

Score: 25 / 100

*Unwarranted external interference in political parties took place in the past and continues to take place.<sup>799</sup> The authorities interfere in the work of political parties through selective interpretations of the law.*

Authorities have in the past tapped phones and hidden cameras in activists' workplaces and homes, encouraged people to report on their co-workers and in extreme cases framed activists for crimes, according to media reports.<sup>800</sup> Media sources also indicate that government authorities in 2013 repeatedly arrested and harassed opposition politicians, including Islamists,<sup>801</sup> leftists<sup>802</sup> and liberals.<sup>803</sup> During the rule of President Morsi, opposition members claimed they suffered incidents of intimidation and harassment at the hands of the FJP.<sup>804</sup>

Following the deposition of Mohamed Morsi from the presidency and the dissolution of Parliament, the FJP faced a harsh crackdown that involved violence, killing, severe sentences and the closure of the party newspapers by authorities. More recently, there have been attempts to dissolve the party altogether. While senior members of the FJP have been accused of plotting acts of terrorism, human rights groups have expressed their concern about the baseless and selective nature of these arrests.<sup>805</sup> Members of the country's Strong Egypt Party are also faced with similar charges for distributing "no" flyers in preparation for the 2014 constitutional referendum. The arrests were made under a clause of the penal code that allows the arrest of citizens that attempt to change "...the basic principles of the constitution...when the use of force or terrorism, or any other illegal method, is noted during the act".<sup>806</sup> Non-Islamist political party members have also expressed concerns about increasing attempts to quell opposition, particularly the repeated arrests of party members during protests warranted under the recently passed protest law.<sup>807</sup>

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<sup>799</sup>Egyptian Initiative for Personal Rights, "The Mubarak Regime Persists",2011:  
<http://eiipr.org/en/pressrelease/2011/09/20/1256>

<sup>800</sup>M. Assran, "Al Dostour Party Leader Arrested", *Daily News Egypt*, 3 June 2013.

<sup>801</sup>Al-Masry Al-Youm, "Police Arrest Armed Members of the Construction and Development Party." *Egypt Independent*, 20 June 2013.

<sup>802</sup>Tom Perry, "Egypt prosecutor orders arrests of activists", *Reuters*, 25 March 2013.

<sup>803</sup>Assran, 2013.

<sup>804</sup>"Free Egyptians Party member allegedly detained by FJP", *Daily News Egypt*, 23 May 2013.

<sup>805</sup>Anthony Dworkin and Hélène Michou, "Egypt's Unsustainable Crackdown" (London: European Council on Foreign Relations, 2014).

<sup>806</sup>Human Rights Watch, "Egypt: Activists Arrested for 'No' Campaign", 13 January 2014.

<sup>807</sup>Zeinab El Gundy, "In wake of arrests, Egypt's 2011 revolutionaries fear new witch hunt", *Ahram Online*, 5 January 2014.

# GOVERNANCE: TRANSPARENCY

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## LAW

To what extent are there regulations in place that require parties to make their financial information publicly available?

Score: 50 / 100

*While the law requires state oversight of political party finances, it does not specify channels for political parties to publish their complete financial records and does not contain enforcement mechanisms for non-publishing of donations.*

Transparency with regard to financial resources is a pre-requisite to establishing a party. After registration, the LPPS treats political parties' money as public money; that is, the CAO is responsible for supervising and reviewing the work of internal party auditors. The law is silent on the role of these auditors within the party.

The law also requires political parties to make their books available to the CAO. Moreover, parties cannot accept donations, advantages or privileges offered by foreigners, foreign or international agencies, and/or legal entities, whether foreign or Egyptian. A party should notify the CAO of any donations received and of information on donors by the end of each year. Party donations are not tax-deductible.<sup>808</sup> The Supreme Presidential Electoral Commission has issued rulings and regulations to organise the funding of electoral campaigns, to eliminate concerns regarding foreign interference.<sup>809</sup> The decision bans all forms of foreign funding for electoral campaigns, whether individual, through an organisation or through a state.<sup>810</sup>

The channels through which a political party's complete financial records should be made publicly available are not specified or mentioned in the law. The one aspect that is elaborated in the law is that political parties are required to have their financial status cleared when presenting their documents to the Political Parties Committee.<sup>811</sup>

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<sup>808</sup>Articles 4, 7 and 11 of the LPPS.

<sup>809</sup>Supreme Presidential Electoral Commission Decision No. 7 for the year 2012.

<sup>810</sup>Kristina Kausch, *Political Parties in Arab Democracies*, FRIDE Policy Brief No. 130, 2012.

<sup>811</sup>Article 5 of the LPPS.

## PRACTICE

To what extent can the public obtain relevant financial information from political parties?

Score: 25 / 100

*Political parties do not often disclose their financial information, particularly when it is not mandatory, such as during campaigns for elections.*

While the law requires political parties to publish donations or contributions exceeding a certain amount in at least one newspaper, no enforcement mechanisms exist. While the general public cannot readily access financial information or records of political parties, the government is able to due to the regular inspections and reviews of the finances of political parties by the CAO. All contributions and donations to parties are registered in the records of the party and reviewed. These contributions can be identified in the financial records of the parties. However, in times of elections, parties and their candidates are allowed to receive large donations without registering them in their records.<sup>812</sup>

Parties often avoid regular auditing. Some parties use charitable organisations as part of political campaigning, making it more difficult to track political party funding.<sup>813</sup>

During times of elections, the only channel that is dependable in identifying this sort of information is statements issued by either party spokespersons or leaders. The Al Nour Party's former official spokesman, for example, declared that the party and the whole Islamist Bloc would hire an international marketing company to design its campaigns, assuring the public that none of the bloc's constituencies would exceed the legally mandated cap of EGP 500,000 (US\$72,603.50). On the other hand, official statements did not clarify how Al Nour had funded the campaign.<sup>814</sup> An interviewed former political party spokesperson, Nader Bakkar, indicated that enhanced financial transparency is needed among Egyptian political parties. However, Mr. Bakkar expressed concerns about the possibility of achieving such transparency given the absence of a) the needed legal framework, and b) an overall culture of transparency and good governance in Egypt.<sup>815</sup>

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<sup>812</sup>S. Fawzy, "Global Integrity Scorecard: Egypt," Global Integrity, 2008.

<sup>813</sup>Kausch, 2012.

<sup>814</sup>"Islamist Bloc (Al-Nour)", *Ahram Online*, 19 November 2011.

<sup>815</sup>Interview of Nader Bakkar, former spokesman of the Al Nour Party, with Ahead of the Curve, August 2013.

# GOVERNANCE: ACCOUNTABILITY

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## LAW

To what extent are there provisions governing financial oversight of political parties by a designated state body?

Score: 50 / 100

*While laws comprehensively outline financial disclosure requirements, actual mechanisms of reporting and sanctions for non-compliance do not exist.*

The designated body responsible for the audit is the CAO, as stated in the LPPS. The finances of a party are treated as public money, and penalties correspond to penalties for misuse of public funds under the penal code and include imprisonment.<sup>816</sup> The amount of donations received by the party, as well as their sources (membership subscriptions, donations of Egyptian natural persons and profits from investment are non-commercial activities), are of high priority with regard to finances that are accounted for by the Political Parties Committee.<sup>817</sup>

However, the law does not include sanctions in the case of financial reports not being disclosed. The Al Nour Party, for instance, has its own internal audits that are revised by the CAO periodically in accordance with the law.<sup>818</sup> The law does not specify a timeline for submitting reports to the CAO. However, the CAO is required to file an annual report to the Parliamentary Parties Committee regarding the financial records of the party.<sup>819</sup> There is no standard format for the financial reports. Rather, the reporting format depends on the internal audit systems of each party.<sup>820</sup>

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<sup>816</sup>Articles 7, 12 and 14 of the LPPS.

<sup>817</sup>Fawzy, 2008.

<sup>818</sup>Interview of Nader Bakkar, former spokesman of the Al Nour Party, with Ahead of the Curve, August 2013.

<sup>819</sup>Article 12 of the LPPS.

<sup>820</sup>Interview of Nader Bakkar, former spokesman of the Al Nour Party, with Ahead of the Curve, August 2013.

## PRACTICE

To what extent is there effective financial oversight of political parties in practice?

Score: 25 / 100

In practice, inspection of the financial reports of the parties happens in the headquarters of the party where the books are kept. A delegate from the CAO is supposed to conduct a periodic inspection of the financial status of the party in their headquarters. No submission of a report takes place.<sup>821</sup> There are no functioning mechanisms that would ensure the accuracy of the reports; nor is there any standard format that the internal auditors of the political parties have to follow. As members of the International Organisation of Supreme Audit Institutions (INTOSAI), CAO employees refer to international auditing criteria.<sup>822</sup>

There are no special criteria to assess the party's assets set forth by the LPPS or the CAO law. The CAO delegation follows its regular auditing procedures with all entities that are subject to its review. The main objective of the CAO's supervision of the political parties' funds is to make sure that the funds come from legal sources and are spent on legitimate party-related activities.<sup>823</sup> There have not been any reports that note the enforcement of sanctions for non-compliance.

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<sup>821</sup>Interview of Nader Bakkar, former spokesman of the Al Nour Party, with Ahead of the Curve, August 2013.

<sup>822</sup>INTOSAI website: [www.intosai.org/about-us/organisation/membership-list/national-sais/members/egypt.html](http://www.intosai.org/about-us/organisation/membership-list/national-sais/members/egypt.html)

<sup>823</sup>I. AnuGabal, أين كان الجهاز المركزي للمحاسبات، Where has the CAO Been?, ECESR, 2011.

# GOVERNANCE: INTEGRITY

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## LAW

To what extent are there organisational regulations regarding the internal democratic governance of the main political parties?

Score: 75 / 100

*There are no general organisational regulations that force the parties to adopt a uniform internal policy that ensures compliance with internal democratic governance. Such regulations are rather mandated by the party's internal regulations and bylaws.<sup>824</sup>*

Below are a few examples of governance practices in Egypt's main political parties:

- AL NOUR PARTY

The Supreme Council, responsible for running the party, consists of 30 to 40 members. It elects the party chair and secretary general, along with party secretaries for political affairs, administrative affairs and media affairs. The Supreme Council also elects members of the party's governance and regulation committees. The party offers two types of membership, "affiliated membership" and "working membership." All individuals who join the party are considered "affiliated" members until they complete an orientation about the party and its principles, after which they become "working" members. Al Nour is one of the very few parties in Egypt that employ a probationary membership system.<sup>825</sup> Al Nour has a clear organisational structure, bylaws and lines of authority, as well as an independent committee responsible for ensuring the absence of conflicts of interest.<sup>826</sup>

- AL DOSTOUR PARTY

The internal regulations of the party are listed on its website. The highest authority in the party is granted to the General Conference, which consists of the president of the party, his/her deputy, assistants and the secretary general. Along with them are the treasurer and his/her assistants, members of the general secretariat, members of the shadow government and heads of the technical committees of the party. The General Conference also includes members of the high board of the party, parliamentarians of the party and delegations elected by members of the party's branches spread all over Egypt. This internal conference is held once a year at least and is tasked with stating and amending the party's internal legislation, addressing issues relating to merging or dissolving of the party, amending the targets and the principles of the party in accordance with the change in political atmosphere, and electing the president, the secretary general and the treasurer of the party.<sup>827</sup>

- FJP

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<sup>824</sup> Interview of Nader Bakkar, former spokesman of the Al Nour Party, with Ahead of the Curve, August 2013.

<sup>825</sup> Stéphane Lacroix, "Sheikhs and Politicians: Inside the New Egyptian Salafism", Brookings Doha Center Policy Briefing, 2012.

<sup>826</sup> Ibid.

<sup>827</sup> Al Dostour Party, "Internal Regulations Policy [لائحة النظام الأساسي]": [www.aldostourparty.org/images/policy.pdf](http://www.aldostourparty.org/images/policy.pdf) [accessed 28 January 2014].

A Higher Council (HC) and Executive Bureau are tasked with running the party. Both bodies are elected by the General Assembly (GA), which comprises representatives from all governorates. Party members are supposed to elect their representatives in the GA for a four-year term, but the first GA members were appointed without election. The HC, also elected every four years, passes decisions by an absolute majority.<sup>828</sup>

## PRACTICE

To what extent is there effective internal democratic governance of political parties in practice?

Score: 75 / 100

*The absence of legal provisions forcing the political parties to implement mechanisms of internal democratic governance has left most of the parties on the scene free from such mechanisms.*

Examples of internal democratic governance in political parties:

- AL NOUR PARTY

The Al Nour Party is the only Egyptian political party assessed that set up a governance committee as early as when the party was still being founded. Governance standards have been used by the party in recent years to address conflict of interest and open competition for the spokesperson position.<sup>829</sup> Leadership and candidates are democratically elected in accordance with the set internal regulations.<sup>830</sup>

- AL DOSTOUR PARTY

The AIdostour Party held its internal elections in Alexandria in 2013 to determine the secretaries of the governorate's main and sub-committees. The process went smoothly and no complaints from the lack of transparency were reported. The involvement of youth in the decision-making process still represents a challenge to the internal policies of the party according to sources. The internal policy does not set a certain quota for youth, which excludes them from the decision-making process. In an attempt to fix the situation, members called for internal elections and encouraged youth to run.<sup>831</sup>

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<sup>828</sup>“Freedom and Justice Party”, *Ahram Online*, 3 December 2011.

<sup>829</sup>Shehata, 2011.

<sup>830</sup>Ibid.

<sup>831</sup>AzzurraMeringolo, “Stop-and-go: Egyptian Civic Opposition Moves Slowly Forward” *Insight Egypt*, no. 1, 2013.

# ROLE: INTEREST AGGREGATION AND REPRESENTATION

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To what extent do political parties aggregate and represent relevant social interests in the political sphere?

Score: 50 / 100

Before the protests of 2011 broke out, the two most visible parties were the NDP (which was the ruling party at the time) and the Muslim Brotherhood. During Mubarak's rule the government depoliticised the Egyptian political sphere.<sup>832</sup> With the 2011 SCAF constitutional amendments, the system was left largely unchanged. However, recognising that new political forces needed to register and organise themselves before elections, SCAF prioritised changes to the LPPS and amendments were published. No consultations with the parties took place before the amendments were ratified by SCAF (which held legislative authority at the time).<sup>833</sup>

The absence of stable political parties resulted in the formulation of coalitions to compete with the already strong Muslim Brotherhood's political wing, the FJP, in 2012 and the previously known members of the NDP. In the 2012 parliamentary elections, there were two main coalitions. One was the Egyptian Alliance, which consisted of three parties: the Free Egyptians (right), Egyptian Social Democratic (centre left) and Tagammu (left) parties. On the other hand the FJP formed its coalition with newly established Islamist parties like Elhadara and Al Asalah. After the election of Mohamed Morsi as president, commentators accused the Muslim Brotherhood of appointing figures to senior government and public sector positions regardless of qualification<sup>834</sup> and of private sector influence on policy making.<sup>835</sup>

While present during elections, political parties are often absent at other times.<sup>836</sup> During the election, some political parties that have influence and financial capabilities have been accused of buying votes through either money or commodities, such as meat, sugar, oil or blankets.<sup>837</sup> Political parties have benefited in the past though through strong and consistent engagement in charitable activities using community-based organisations.<sup>838</sup>

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<sup>832</sup> Ziad Akl, "Egypt Re-thinking Political Parties", *Daily News Egypt*, 18 May 2013.

<sup>833</sup> Democracy Reporting International, 2011.

<sup>834</sup> "Egypt's Muslim Brotherhood: 'Ikhwanization of state' or 'statification of Ikhwan'?" *Democracy Digest*, 18 April 2013.

<sup>835</sup> Stephan Roll, "Egypt: The Failure of the Muslim Brotherhood", *StiftungWissenschaft und Politik*, 2 July 2013.

<sup>836</sup> Akl, 2013.

<sup>837</sup> "Egypt Muftis Prohibit Vote Buying", *Egypt Independent*, 28 November 2011.

<sup>838</sup> M. Abdel Rahman, "The politics of 'uncivil' society in Egypt", *Review of African Political Economy*, vol. 2, no. 91: 21-35, 2002.

# ROLE: ANTI-CORRUPTION COMMITMENT

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To what extent do political parties give due attention to public accountability and the fight against corruption?

Score: 50 / 100

*Most of the country's political parties included fighting corruption as a priority on their manifesto and electoral commitments. However, action upon such commitments is less common.*

Examples of prominent parties' commitments to anti-corruption:

- AL NOUR PARTY

Although the AlNourParty has not been part of any anti-corruption initiatives, whether governmental or non-governmental, it has a good governance committee responsible for maintaining good governance practices inside the political party, and in dealing with third parties.<sup>839</sup> In a joint effort, the Muslim Brotherhood and Al Nour signed a joint document committing them both to a clean and fair competition in the 2011 election.<sup>840</sup>

The party's platform includes enhancing the levels of transparency and integrity to eliminate electoral fraud and vote-buying.<sup>841</sup> The party's homepage states that the party was established to combat corruption in the executive and legislative branches, which has led to enriching one group of people at the expense of the rest of Egyptian society.<sup>842</sup>

- AL DOSTOUR PARTY

Prior to the establishment of the Al Dostour Party, founder Dr. El Baradei was quoted as saying the "absence of good governance is the cause of crisis in the region".<sup>843</sup> The party's manifesto stresses ways to address the lack of good governance in the state's public sector. The party platform is rooted in five main principles and beliefs, the first of which is citizenship and good governance.<sup>844</sup> Its manifesto holds the state responsible for providing and enforcing legislation that prevents corruption, exploitation, monopoly and manipulation.<sup>845</sup>

- FJP

Hussein Ibrahim, Secretary General of the FJP, has said: "The people...are entitled to demand the reform and purge institutions of corruption",<sup>846</sup> indicating that fighting corruption is a commitment of the FJP. The party's manifesto addresses corruption in Egypt and offers

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<sup>839</sup> Interview of Nader Bakkar, former spokesman of the Al Nour Party, with Ahead of the Curve, August 2013.

<sup>840</sup> "Islamist Bloc (Al-Nour)," *Al-Ahram Online*, 2011.

<sup>841</sup> Al Nour Party website: [www.alnourparty.org](http://www.alnourparty.org) [unaccessible at time of going to press].

<sup>842</sup> Ibid.

<sup>843</sup> "Baradei: Absence of Good Governance Cause of Crises in Region," *Al-Masry Al-Youm*, 12 February 2013.

<sup>844</sup> Al Dostour Party website: [www.aldostourparty.org/](http://www.aldostourparty.org/)

<sup>845</sup> Ibid.

<sup>846</sup> "FJP: People Are Sovereign, Entitled to Demand Institutions Be Purged of Corruption," *Ikhwan Web*

solutions such as enhancing the independence of the judiciary and the revitalisation of the CAO as methods to fight corruption.<sup>847</sup>

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<sup>847</sup>FJP website: [www.fjponline.com/uploads/FJPprogram.pdf](http://www.fjponline.com/uploads/FJPprogram.pdf): [accessed June 2013].



**MEDIA**

**45 / 100**

# SUMMARY

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Egyptian media has traditionally been dominated by broadcast and print media. 99% of newspaper retail outlets and all television broadcasters, with the exception of a few independent satellite channels, were subject to state control until former president Hosni Mubarak stepped down in 2011.<sup>848</sup> Despite the rise in registered newspapers and broadcasting stations, representing a wide political spectrum, reforms to press freedom have not been reflected in the country's legal framework or in practice.<sup>849</sup> Articles in Egypt's laws and penal code that could subject journalists to arrest or harassment remain unchanged and, as of 2012, up to 70 articles of the penal code continue to restrict freedom of the press and freedom of expression.<sup>850</sup> In 2013, intimidation of journalists led to the country's decline from partly free to not free in Freedom House's Press Freedom Index.<sup>851</sup>

Since 2011, the Egyptian media has at times been discouraged from reporting on certain topics and has become increasingly polarised.<sup>852</sup> Freedom House in 2013 ranked Egypt 140th out of 197 countries on press freedom and described the press environment as "not free".<sup>853</sup> Reporters Without Borders in 2013 ranked Egypt 158th out of 179 countries, highlighting violence against journalists as one cause of this.<sup>854</sup> Freedom House reported that despite small improvements in freedom of the press, such as the increase of independent outlets, several restrictions on the media still exist.<sup>855</sup>

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<sup>848</sup>Freedom House, "Egypt", *Freedom of the Press*, 2013.

<sup>849</sup>Sherif Mansour, "On the Divide: Press Freedom at Risk in Egypt", Committee to Protect Journalists, 14 August 2013.

<sup>850</sup>"Articles Limiting Freedom of Expression in Egyptian Laws: Proposed Amendments", The Arabic Network for Human Rights Information (web), 2013: [www.anhri.net/?p=67898](http://www.anhri.net/?p=67898) [accessed 24 January 2014].

<sup>851</sup>Freedom House, 2013.

<sup>852</sup>Ibid.

<sup>853</sup>Ibid.

<sup>854</sup>Reporters without Borders, *2013 World Press Freedom Index* (Paris: Reporters without Borders, 2013).

<sup>855</sup>Freedom House, 2013.

The table summarises the overall score for the media in Egypt according to their capacity, governance and role in both law and practice:

OVERALL PILLAR SCORE: 45 / 100			
Category	Index	Law	Practice
<i>Capacity</i> 44 / 100	Resources	25	75
	Independence	50	25
<i>Governance</i> 42 / 100	Transparency	50	25
	Accountability	50	50
	Integrity	50	25
<i>Role</i> 50 / 100	Investigate and expose cases of corruption practice	50	
	Inform public on corruption and its impact	50	
	Inform public on governance issues	50	

# STRUCTURE AND ORGANISATION

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Traditional broadcasting media is governed and overseen by the Egyptian Radio and Television Union (ERTU). Law 13 (1979) regulates the functions of the ERTU and outlines its hierarchy, structure, bylaws and internal regulations.<sup>856</sup> The journalists' syndicate is the regulating entity for journalists and is responsible for protecting their rights.<sup>857</sup> Members of this union gain privileges that grant them slightly more freedom than counterparts and limited protection against harassment from authorities.<sup>858</sup>

The state runs a number of print and broadcast media entities, including the *Al Ahram* newspaper, the ERTU broadcasting outlets and the Middle East News Agency website. A number of private newspapers, terrestrial and satellite television networks, radio broadcasters and media websites operate in and out of Egypt.<sup>859</sup>

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<sup>856</sup>Law No. 13 for the year 1979 [2] و(1) في شأن اتحاد الإذاعة والتلفزيون (قانون رقم 13 لسنة 1979).

<sup>857</sup>United Nations Educational, Scientific and Cultural Organization (UNESCO), *Assessment of Media Development of Egypt based on UNESCO's media development indicators* (Paris: UNESCO, 2013); Law No. 96 for the year 1996 [قانون رقم 96 لسنة 1996].

<sup>858</sup>Interview of Nour El HodaZaki, journalist and board member of the Egyptian National Front for Change, with Ahead of the Curve, summer 2013.

<sup>859</sup>"Egypt profile: Media", *BBC News*, 6 August 2013: [www.bbc.co.uk/news/world-africa-13313373](http://www.bbc.co.uk/news/world-africa-13313373) [accessed 12 January 2014].

# CAPACITY: RESOURCES

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## LAW

To what extent does the legal framework provide an environment conducive to a diverse independent media?

Score: 25

*Laws governing the media industry are restrictive and grant authorities control over the media. While the journalists' syndicate is mandated to safeguard the rights and freedoms of journalists, the legal framework prevents it from maintaining independence. A single state-run body (ERTU) is responsible for licensing terrestrial broadcast media, while the General Authority for Investment is responsible for licensing satellite broadcast media.*<sup>860</sup>

Entry into the journalistic profession is a complicated process governed by the journalism syndicate's bylaws and internal policies and by Law 76 (1970).<sup>861</sup> To enter the profession, candidates are required to meet a set of syndicate membership eligibility criteria and abide by registration processes outlined in the law. Article 5 of this law outlines the membership requirements, including: professional employment, Egyptian citizenship, a university degree, lack of a criminal record and the rather loose and vague formulation of "having a good reputation".<sup>862</sup> To apply for membership as an employed journalist, one must belong to one of a set of categories of professional engagement within the journalism profession, such as regular paid employment in newspapers published or operating in Egypt, or being engaged as an editor, illustrator, etc.

To complete the application and obtain a licence, applicants must complete an apprenticeship programme (one year for journalism graduates, two years for graduates from other fields). The programme must be completed at newspaper organisations or news agencies operating in Egypt, without intermission or interruption, to demonstrate an active engagement in press and journalism-related tasks and activities. Additionally, applicants should provide a detailed track record proving their contribution to and engagement in a newspaper organisation or the news agency where they completed the apprenticeship or induction training programme. There are special permits that can be obtained to complete the apprenticeship programme overseas.<sup>863</sup>

Arab and foreign journalists residing in Egypt and contracted by a newspaper trade organisation or a news agency based in Egypt may also apply to register with the syndicate if they fulfil the syndicate's membership requirements – with the exception of provisions stipulating that a journalist must be an Egyptian citizen/national. Article 13 of Law 76 stipulates that the registration of journalists is managed and overseen by a registration committee that consists of the syndicate's deputy vice-president and two members of the syndicate's board (to be designated and selected by the board members). The committee is provided with a list of interested applicants 30 days before it convenes, and has to make its final decision within 60 days of the submission of the application request. If an application or a request is not approved

<sup>860</sup> UNESCO, 2013: 29, Article 5 of the Law on Investment Guarantees and Incentives Act, No. 8 of 1997.

<sup>861</sup> UNESCO, 2013: 31-34; Law No. 76 for the year 1970 [قانون رقم 76 لسنة 1970].

<sup>862</sup> UNESCO, 2013: 31-34; Law No. 76, 1970.

<sup>863</sup> Ibid.

or disqualified, the decision must be based on warranted justifications or grounds.<sup>864</sup> Article 14 of the law states that disqualified individuals may appeal against the decision reached by the committee within 30 days of the date of notification. The appeal request shall be reviewed by a committee composed of: a legal counselor/judge, a senior public prosecutor, the director of the information authority and two members of the syndicate board.<sup>865</sup>

Article 103 of the Press Law prohibits newspapers from hiring non-members of the syndicate, which is punishable by imprisonment or an EGP 300 (US\$43.56) fine.<sup>866</sup> There is no evidence of prosecutions for working as a journalist without membership; journalists who are not formal syndicate members can continue to join newspapers and work as journalists. They, however, do not have access to the benefits of being an official member, which include social security insurance, a pension scheme, protection from criminal investigations, and monthly monetary compensation for access to needed resources.<sup>867</sup>

The Press Law<sup>868</sup> contains strict prerequisites for the establishment of printed newspapers. Privately-owned newspapers must be cooperatives owned exclusively by Egyptians, with no one shareholder, her/his family and second degree relatives owning together more than 10% of the overall capital. Newspapers must also deposit a sum of “paid-in or contributed capital” in an Egyptian bank. This usually amounts to a substantial sum of money: at least one million Egyptian pounds for daily periodicals (approximately US\$145,000), two hundred and fifty thousand pounds for weekly periodicals (approximately US\$34,000) and one hundred thousand pounds for monthly periodicals (approximately US\$13,000).<sup>869</sup>

The chair of the Supreme Press Council, responsible for issuing newspaper licences, is also the speaker of the Shura Council, in accordance with Article 68 of the Press Law, which allows for executive interference in the establishment of newspapers. Additionally, private newspapers often have to depend on state-owned printing presses to print their papers and state-owned distribution services to deliver their papers, with a few exceptions.<sup>870</sup>

With the Shura Council dissolved by court order<sup>871</sup> and the appointment of an interim government of Egypt in July 2013, the Supreme Press Council is currently unsupervised and has taken over the Shura Council’s former role of supervision over media outlets. The 2014 constitution does not establish a Shura Council<sup>872</sup> and thus it is not clear which entity will be responsible for appointing the head of the Supreme Press Council.<sup>873</sup>

Broadcast media is governed by Article 1 of Law 13 (1979),<sup>874</sup> which states that the ERTU is responsible for the audio and visual media in the country, meaning that both state-owned and non-state-owned broadcasting in the country is subject to the said law. Radio channels are all under the control of the ERTU, which, according to an interviewee, allows little diversity and full control over what is said on the radio.<sup>875</sup>

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<sup>864</sup> UNESCO, 2013: 31-34; Law No. 76, 1970.

<sup>865</sup> Ibid.

<sup>866</sup> Law No. 96, 1996.

<sup>867</sup> Interview of Nour El Hoda Zaki, journalist and board member of the Egyptian National Front for Change, with Ahead of the Curve, summer 2013.

<sup>868</sup> Law No. 96, 1996.

<sup>869</sup> UNESCO, 2013: 37.

<sup>870</sup> UNESCO, 2013: 38.

<sup>871</sup> “Egypt’s Shura Council dissolved: Judicial source”, *Ahram Online*, 4 July 2013.

<sup>872</sup> 2014 Egypt Constitution.

<sup>873</sup> Rana Muhammad Taha, “Cabinet approves amendment of law governing the press”, *Daily News Egypt*, 20 December 2013.

<sup>874</sup> Law No. 13, 1979.

<sup>875</sup> Interview of a public radio host who requested anonymity with Ahead of the Curve, summer 2014.

Setting up a broadcast media entity is also governed by Law 13 (1979). Any entity established outside of the articles and/or regulations set therein is considered illegal under the Egyptian legal system. No provisions address the legality, or lack thereof, of blogs. Broadcast media entities are controlled by a minister, who is appointed by the president.<sup>876</sup> Law 13 (1979) regulates the media and broadcast sectors, including the formation of the ERTU. Article 4 of the law specifies means by which the union's chairperson is appointed (via presidential decree); the chairperson's pay rate and terms in office; union membership composition terms;<sup>877</sup> the requirement for members of the union to be recommended by the prime minister; and the prime minister's responsibility for setting remuneration and compensation terms.<sup>878</sup>

Article 6 of Law 13 (1979) mandates the creation of an ERTU Board of Trustees, whose responsibilities include formulating and executing public policies of the union, monitoring and assessing the performance of the ERTU's departments, formulating the code of conduct and approving rules and regulations.<sup>879</sup> The administrative courts are responsible for processing appeals against licensing decisions of the ERTU.<sup>880</sup>

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<sup>876</sup> Article 4, Law No. 13, 1979.

<sup>877</sup> It is necessary for the union to include public figures from the intellectual, religious, artistic, scientific, cultural, journalistic, economic, architectural, financial and legal fields, as well as other individuals interested in the development of youth, women, children, etc.

<sup>878</sup> Law No. 13, 1979.

<sup>879</sup> Article 6, Law No. 13, 1979.

<sup>880</sup> Author's analysis based on State Council Law No. 47 for the year 1972.

## PRACTICE

To what extent is there a diverse independent media providing a variety of perspectives?

Score: 75

*In practice, the media in Egypt is generally independent and provides a variety of perspectives. Journalists face difficulties in joining the journalists' syndicate, which provides some level of protection to them, and subsidies provided to state media lack transparency.*

Diversity of media is well observed, with the presence of various media channels representing the entire political spectrum. These range from satellite television to newspapers issued by various political parties. Citizens access state-owned TV and radio for free; in addition, free online portals exist that provide news. Citizen journalism has been a growing method of reporting recently in Egypt,<sup>881</sup> providing an additional news source. Self-censorship, however, continues to be an issue among both journalists and broadcasters.<sup>882</sup>

State media are supported directly by the government and through advertising subsidy programmes that lack transparency.<sup>883</sup> Financing of both state and independent media in Egypt remains a point of contention due to vague and classified budget information.<sup>884</sup>

Conditions for membership in the journalists' syndicate include obtaining a certificate of higher education, as well as completing an apprenticeship programme lasting one-two years, as detailed above. Not all practising journalists are members of the syndicate. The 9,000 journalists currently enrolled in the syndicate<sup>885</sup> are insignificant compared to the number of practising journalists in the country. Furthermore, there are no mechanisms to ensure the compliance of journalists with the syndicate's code of ethics.<sup>886</sup>

In practice, it is difficult for journalists to become members of the syndicate, even if they meet all the pre-set conditions. Although the law prohibits the employment of non-syndicate members, there is no evidence of prosecutions for working as a journalist without having being a syndicate member.<sup>887</sup> There are different grounds for which journalists have previously had their membership revoked or refused, including not paying the fees for membership, not meeting one or more of the conditions, or having breached the law or the professional code of ethics. However, it is very rare for a journalist to be expelled from the syndicate once granted membership.<sup>888</sup>

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<sup>881</sup>Mandy Jenkins, "Citizen Journalism Is Booming In Egypt and The Middle East, Despite Serious Risks." *Huffington Post*, 11 April 2011.

<sup>882</sup>KhaledDiab, "Egypt's heavily censored media continues to take on the regime", *The Guardian*, 9 February 2012; Aidan White, "The Scourge of Self-censorship Threatens Journalism in Turkey and Egypt", *Ethical Journalism Network*, 12 September 2013.

<sup>883</sup>Freedom House, 2013.

<sup>884</sup>UNESCO, 2013: 51.

<sup>885</sup>JanoCharbel, "Final Issue: Job security, financial problems and dangers plague journalist", *Egypt Independent*, 25 April 2013.

<sup>886</sup>Interview of Nour El HodaZaki, journalist and board member of the Egyptian National Front for Change, with Ahead of the Curve, summer 2013.

<sup>887</sup>Ibid; UNESCO, 2013: 31.

<sup>888</sup>UNESCO, 2013: 31-34.

# CAPACITY: INDEPENDENCE

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## LAW

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of the media?

Score: 50

*There are legal safeguards protecting freedom of press and undue interference in the activities of the media. However, the impact of these provisions is hindered by constitutional loopholes, as well as the lack of an access to information law and of publicly accessible information.*

The 2014 Egyptian Constitution protects freedom of press through Articles 70-72, which include the independence and the protection of journalists against imprisonment as a form of criminal sanction related to publishing their work. The 2013 constitution protected freedom of expression and freedom of the press.<sup>889</sup> Both the previous Egyptian Constitution of 2012 and the 1971 constitution included freedom of expression and press within their articles.<sup>890</sup> Articles 12 and 13 of the 2012 constitution also granted citizens the freedom to express their opinions in spoken, written and visual forms, and included freedom of press and media in their varying forms. They prohibited censorship except in the cases of emergency or war.<sup>891</sup> However, constitutionally guaranteed independence and freedom were subject to “limited censorship” in times of “war or public mobilization” in the 2012 and the 2014 constitutions.<sup>892</sup> Such clauses were complicated by the fact that functioning under a state of emergency was the norm prior to the 2011 uprisings, with Mubarak’s government systematically oppressing the press, referencing the emergency law.<sup>893</sup>

Independence is also limited by rules on withdrawal of licences; under the 2012 constitution, the government and judiciary had the authority to withdraw licences to broadcast stations for violating social, cultural, religious and politically protected items under the constitution.<sup>894</sup>

The 2012 and 2013 constitutions left vague the appointment of members under the newly titled National Press and Media Association, responsible for overseeing state media, in Article 216.<sup>895</sup> Furthermore, the 2012 and 2013 constitutions lacked reform of the existing penal code provisions that criminalised insult and defamation.<sup>896</sup>

Article 211 of the 2014 Constitution establishes the Supreme Council for the Organisation of the Media as an independent legal body with technical, financial, administrative and budgetary independence. It provides that the Council is responsible for organising the affairs of the audiovisual media, and regulating the print and digital press, among other functions. The law

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<sup>889</sup>Carnegie Endowment, *Comparing Egypt's Constitutions*, 2014.

<sup>890</sup>Ibid.

<sup>891</sup>Ibid.

<sup>892</sup>Ibid.

<sup>893</sup>UNESCO, 2013: 6.

<sup>894</sup>Freedom House, 2013, Law of Investment Guarantees and Incentives No. 8 for 1997, Articles 56 and 63, and Articles 40 and 88 of its regulations, Decision of the Board of Directors of the Media Free Zone (1/2 – 2000).

<sup>895</sup>Carnegie Endowment, 2014.

<sup>896</sup>“Egypt: New Constitution Mixed on Support of Rights”, Human Rights Watch, 30 November 2012.

setting-up the Council's structure, its work systems and the conditions for its workers should be passed by the legislature.

According to the law, Egyptian journalists face up to five years of imprisonment for the publication of false information, defamation or undermining of national institutions, such as the Parliament or army. Criminal prosecutions on charges of insulting the president or the judiciary rose after Morsi took office.<sup>897</sup>

A positive development in regulations protecting and guaranteeing the independence of journalists recently took place under Mohamed Morsi's government. After several journalists were arrested on the basis of insulting the president and harming public interest – including Islam Afifi, Editor-in-Chief of the *Al-Dostour* newspaper –<sup>898</sup> public opposition by journalists and intellectuals led to a presidential decree banning pre-trial imprisonment of journalists accused of press or media-related offences.<sup>899</sup> This decree was breached in a number of instances in autumn 2013.<sup>900</sup>

Egypt has yet to adopt a freedom of information law, although a draft law was prepared in early 2013.<sup>901</sup> Article 8 of the Press Law includes the right of journalists to access information from both “public and/or government sources”, “according to applicable laws”. Article 9 prohibits the imposition of restrictions that impede the equal flow of information to newspapers, or which may undermine citizens' right to information, subject to rules on national security and “supreme interests”. Article 10 of the same law gives journalists the right to request information, except where it is deemed to be confidential.<sup>902</sup>

There are several laws that limit access. These include the National Archives and Intelligence Law (100/1971), auditing, publishing of military information, publishing of official documents, the civil service, Presidential Decree 35/1960 on the Central Agency for Public Mobilization and Statistics, and the penal code (56/1937). These allow authorities to refrain from disclosing information.<sup>903</sup> This includes Law 313 (1956), which prohibits the publication of any information about the armed forces without direct authorisation from the military.<sup>904</sup>

In accordance with the Press Law (96/1996), no one may publish a newspaper without first obtaining a licence from the Supreme Press Council.<sup>905</sup> The Supreme Press Council makes a decision on providing the licence within 40 days of submission. In the event that the application is refused, the council is required to provide justified reasons to the applicant. Applicants have the right to appeal refused applications to the Court of Administrative Adjudication.<sup>906</sup> However, the law does not specify what are considered to be justified reasons for refusing an application for a licence. Political parties are entitled to establish a party-specific newspaper by virtue of Law 40 (1977) on political parties' systems.<sup>907</sup>

Egypt does not have a regulatory system for broadcasting in general. As previously mentioned, public broadcasters are governed separately from privately-owned ones. The commonly used

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<sup>897</sup>Freedom House, 2013.

<sup>898</sup>Ibid.

<sup>899</sup>“Egypt Bans Detention of Journalists”, *The Guardian*, 24 August 2013; “In Egypt, Morsi bans pre-trial detention of journalists”, Committee to Protect Journalists, 23 August 2013.

<sup>900</sup>Enas Ahmed, “Egypt's Journalists Face Violence in Wake of Army Takeover”, *Al-Monitor*, 11 September 2013.

<sup>901</sup>Sarah Carr, “Access legalized: A new freedom of information law in the making”, *Egypt Independent*, 8 January 2013.

<sup>902</sup>Law No. 96, 1996.

<sup>903</sup>Transparency International, *It belongs to you: Public information in Egypt* (Berlin: Transparency International, 2013).

<sup>904</sup>Law No. 313 for the year 1956.

<sup>905</sup>Law No. 96, 1996.

<sup>906</sup>The State Council is the relevant judicial organ when addressing challenges and/or appeals against a public sector organ (author's analysis).

<sup>907</sup>Political Party Law No. 40 for the year 1977.

licensing rules and regulations such as those on diversity, public complaints, etc. remain absent in Egypt.<sup>908</sup> The only privately-owned terrestrial broadcasters in Egypt are two FM stations that do not report the news as they are not supervised by the ERTU.<sup>909</sup> Other private satellite television stations operate out of the Free Zones and especially the Media Public Free Zone. The Free Zones are located within the territory of Egypt, but are considered offshore areas for financial regulatory purposes. These fall under the jurisdiction of the General Authority for Investment (GAFI), which is part of the executive authority.<sup>910</sup> There are no legal grounds to prohibit a journalist from carrying out their duties as reporters.

## PRACTICE

To what extent is the media free from unwarranted external interference in its work in practice?

Score: 25

*A non-comprehensive legal framework, coupled with the lengthy history of state of emergency laws, have left space for unwarranted interference in the media's practice and thus freedom. Citizen journalism has however provided some space for independent reporting.*

The Egyptian state media has been critiqued by Freedom House for acting in the interests of the state.<sup>911</sup> In practice, authors indicate that state broadcasters do at times carry government messages.<sup>912</sup> An interviewee indicated that public personnel supervise the content radio presenters are broadcasting. There are no records of prosecution for this.<sup>913</sup>

Rising polarisation between the pro-Islamist and pro-military camps is reflected in the state media, jeopardising journalistic integrity in the country,<sup>914</sup> with analysts suggesting that channels and publications loyal to a particular regime use the media as a platform to promote their interests.<sup>915</sup> Shortly after General Al Sisi appeared on national television removing President Morsi from office, TV stations supporting the Freedom and Justice Party were turned off air.<sup>916</sup> Shifts in the governments for the past few years have been associated with the replacement of the previous state-run media officials.<sup>917</sup> In 2011, a Human Rights Watch Report called for investigations into attempts by the army and the Ministry of Information to control media coverage that Human Rights Watch believes to have contributed to an escalation of violence.<sup>918</sup>

Despite a restrictive legal framework and a practical absence of terrestrial independent and privately-owned broadcasters in the country,<sup>919</sup> the independence of privately-owned media channels has been on the rise in practice. This is also true for other privately-owned media outlets such as newspapers. Although polarised and opinionated towards their owners' political affiliations, privately-owned media outlets have been subject to significantly lower censorship

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<sup>53</sup> UNESCO, 2013: 29-31.

<sup>909</sup> Rasha Allam, *Media Landscapes, Egypt*, European Journalism Centre: [http://ejc.net/media\\_landscapes/egypt](http://ejc.net/media_landscapes/egypt)

<sup>910</sup> Toby Mendel, *Political and Media Transitions in Egypt: A Snapshot of Media Policy and Regulatory Environment* (Internews, 2011).

<sup>911</sup> Freedom House, 2013.

<sup>912</sup> Gigi Ibrahim, "A militarized media in Egypt: a dirty war making many of us blind", *Open Democracy*, 21 August 2013; Shahira Amin, "Egyptian activists counter 'state media propaganda lies'", *Xindex*, 26 April 2013.

<sup>913</sup> Interview of a public radio host who requested anonymity.

<sup>914</sup> "More of the Same", *Mada Mast*, 20 August 2013.

<sup>915</sup> "Egypt's Media Line up Behind State Against Islamists", *Daily News Egypt*, 20 August 2013.

<sup>916</sup> Human Rights Watch, "Egypt: Halt Arbitrary Action Against Brotherhood, Media", 8 July 2013.

<sup>917</sup> "Egypt's journalists protest new Shura Council rules for state-run press", *AlArabiya News*, 4 July 2012.

<sup>918</sup> Human Rights Watch, "Egypt: Don't Cover Up Military Killing of Copt Protesters", 25 October 2011.

<sup>919</sup> Mendel, 2011.

ever since the 2011 revolution.<sup>920</sup> This decrease in censorship holds true for opposing the state on most fronts, except for commenting on or critiquing the military.<sup>921</sup>

Prior to the revolution, it was an extremely difficult and lengthy process to obtain a licence for publishing a newspaper. This has, however, changed after the revolution and there has been an increase in licences issued. Those who have obtained their licence since the revolution include publications such as *Al-Youm Al-Sabie* and Ibrahim Eissa's *Al-Tahrir*.<sup>922</sup>

While social media has been a significant outlet for free and independent coverage, some state actions counter that. It has been reported that the government had established a special unit within the Ministry of Interior responsible for monitoring crimes resulting from technological developments.<sup>923</sup> The unit is referred to as "the internet police" as it has arrested political activists and journalists who are active online; bloggers have been especially targeted by the unit.<sup>924</sup>

Intimidation and harassment of journalists were commonplace in Mubarak's era and continue in the present day. The most recent examples took place during and after the coverage of the dispersal of protests at Rabaa al-Adawiya mosque in Cairo in August 2013, when numerous reporters were assaulted or briefly detained in Cairo. Those detained included a French television crew, two Turkish journalists, a Brazilian journalist and *The Guardian's* Egypt correspondent.<sup>925</sup> Assaults, violence and incitement against journalists have been on the rise since the removal of Morsi, amounting to 40 cases of arrest over three months.<sup>926</sup> On top of the harassment, a number of journalists have been killed, including Mick Deane, a cameraman for Sky News.<sup>927</sup>

An example of the contradiction between laws and "commitments" and practice is a September 2013 report released by the State Information Service (SIS), which stated that the government is strongly committed to freedom of the press according to Articles 7 and 8 of the Constitutional Declaration.<sup>928</sup> However, it will not accept attempts by the foreign press and organisations to spread false information. In the same statement, the closure of several channels is validated based on their inability to follow Egyptian law.<sup>929</sup>

The army had traditionally been "a taboo subject" in Egyptian media; moreover, legal restrictions prevent the media from discussing the army without prior permission.<sup>930</sup> While it was difficult to enforce this during the revolution,<sup>931</sup> discussing the army is currently as problematic as it used to be prior to the 25 January protests.<sup>932</sup>

Egypt does not have a law that specifies the rules, criteria and procedures for obtaining a broadcasting licence, which leaves room for politics to interfere in the process of reporting news

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<sup>920</sup>Freedom House, 2013.

<sup>921</sup>Shahira Amin, "Egypt's media revolution only beginning." *Xindex*, 17 January 2012.

<sup>922</sup>[www.youm7.com/](http://www.youm7.com/); <http://tahrirnews.com/>; UNESCO, 2013: 29, 30, 37.

<sup>923</sup>"Private Anti-Corruption Initiatives", *Egypt Country Profile*, Business Anti-Corruption Portal: [www.business-anti-corruption.com/country-profiles/middle-east-north-africa/egypt/initiatives/private-anti-corruption-initiatives/](http://www.business-anti-corruption.com/country-profiles/middle-east-north-africa/egypt/initiatives/private-anti-corruption-initiatives/)

<sup>924</sup>Freedom House Report, "Egypt", *Freedom on the Net*, 2012, retrieved from: [www.freedomhouse.org/report/freedom-net/2012/egypt#.UwCJRGKSYNY](http://www.freedomhouse.org/report/freedom-net/2012/egypt#.UwCJRGKSYNY)

<sup>925</sup>"Private Anti-Corruption Initiatives", *Egypt Country Profile*, Business Anti-Corruption Portal.

<sup>926</sup>"Press Harassed Amid Heightened Tension in Egypt", *Committee to Protect Journalists*, 13 September 2013.

<sup>927</sup>Sam Masden, "British cameraman for Sky News killed in Egypt", *The Telegraph*, 14 August 2013.

<sup>928</sup>Constitutional Declaration, 8 July 2013.

<sup>929</sup>"SIS denies reports about restrictions on media freedom in Egypt", State Information Service, 10 October 2013.

<sup>930</sup>Sharif Abdel Kuddous, "After Mubarak, Fighting For Press Freedom in Egypt", Pulitzer Center on Crisis Reporting, 20 June 2011.

<sup>931</sup>Kuddous, 2011.

<sup>932</sup>Sherif Tarek, "Media freedom faces wide-ranging challenges in Egypt's transitional period", *Ahram Online*, 1 November 2013.

or furthermore the freedom of expression as a concept.<sup>933</sup> As an example, ONTV, a privately-owned broadcast media channel, applied for a licence to start broadcasting and was denied. When finally granted a licence, ONTV was only granted a general channel licence, preventing it from reporting news. ONTV instead hosts a constant news-bar on its screens, which is deemed illegal under the licence it has been issued.<sup>934</sup>

The state advertising budget lacks policies that would administer how the money is spent, leaving some to estimate that the allocation is broken down into 80% to the state and 20% to private media.<sup>935</sup>

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<sup>933</sup> Interview of Nour El HodaZaki, journalist and board member of the Egyptian National Front for Change, with Ahead of the Curve, summer 2013.

<sup>934</sup> Rana MuhammadTaha, "The Legality of Closing down CBC", *Daily News Egypt*, 3 April 2013.

<sup>935</sup> UNESCO, 2013: 51.

# GOVERNANCE: TRANSPARENCY

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## LAW

To what extent are there provisions to ensure transparency in the activities of the media?

Score: 50

*Employees of public-owned media are required to disclose their assets; otherwise laws do not require transparency in the media.*

There is little transparency when it comes to the ownership of media entities in Egypt because the Supreme Press Council, which oversees newspaper licences, and GAFI, which oversees private satellite broadcasters, operate largely without disclosing information, without any public access to the process or public consultation.<sup>936</sup>

Internally, the ERTU's staff, whether on radio or television, are considered public personnel. This ensures their disclosure of assets and compliance with the code of conduct of public personnel, as they report to the Illicit Profit Apparatus at the Ministry of Justice.<sup>937</sup> Disclosure of assets regarding broadcast personnel is treated the same as for public personnel before the law. The law requires that they disclose their assets upon taking office and once every five years until they leave office. Law 48 (1978) requires public sector employees to disclose their assets once in office. The organ responsible for reviewing their disclosures is the CAO.<sup>938</sup>

The state's budget for each year, including the budget for media, can be accessed from the website of the Ministry of Finance.<sup>939</sup> No legal provisions mandate different media outlets, whether owned by the state or privately, to publicise the details of their budgets.

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<sup>936</sup> UNESCO, 2013: 45.

<sup>937</sup> *Ibid.*

<sup>938</sup> Interview of a public radio host who requested anonymity.

<sup>939</sup> Ministry of Finance website: [www.mof.gov.eg](http://www.mof.gov.eg)

## PRACTICE

To what extent is there transparency in the media in practice?

Score: 25

*In practice, media transparency is limited. Media organisation budgets are not disclosed and mechanisms for the disclosure of information do not exist.*

In practice, there are no clear mechanisms to ensure the disclosure of assets of media personnel, indicating a lack of transparency in the media sector. Assets of media outlets and personnel are not readily made available to the public, as there are no laws that require them to publicise their disclosure of assets.

Media budgets are an issue which was addressed in 2012 by Salah Abdul Maqsoud, former Minister of Information, where he detailed the EGP 6 billion (approximately USD\$871 million) spending budget of satellite channels. During his address he stressed the importance of budget transparency to avoid monopolisation.<sup>940</sup> Private satellite channels similarly lack budget transparency.<sup>941</sup>

There are no mechanisms to ensure that assets are disclosed to the CAO, or for the public to access CAO reports. Citizens are not able to access the budget details of media outlets. The same is true for information about internal staff, reporting and editing policies.

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<sup>940</sup> Abdul Sattar Hatita, "Egypt's New TV Channels: Who Pays the Piper?" *Asharq Al-Awsat*, 11 June 2013.

<sup>941</sup> Mohamed Nasser, "Private Satellite Channels in Egypt: The Relationship between Ownership and Editorial Policy", *Arab Media and Society* (15), 2012.

# GOVERNANCE: ACCOUNTABILITY

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## LAW

To what extent are there legal provisions to ensure that media outlets are answerable for their activities?

Score: 50

*A mixture of penalties for false reporting, oversight of public sector broadcasting and reprimands by professional bodies ensure accountability for media outlets. Insulting senior public officials can result in criminal punishment for journalists, which may stifle anti-corruption critique.*

The Egyptian Penal Code covers crimes committed by newspapers and other media outlets.<sup>942</sup> These crimes include publishing insults against the president of the republic, the People's Assembly or the authorities.<sup>943</sup> Another legal provision addressing the issue of publishing false information is Article 24 of the Press Law,<sup>944</sup> which states that the editor-in-chief of a newspaper is required to issue a correction to previously published information in the same place and using the same font with which the false information was published. In general, depending on the outlet's media form, reported allegations or criticisms are met with press statements, online videos, media appearances or articles in newspapers if court rulings require these. If a complaint is filed against a journalist for fabrications, for instance, the editor-in-chief has to offer the offended party the right of reply or issue a retraction in the same location and font the journalist had used.<sup>945</sup>

The oversight body in the case of broadcast media is the ERTU. As a public entity the ERTU is answerable for its activities through the CAO, which is responsible for reviewing legal and financial breaches. In the case of the journalists, the Syndicate of Journalists<sup>946</sup> and the Supreme Council of Journalism<sup>947</sup> are the organs responsible for journalists and their misconduct.

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<sup>942</sup>Part 14 of Law No. 58 01 for the year 1937 promulgating the Penal Code.

<sup>943</sup>Article 184 of Law No. 58 01, 1937.

<sup>944</sup>Article 24 of Law No. 96, 1996.

<sup>945</sup>Article 24 of Law No. 96, 1996.

<sup>946</sup>Article 34 of Law No. 96, 1996.

<sup>947</sup>Article 39 of Law No. 96, 1996.

## PRACTICE

To what extent can media outlets be held accountable in practice?

Score: 50

*Internal mechanisms that ensure wrongdoers in the media are held responsible for their actions are lacking. While there are provisions for newspapers to correct misinformation, this is absent for broadcast media. Some, but not all, media outlets engage with their viewer/readership base.*

The ERTU's internal policies do not fully secure its personnel against corruption. Salaries are low and leave room for abuse.<sup>948</sup> Until recently, the Supreme Press Council was under the control of the Shura Council (the upper house of Parliament), as the Shura Council was the organ responsible for hiring its members.<sup>949</sup> A new bill was passed by the interim government giving the interim president the right to form a new Press Council as opposed to the already standing council, which had been formed by the dissolved Shura Council.<sup>950</sup> The newly formed Press Council is supposed to form a joint committee with the Journalists' Syndicate Council in an attempt to look at possible reforms of state-owned and independent publications.<sup>951</sup>

Newspapers usually have online portals with a comment section that allows the public to interact. Since the 2011 protests broke out, alternative newspapers such as *Al Badil* and *Masrawi* have flourished. The media has also started using alternative outlets for their news, including YouTube, Facebook and Twitter.<sup>952</sup> Some writers also publish their email addresses with their columns to ease communications between them and the public.

No media outlet has established an ombudsman through which the public can interact with newsmakers. Newspapers usually publish a retraction with the same font and on the same page to correct misinformation.<sup>953</sup>

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<sup>948</sup>Interview of a public radio host who requested anonymity.

<sup>949</sup>No Shura Council exists in Egypt today; the 2014 draft constitution does not include any articles regarding the creation of a new Shura Council. Currently, the Supreme Press Council's members are being appointed by Interim President Adly Mansour. Rana Muhammad Taha, "Cabinet issues Three Bills", *Daily News Egypt*, 22 July 2013.

<sup>950</sup>Ibid.

<sup>951</sup>MENA, "Press Council Tries to Stem Newspaper Losses", *Egypt Independent*, 2 June 2013.

<sup>952</sup>"New media in Egypt Integration and interaction within the public sphere", Centre d'Études et de Documentation Économiques, Juridiques et Sociales, 10 July 2012.

<sup>953</sup>Interview of Nour El Hoda Zaki, journalist and board member of the Egyptian National Front for Change, with Ahead of the Curve, summer 2013.

# GOVERNANCE: INTEGRITY

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## LAW

To what extent are there provisions in place to ensure the integrity of media employees?

Score: 50

*Some provisions exist to ensure the integrity of media employees, including Chapter 14 of the Egyptian Penal Code, the Press Code of Ethics and the ERTU Code of Ethics. Existing provisions and especially the ERTU Code of Ethics are focused on censorship rather than integrity.*

Chapter 14 of the Egyptian Penal Code deals with “crimes occurring by means of newspapers and others”.<sup>954</sup> It contains several articles that discuss modes of expression that are punishable by the law. These include forms of media expression, such as to “incite directly killing, plunder, or incendiary felonies disturbing government security”; instigation to overthrow “the rule settled in the Egyptian region”; disturbing military preparations; and inciting sectarian strife to disturb public peace.<sup>955</sup>

The Supreme Press Council issued a Press Code of Ethics in 1988 is described as a “typical example of its genre” with some “unusual” provisions”.<sup>956</sup> The code emphasises the independence of journalists and their commitment to the truth, in addition to stating the responsibilities of the journalist, which include delivering the truth to the public and not compromising their objectivity for the sake of making profit. “Unusual” provisions include those addressing the necessity of respecting the truth without compromising the country’s morals or values.<sup>957</sup> It has to be noted that the code of ethics is not a binding legal document.

The Board of Trustees of the ERTU is required to formulate a code of conduct that is to be endorsed by all people working in the Egyptian media.<sup>958</sup> However, it has adapted the guidelines it used for censoring scripts in the 1980s into a code of ethics.<sup>959</sup> Accordingly, at least six articles of the code’s 31 are primarily focused on censoring broadcast content to avoid any criticism of those in power.<sup>960</sup> Other articles prohibit broadcasting material that is not sensitive to Egyptian traditions and values.<sup>961</sup>

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<sup>954</sup>Law No. 58 01,1937.

<sup>955</sup>Ibid.

<sup>956</sup>Mendel, 2011.

<sup>957</sup>Ibid.

<sup>958</sup>Article 6 of Law No. 13, 1979

<sup>959</sup>Hussein Amin, *Report on the State of the Media in Egypt: Second Draft*, The Arab Center for the Development of the Rule of Law and Integrity.

<sup>960</sup>“ERTU Code of Ethics”, *Transitional Broadcasting Studies*14, 2005.

<sup>961</sup>“ERTU Code of Ethics”, 2005.

## PRACTICE

To what extent is the integrity of media employees ensured in practice?

Score: 25

*In practice little is done to ensure the integrity of media employees, made worse in part by the polarised media landscape.*

Despite the existence of legal texts that establish general ethics that should be followed by media personnel, the codes referred to are rarely followed since they lack enforcement mechanisms and do not establish compliance systems within their provisions.<sup>962</sup> The head of the Syndicate of Journalists can offer verbal guidance and attend workshops and conferences, but all else is beyond her/his mandate.<sup>963</sup>

Registered journalists receive a reimbursement in the form of cash – officially in exchange for the books and research papers they buy to educate themselves on various issues. However, this sum of money usually ends up being part of the living expenses to compensate for low salaries.<sup>964</sup>

Polarisation of the media, particularly since 2013, has raised questions of integrity from some sources.<sup>965</sup>

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<sup>962</sup>“ERTU Code of Ethics” 2005.

<sup>963</sup>Ibid.

<sup>964</sup>Ibid.;Charbel, 2013.

<sup>965</sup>Ibid.

# ROLE: INVESTIGATE AND EXPOSE CASES OF CORRUPTION PRACTICE

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To what extent is the media active and successful in investigating and exposing cases of corruption?

Score: 50

*Investigative journalism is weak and journalists are not protected from retribution by public officials.*

Investigative journalism is not a key part of the media's work in Egypt, and there are no media sources specifically focused on corruption in the country. However, there are a few investigative journalists, such as a deputy investigations editor at *AlmasryAlyoum*, who has been involved in tracking the finances of Hosni Mubarak and corrupt businessmen closely affiliated with him.<sup>966</sup>

There are also examples where corruption cases pursued by journalists (including Sekina Fouad, Presidential Consultant for Women's Issues) resulted in state officials leaving office or being put on trial, but this is not always the case as the law does not protect journalists against official harassment.<sup>967</sup>

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<sup>966</sup> "Journalist Profile: Ali Zalat", The International Consortium of Investigative Journalists, 2013.

<sup>967</sup> Interview of Nour El HodaZaki, journalist and board member of the Egyptian National Front for Change, with Ahead of the Curve, summer 2013.

# ROLE: INFORM PUBLIC ON CORRUPTION AND ITS IMPACT

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To what extent is the media active and successful in informing the public on corruption and its impact on the country?

Score: 50

*There has only been one consolidated media campaign on a corruption-related topic. The media do report stories of corruption but there are no documented cases of media campaigns leading to prosecution.*

Media outlets do highlight and discuss issues of corruption in Egypt; desk research into the archives of the most prominent newspapers or TV channels shows several features on the issue. There are no documented cases of a media campaign that has successfully resulted in the prosecution of the corrupt.

The only consolidated campaign that had an impact on an issue related to tackling poor governance was a state-sponsored series of public service announcements directed at the public, educating them about their tax obligations. The campaign aimed at encouraging citizens to fulfil their tax obligations, since tax evasion is a prominent problem in the country. The campaign gained prominence through running on national television (satellite and local). Statistics show a clear rise in tax reports for the year of the campaign (2007).<sup>968</sup>

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<sup>968</sup>R. Nafie, "Ad Campaign and Crackdown Changes how Egyptians See Taxes", *MATRES*, 10 October 2007.

# ROLE: INFORM PUBLIC ON GOVERNANCE ISSUES

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To what extent is the media active and successful in informing the public on the activities of the government and other governance actors?

Score: 50

*The media are restricted in reporting on certain government topics and highly polarised where they are able to report information, making it difficult for the public to independently assess the government's activities.*

Although Egyptian media outlets regularly report on government activities, reported news often reflects a communication gap between the work the government is conducting and the needs of the average citizen. State media coverage has recently been largely in support of the government.<sup>969</sup> The detention of journalists has occurred, and currently a journalist is facing military court for the crime of "spreading lies".<sup>970</sup> The polarisation of Egypt's private media<sup>971</sup> makes it difficult for citizens to access unbiased information.<sup>972</sup>

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<sup>969</sup>Sara Yasin, "Egyptian army shuts down media outlets", *Index on censorship*, 4 July 2013.

<sup>970</sup>"Egypt journalist faces military court over 'lies'", *France 24*, 15 September 2013.

<sup>971</sup>"Egypt's Media Line up Behind State Against Islamists", *Daily News Egypt*, 20 August 2013.

<sup>972</sup>Sarah ElMasry, "Polarised, politicised and biased: Covering Egypt", *Daily News Egypt*, 21 August 2013.

**CIVIL SOCIETY**

**40 / 100**

# SUMMARY

Recent socio-political changes resulting from the 2011 revolution have enabled civil society to provide a greater role in holding the government accountable, as well as promoting needed reforms and moving away from the previous development focus. Civil society itself needs to ensure greater internal and external accountability and transparency. Laws regulating civil society also still do not empower it to adopt a greater role in promoting and enhancing integrity across the country.

The table below summarises the overall score for civil society in Egypt according to its capacity, governance and role in both law and practice. Due to a lack in accessible data on the integrity practice indicator, this scoring question was left unaddressed to avoid presenting an unfair assessment of the pillar.

OVERALL PILLAR SCORE: 40 / 100			
Category	Index	Law	Practice
<i>Capacity</i> 44 / 100	Resources	50	50
	Independence	50	25
<i>Governance</i> 25 / 100	Transparency	N/A	25
	Accountability	N/A	25
	Integrity	N/A	-
<i>Role</i> 50 / 100	Hold government accountable	50	
	Policy reform	50	

# STRUCTURE AND ORGANISATION

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The Egyptian CSO law allows for the creation of three types of CSOs:<sup>973</sup>

- Associations (*Gam'eyyat*), or groups of no less than 10 people who are grouped definitely or indefinitely under a formal structure for non-profit gaining purposes. Associations are the most common type of CSOs in Egypt.
- Foundations (*Mu'assasat Ahleyya*), established when a fund is designated for a definite or indefinite period of time for non-profit purposes.
- Unions, established among associations and foundations operating in or funding common activities in a specific field.<sup>974</sup>

Although the three mentioned categories carry out entirely different activities, they are all governed by the Egyptian CSO law, last amended in 2002. Legislators have made a few attempts at creating a separate CSO law, but the current political unrest remains a barrier.<sup>975</sup> As an alternative, CSOs functioning in Egypt often register as legal firms or consultancy offices, enabling them to function under a law that is less restrictive, allowing room for more activities and less restrictions, but also avoiding state audit supervision.<sup>976</sup>

Accordingly, the reality of the situation is that different types of sub-groups have emerged under these three legally allowed forms. These include smaller local CSOs focused on service delivery and welfare, larger international CSOs, philanthropic foundations, business associations, issue-specific CSOs (focusing on a wide array of topics including human rights, the environment and women's rights) and professional syndicates.<sup>977</sup>

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<sup>973</sup>Human Rights Watch, *Egypt: Margins of Repression: III. Background*, 2005.

<sup>974</sup>Law 84 (2002).

<sup>975</sup>Emad Mubarak, Director of Association of Freedom of Thought and Expression, interview with Ahead of the Curve, July 2013.

<sup>976</sup>Ibid.

<sup>977</sup>Jeremiah Davis, *Egyptian civil society (transitional vs. local): The distinction between theory and practice*, Unpublished master's thesis, University of San Francisco, 2012; Mahi Khallaf, *Civil Society in Egypt: A Literature Review*, Proceedings of Foundation for the Future Conference "Research on Civil Society Organizations: Status and Prospects", Jordan, 26-28 January 2010.

# CAPACITY: RESOURCES

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## LAW

To what extent does the legal framework provide an environment conducive to civil society?

Score: 50 / 100

*Laws restrict the ability of civil society to operate, including through broad grounds for refusing registration and limitations on activities. Recent draft civil society laws have been more restrictive than those currently in effect.*

Egypt's 2014 constitution includes the right of association. Article 75 states, "Citizens have the right to establish associations and civil institutions, subject to notification only. Such institutions shall operate freely, and be deemed legal. Authorities may not disband them or their administrative bodies without a court order, in the manner provided for by the law."<sup>978</sup>

Law 84 (2002) regulates CSOs (associations, foundations and unions).<sup>979</sup> Article 11 grants CSOs:

- exemption from registration and booking fees payable by the organisation in all contracts where it is a party, such as ownership or mortgage contracts, or contracts for other real (land) property rights, as well as fees for legalising signatures
- exemption from stamp duty and taxes currently imposed and to be imposed in the future on all contracts, delegations, correspondence, printed items, registers and similar items
- exemption from customs taxes and other duties imposed on the organisation's imports of tools, machines, equipment, apparatuses, articles and production requisites, as well as on presents, donations, gifts and assistance received from abroad
- exemption of the built realties (buildings, apartments) that are owned by the organisation from all land property taxes<sup>980</sup>

Several articles restrict the right of civil society to freely operate under this law however. These include the following stipulations:

- The law requires all CSOs to be registered in order to operate; informal (unregistered) organisations are prohibited. Vague grounds for denial of registration are included in the law, thereby allowing for subjective and arbitrary government decision-making. Registration can be refused if the organisation's purposes "threaten national unity" or go "against public order and morals."<sup>981</sup>

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<sup>978</sup> Article 75, 2014 Constitution of the Arab Republic of Egypt.

<sup>979</sup> Law 84 (2002).

<sup>980</sup> United Group, *New Law for Non-Governmental Organizations: Amendment of Law No. 84, Year 2002*, 2007; Egyptian Organization for Human Rights, *Representatives of Egyptian NGOs rejected the new governmental draft law*, 23 April 2012.

<sup>981</sup> Article 118, bylaw for Law 84 (2002).

- CSO political activity is completely prohibited. Regulations indicate that prohibited political activities include “advocating for the program of one of the political parties, contributing to electoral campaigns, and putting forth candidates for office.”<sup>982</sup>

It is also worth noting that there are some barriers to entering the CSO sphere and that various international CSOs have faced difficulty in registering local chapters in Egypt.<sup>983</sup> Some international CSOs however function under a presidential decree and are very active in Egyptian civil society; examples include Care International.<sup>984</sup> Establishing a CSO is typically licensed by and under the supervision of the Ministry of Social Affairs.

The law is clear on the procedures for application of licensing, as well as on the methods of appeal against the ministry’s rejection of a CSO request for registration. Article 27 states that upon rejection of a registration request issued by the Ministry of Social Affairs, an appeal against the decision is to be filed before the Administrative Court. Without a licence from the Ministry of Social Affairs, the CSO is not allowed to function.<sup>985</sup>

Although significantly affected by the restrictive pre-revolution legal framework characteristic of the pre-revolution era, the Freedom and Justice Party did not attempt to change this system. A draft CSO law was proposed by the party when in power. While starting in a participatory manner, its final draft discussed in the Shura Council<sup>986</sup> in March 2013 was as, if not more, repressive than the 2002 law.<sup>987</sup> Limitations to freedom of association and civil society included:

- Restrictions on the registration and operation of foreign CSOs (Articles 54-60). The draft law established a powerful new “Coordinating Committee” made up of four representatives from the government and four representatives from civil society. The Coordinating Committee would then have had the power to decide whether to license a foreign CSO to operate in Egypt. Upon receipt of an application from a foreign CSO, the committee would have had to issue a decision within 30 days if the applicant were a foreign organisation established by an international treaty, such as the UN, and within 60 days if it were not. The committee would have had broad discretion to deny a licence on the grounds that the foreign organisation’s activity would not have been compatible with the constitution and laws of Egypt.
- Restrictions on foreign funding of Egyptian CSOs (Article 14, 1.14). Egyptian CSOs would have been required to notify the Coordinating Committee if they had received foreign funding. The committee would have had the right to object within 30 days. The draft does not specify the grounds for objection, leaving the committee unlimited authority to deny a CSO the ability to accept foreign funds. The draft also would have subjected national CSOs that receive foreign funding to inspection by the Central Audit Organisation (Article 18). Egyptian CSOs that received funds from foreign CSOs that do not have a presence in Egypt would have been subject to additional restrictions. Rather than simply notifying the committee, these CSOs would have had to apply for approval to accept funding (Article 64). The draft imposed fines of 10,000-100,000 Egyptian pounds (US\$1,471-14,710)<sup>988</sup> for violations of these requirements (Article 72).

<sup>982</sup> Article 25, regulations of Law 84 (2002) on Associations and Non-Governmental Institutions.

<sup>983</sup> The International Center for Non-for-Profit Law (ICNL), *NGO Law Monitor: Egypt*, 2013.

<sup>984</sup> Davis, 2012.

<sup>985</sup> Law 84 (2002).

<sup>986</sup> The Shura Council was dismissed in July 2013. As a result, CSOs still function under Law 84 (2002).

<sup>987</sup> Mubarak interview, 2013.

<sup>988</sup> Oanda.com, 15 March 2013.

- Burdensome requirements for forming a CSO (Articles 1.2, 5, and 41). The draft required a minimum of 10 persons to found an association and a minimum endowment of 50,000 Egyptian pounds (US\$7,000)<sup>989</sup> to establish a foundation. The draft also required that CSOs provide proof of sole (non-shared) occupation of premises. These requirements would have made it difficult to establish new CSOs in Egypt, and in particular may have burdened small CSOs serving underprivileged areas.
- The draft law would have established a complex system for establishing CSOs, and would have afforded the government substantial discretion to withhold the certification that a CSO requires to operate (Articles 7, 8). The draft law required a “notification” system for forming CSOs, in which CSOs would have been considered legally established after submitting a notification, including certain required documents. The Ministry of Insurance and Social Affairs<sup>990</sup> could have objected to the CSO’s formation within 30 days. The draft law also would have required the ministry to issue a “certificate of registration”, confirming the CSO’s status as a legal entity and allowing it to implement its activities. The certificate would have been necessary in order for the CSO to open a bank account and carry out other operations. The draft does not specify a time by which the ministry would have had to issue the certificate, which essentially would have allowed the ministry to withhold it indefinitely, limiting the CSO’s ability to operate.
- The draft would have limited the purposes and activities of associations. The draft states that associations may operate in the fields of social welfare and development, as well as awareness raising on cultural, religious, scientific, intellectual, sport, political, human rights and other issues that benefit society (Article 11). It is not clear whether advocacy and coalition building, for example, are considered “awarenessraising”, and would have been therefore permissible. This list of permissible activities also does not include those performed by member-benefit organisations, such as social clubs and trade associations. Article 1 (5) would have allowed the formation of “central organisations” that consist of a minimum of 100 founders. Central organisations would have been able to have objectives related to public participation and public opinion; this provision suggests that ordinary associations may not have been able to have these objectives. Allowing only those organisations that can muster 100 founders to engage in public participation and public opinion would have limited these activities to a few large CSOs.<sup>991</sup>

When the civil society law was being drafted, representatives from CSOs were invited to the negotiations; however this did not go any further.<sup>992</sup>

In practice, the government has in the past failed to distinguish between political campaigning for office and public policy activities. An example of this is the case of the Egyptian Association against Torture. The Administrative Court refused to register the association on 15 December 2005 because the court decided that the group’s mission to pressure the government to eliminate torture in police stations and prisons was a “political activity”; consequently, the association was prohibited from launching its activities.<sup>993</sup>

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<sup>989</sup>Oanda.com, 3 July 2014.

<sup>990</sup>Previously known as the Ministry of Social Solidarity.

<sup>991</sup>ICNL, 2013.

<sup>992</sup>Mubarak interview, 2013.

<sup>993</sup>ICNL, 2013.

## PRACTICE

To what extent do CSOs have adequate financial and human resources to function and operate effectively?

Score: 50 / 100

*Restrictions on foreign funding limit the ability of CSOs to function and operate effectively. The ability of CSOs to attract skilled labour highly depends on the financial resources and location of the organisation.*

“Charitable” CSOs that provide basic services such as food, medical check-ups, clothes, blankets and monthly allowances frequently receive funding through citizen donations<sup>994</sup> or the through the backing of religious institutes.<sup>995</sup> Anecdotal evidence suggests development oriented CSOs are more heavily reliant on funding by international donors. Due to the rising stigmas and risks associated with receiving foreign funding,<sup>996</sup> exact figures on the funding resources of each entity and thus aggregate data on the average number of donors per CSO are not available. As the 2002 CSO law highly restricts foreign funding, human rights groups often establish themselves as companies or legal offices, making it easier to receive foreign funds.<sup>997</sup>

No data exists on the exact membership figures of CSOs. A 2005 estimate shows that professional syndicates attracted the largest membership bases as members of professions have to join their respective syndicate.<sup>998</sup> The culture of membership based associations is not common among Egyptian civil society; obtaining funds through membership fees is not common. Volunteering, on the other hand, has increased over recent years and especially after the revolution. Youth led volunteering in particular has been on the rise, which some attribute to the highly restrictive pre-revolutionary era, when volunteering for social causes was the only pathway for civic engagement.<sup>999</sup> Skills based volunteering,<sup>1000</sup> however, is not common, which significantly decreases the impact and benefit gained as a result of volunteered hours.<sup>1001</sup>

Recently, CSOs that try to enhance their own sustainability through integrating self-generating lines of activities have started emerging. An example includes a CSO named FathitKhair based in one of Cairo’s informal settlements that runs a sewing workshop, revenues of which sustain families working at the workshop and the workshop itself.<sup>1002</sup> More recently, organisations that integrate financial viability through designing models that generate revenue and deal with social, cultural or environmental issues have also begun emerging. These social enterprises, however, face several challenges since no law exists for the

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<sup>994</sup>Marwa El Daly, *Challenges and Potentials of Channeling Local Philanthropy towards Development and Social Justice and the Role of Waqf (Islamic and Arab-Civic Endowments) in Building Community Foundations: The Case of Egypt*, Doctoral Dissertation, Humboldt University, 2010.

<sup>995</sup>Kamal Sedra, Founder of Development and Institutionalization Support Center, interview with Ahead of the Curve, July 2013.

<sup>996</sup>Anna Newby, “U.S. Civil Society Assistance to Egypt: Thinking Long Term”, *Digest of Middle East Studies*, 21(2), 327-352, 2012.

<sup>997</sup>Mubarak interview, 2013.

<sup>998</sup>Civicus, *Civil Society Index Report for the Arab Republic of Egypt*, 2005, p.25.

<sup>999</sup>Barbara Ibrahim and Leah Hunt-Hendrix, *Youth, Service and Pathways to Democracy in Egypt*, Working Paper (Cairo: American University in Cairo, 2011).

<sup>1000</sup>Skills based volunteering is defined as “service to nonprofit organisations by individuals or groups that capitalises on personal talents or core business or professional skills, experience or education for the purpose of building organisational strength and increasing capacity.” AnnaMaranta, and Paula S.Sladowski, *Skills-Based Volunteering: A Discussion Paper* (Ottawa: Volunteer Canada, 2010): <http://volunteer.ca/content/skills-based-volunteering-discussion-paper> [accessed 3 July 2014].

<sup>1001</sup>Hisham El Rouby et al., *Mapping organizations working with and for youth in Egypt* (World Bank, 2007).

<sup>1002</sup>HaniaMoheeb, “المشروعات التنموية في إسطنبول عنتز هل تتقده من مصير الدويقة؟”, [http://egyptcivilsociety.sqgd.co.uk/topics/index.php?t\\_article=439](http://egyptcivilsociety.sqgd.co.uk/topics/index.php?t_article=439) [accessed 3 July 2014].

registration of such an entity, and since the concept of carrying out an enterprise for a cause is relatively new in Egypt.<sup>1003</sup>

The ability to attract skilled labour depends on the type of CSO. CSOs based in urban centres often have professional staff. Other smaller entities with less access to funding may not be able to access skilled labour. Generally, and especially in the case of CSOs advancing causes not commonly addressed in the Egyptian educational sector, it is difficult for CSOs to find skilled, dedicated professionals.<sup>1004</sup> An interviewee indicated that the market is yet to produce skilled professionals or academics who are more willing to get more involved with CSOs through volunteering or as an alternative career.<sup>1005</sup>

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<sup>1003</sup>InjiEl Abd, *Understanding the Social Entrepreneurship Ecosystem in Egypt*(Alliance for Social Entrepreneurship, 2013):<http://a4se.org/wp-content/uploads/2013/04/Understanding-the-Social-Entrepreneurship-4.4.2012-IE-HR-JW-IE.pdf> [accessed 3 July 2014].

<sup>1004</sup>Civicus, 2005.

<sup>1005</sup>Mubarak interview, 2013.

# CAPACITY: INDEPENDENCE

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## LAW

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of CSOs?

Score: 50 / 100

*Laws restrict the ability of CSOs operate without unwarranted external influence. The executive has the legal authority to approve funding, see the minutes of meetings and oppose the appointment of board members in some circumstances. Vague legal grounds for dissolution are a threat to the operations of CSOs.*

Independence is something CSOs seek through registering themselves under the Company Laws (Law 131/1948, Law 159/1981 or Law 17/1983). The CSO law (84/2002) expressly authorises the government to intervene in the internal affairs of CSOs, with the following specific stipulations:

- The government has the right to call a general assembly meeting (Article 25).
- The organisation must send a copy of the papers tabled before the general assembly to the Ministry of Social Affairs at least 15 days before convening the assembly (Article 26).
- The organisation must provide the Ministry of Social Affairs with a copy of the minutes of the general assembly meeting within 30 days of the meeting (Article 26).
- The Ministry of Social Affairs has the right to inspect financial records of organisations, as well as approving any foreign funding CSOs are to receive (Article 58, CSO Law Bylaw).<sup>1006</sup>
- The Minister of Social Affairs may appoint acting members of the board of directors where there are insufficient members to hold a meeting (Article 40).
- The Minister may also dissolve the board of directors if the board has not convened a meeting of the general assembly for two consecutive years (Article 42).

The law includes vague grounds for dissolution, thereby allowing for subjective and arbitrary decision-making. These include:

- “threatening the national unity or public order or public morals”.
- joining clubs, organisations or societies outside Egypt without first informing the relevant administrative authority.
- receiving foreign funds without notifying the Ministry of Social Affairs.

Egyptian law includes severe sanctions, which include imprisonment, for violations of the law. Conducting activities as an unregistered organisation, conducting activities that threaten national unity and receiving foreign funds without prior governmental approval could lead to the imposition of sanctions, including

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<sup>1006</sup>Article 58, bylaw of Law 84 (2002).

imprisonment.<sup>1007</sup> The CSO law does not include a definite text or article limiting the interference of the government to strictly protecting the public interest. Moreover, the law does not recognise the right to privacy.

## PRACTICE

To what extent can civil society exist and function without undue external interference?

Score: 25 / 100

*Civil society faces harassment and restrictions on its activities. The media have accused some international CSOs of being under the direction of foreign governments. In 2013, 43 non-profit employees received jail sentences for receipt of unauthorised foreign funds.*

Under the Hosni Mubarak regime, the state used its legal right to approve and reject CSO registration to interfere with the type of activities CSOs could conduct.<sup>1008</sup> This was especially true of entities affiliated with sensitive groups, such as the Muslim Brotherhood, or entities involved in sensitive areas of work such as defending human rights or democratisation. Such CSOs were allowed to operate without a registration status, yet were at constant risk of investigation, searching and/or closure. Registered entities had to obtain state security approval before conducting any activities.<sup>1009</sup> In the period directly after the revolution, the previously repressed groups were allowed more freedom to operate without close cooperation with state security.<sup>1010</sup>

Historically, most CSOs in Egypt, especially professional unions and syndicates, were dominated by the state. While the Mubarak regime tolerated syndicates, unions, business associations and service-based organisations, it continued to harass pro-democracy actors like human rights organisations and non-religious social movements, regularly accusing them of being spies seeking to destroy the Egyptian state.<sup>1011</sup> Moreover, the phenomenon of governmental non-governmental organisations (G-NGOs) emerged under the Mubarak regime. G-NGOs are CSOs that are run by civil servants, are heavily financed by the government, and limit the credibility and power to mobilise grassroots CSOs.<sup>1012</sup>

Citizens have been allowed to engage in groups and form CSOs solely based on religious affiliations.<sup>1013</sup> A famous example was the Muslim Brotherhood, which was focused on charitable and service delivery activities.

Previously discussed restrictive current or proposed laws also allow for state interference in the type of funding CSOs receive. CSOs currently face difficulties in obtaining and approving foreign funds they have been guaranteed by donors.<sup>1014</sup>

A recent example of state harassment of CSOs was the military-operated crackdown against several prominent CSOs in 2011; the crackdown included CSOs such as Freedom House, the International Republican Institute and the National Democratic Institute.<sup>1015</sup> The raid included arresting civil society workers, namely, those working for international organisations, under claims that they are unauthorised to

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<sup>1007</sup> Article 68, Law 84 (2002), International Centre for Non-Profit Law, NGO Law Monitor: Egypt. <http://www.icnl.org/research/monitor/egypt.html> [accessed 4 December 2014].

<sup>1008</sup> MarizTadros, "The securitization of civil society: A case study of NGOs-State Security Investigations (SSI) relations in Egypt", *Conflict, Security and Development*, 11(1), 79-103, 2011.

<sup>1009</sup> Ibid.

<sup>1010</sup> Salma El-Sayeh, *Community Coalitions as a Tool for Fostering Participatory Development in Urban Informal Settlements*, Master's thesis, American University in Cairo, School of Humanities and Social Sciences, 2012.

<sup>1011</sup> Nadine Sika, "Civil Society and Democratization in Egypt: The Road Not Yet Traveled", *Muftah*, 29 May 2012; Representative from the Association of Freedom of Thought and Expression, interview with Ahead of the Curve, July 2013.

<sup>1012</sup> Davis, 2012.

<sup>1013</sup> [Khallaf, 2010](#).

<sup>1014</sup> Anonymous interviewee of a Cairo based NGO, interview with Ahead of the Curve, July 2013.

<sup>1015</sup> Alastair Beach, "US anger as 43 NGO workers are jailed in Egyptian crackdown", *The Independent*, 4 June 2013.

work in Egypt, despite having been in the country for an extended period of time prior to the arrests.<sup>1016</sup> In addition to the raids, CSOs faced a media campaign identifying them as “spies”, which hampered these organisations’ ability to continue carrying out programmes.<sup>1017</sup>

In 2013, an Egyptian court delivered jail sentences to the 43 non-profit workers arrested as part of the 2011 raid. During the subsequent trial, prosecutors alleged that some of the groups had received up to US\$50 million in illegal funds. The verdict, delivered by Judge MakramAwad, passed down five-year sentences in absentia to 15 US citizens who fled the country last year. One American who remained in Egypt was sentenced to two years in prison.<sup>1018</sup>

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<sup>1016</sup>Freedom House, *Timeline of Human Rights Violations in Egypt Since the Fall of Mubarak*:

[www.freedomhouse.org/sites/default/files/Timeline%20-%20Human%20Rights%20Violations%20in%20Egypt%20Since%20the%20Fall%20of%20Mubarak.pdf](http://www.freedomhouse.org/sites/default/files/Timeline%20-%20Human%20Rights%20Violations%20in%20Egypt%20Since%20the%20Fall%20of%20Mubarak.pdf) [accessed February 2014].

<sup>1017</sup>Article 19, *INGOs deeply concerned about crackdown on civil society in Egypt*, 6 February 2012:

[www.article19.org/resources.php/resource/2958/en/ingos-deeply-concerned-about-crackdown-on-civil-society-in-egypt](http://www.article19.org/resources.php/resource/2958/en/ingos-deeply-concerned-about-crackdown-on-civil-society-in-egypt) [accessed 3 July 2014].

<sup>1018</sup>*Ibid.*; Beach, 2013.

# GOVERNANCE: TRANSPARENCY

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## PRACTICE

To what extent is there transparency in CSOs?

Score: 25 / 100

Most CSOs do not publish financial or activity reports to the general public. While this was acknowledged by civil society representatives interviewed as a great hindrance to integrity and accountability in the sector, they expressed concerns about the current legal framework and how it limits the ability of CSOs to be transparent. Specifically, interviewees referenced the risks of publishing annual narrative and financial reports. They expressed concern about accusations of being allied with foreign entities, of wanting to entice instability or of working for a foreign government. These concerns could be tied to the widely propagated conspiracy theories around “foreign” donors and their ties to inciting instability, according to interviewees.<sup>1019</sup>

Both interviewed representatives affirmed that more civil society freedom is an essential prerequisite to enhanced transparent practices in the sector. CSOs, however, do produce internal activity and financial reports for their donors and auditors.<sup>1020</sup>

In the case of NGOs with websites, the general public is usually able to access information about the activities and sometimes board composition of CSOs. Not all CSOs, however, have the financial capacity for their own websites.

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<sup>1019</sup>Newby, 2012.

<sup>1020</sup>Sedra interview, 2013; Mubarak interview, 2013.

# GOVERNANCE: ACCOUNTABILITY

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## PRACTICE

To what extent are CSOs answerable to their constituencies?

Score: 25 / 100

*CSOs do not always have clear distinctions between staff members and the board and can lack capacity to implement the activities they are funded for.*

Often board members are both the founders and staff members of CSOs. This significantly hinders their governance systems.<sup>1021</sup> A confusion of roles risks conflict of interest and can hinder CSOs' capacities to effectively manage their activities and make sound decisions, due to a lack of oversight otherwise provided by an independent board.

At a more operational level, an interviewee suggested there is a common disconnect between the activities CSOs are funded for and their ability to implement these activities. CSOs can also lack effective financial management and reporting abilities.<sup>1022</sup> An initiative providing open source software for CSOs to generate annual reports was not widely accepted by the CSO community and barely recruited 200 participants.<sup>1023</sup>

An interviewee indicated that donor response to CSO mismanagement of funds is not always robust and donors have refunded organisations previously suspected of financial irregularities.<sup>1024</sup>

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<sup>1021</sup>Sedra interview, 2013.

<sup>1022</sup>Ibid.

<sup>1023</sup>Ibid.

<sup>1024</sup>Ibid.

# ROLE: HOLD GOVERNMENT ACCOUNTABLE

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To what extent is civil society active and successful in holding government accountable for its actions?

Score: 50 / 100

Due to the highly restrictive legal framework, Egyptian civil society has not been able to establish itself as a strong watchdog of the state. Recently, using digital communication tools and cyber activism,<sup>1025</sup> certain civil society groups have been gaining more leverage in communicating their messages to the public as well as uncovering state violations of the law. Examples include the organic movement of public screenings against military trials of civilians.<sup>1026</sup> Effective, large scale campaigns specific to anti-corruption, however, are yet to be launched.

Zabatak is a non-profit, non-governmental, initiative led by group of young people that aims to fight corruption and to make Egypt safe and free from bribery and corruption. Politically unaffiliated and having no specific political orientation, Zabatak was established to gather information about criminal, corrupt or semi-legal activities that could be useful to the ordinary citizen and serves as a watchdog over the government and the public employees who abuse their positions.<sup>1027</sup> Another example is the Nazaha portal set up by the Development and Institutionalization Support Center to provide news and commentary on corruption cases.<sup>1028</sup>

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<sup>1025</sup> Sahar Khamis and Katherine Vaughn, "Cyberactivism in the Egyptian Revolution: How Civic Engagement and Citizen Journalism Tilted the Balance", *Arab Media & Society*, 14, 2011.

<sup>1026</sup> No Military Trials for Civilians website: <http://en.nomilitarytrials.com>

<sup>1027</sup> *Zabatak the anti-crime, anti-corruption initiative*: [www.youthaward.org/winners/zabatak-anti-crime-anti-corruption-initiative](http://www.youthaward.org/winners/zabatak-anti-crime-anti-corruption-initiative) [accessed 3 July 2014].

<sup>1028</sup> [www.nazaha-eg.net/](http://www.nazaha-eg.net/)

# ROLE: POLICY REFORM

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To what extent is civil society actively engaged in policy reform initiatives on anti-corruption?

Score: 50 / 100

One case in which the government was influenced by efforts of a CSO was the Egyptian Junior Business Association's Anti-Corruption Initiative. This initiative looks at micro and macro level practice-oriented interventions that target the private sector and enable it to safeguard itself against corruption. The initiative managed to set up a coalition of ministries as the Anti-Corruption Committee. The idea was to form an inter-ministerial committee, bringing ministers together to collaborate on forming anti-corruption initiatives inside ministries they are heading. The committee's activities, however, were halted after the revolution due to cabinet reshuffles.<sup>1029</sup>

On a more international level of engagement, the United Nations Development Programme (UNDP) office in Egypt has offered technical assistance to the interim government on issues relating to anti-corruption and good governance policies in the country.<sup>1030</sup> The United Nations Office on Drugs and Crime (UNODC) has similarly been engaged in building the capacity of law enforcement and judiciary agencies' capacities to assess and counter corruption.<sup>1031</sup>

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<sup>1029</sup> Anti-corruption expert and advocate who requested anonymity with Ahead of the Curve, July 2013.

<sup>1030</sup> UNDP, *Anti-corruption for development newsletter*, June 2011.

<sup>1031</sup> UNODC MENA, *Egypt's Anti-Corruption and Asset Recovery Capacities Further Enhanced by UNODC*, 20 March 2013.



**BUSINESS**

**46 / 100**

# SUMMARY

The legal framework governing the operation of businesses is well structured; it covers all company types and establishes a distinction between stock exchange listed companies and all other businesses. However, private sector companies are hindered by an environment where facilitation payments are the norm, coupled with a lack of business engagement with the anti-corruption debate and internal management practices that are not conducive to addressing corruption.

Laws do not provide businesses with a clear complaints system or other channels where misbehaviour could be reported and bribing a private sector official carries a lesser penalty than bribing a public sector official.

The table summarises the overall score for the private sector in Egypt according to its capacity, governance and role, in both law and practice.

OVERALL PILLAR SCORE: 46 / 100			
Category	Index	Law	Practice
<i>Capacity</i> 56 / 100	Resources	75	50
	Independence	75	25
<i>Governance</i> 58 / 100	Transparency	75	75
	Accountability	75	50
	Integrity	50	25
<i>Role</i> 25 / 100	Anti-corruption policy engagement	25	
	Support for/engagement with civil society	25	

# CAPACITY: RESOURCES

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## LAW

To what extent does the legal framework offer an enabling environment for the formation and operations of individual businesses?

Score: 75 / 100

*The legal framework is generally conducive to the registration and operation of businesses; however, there is a lack of a comprehensive, clear complaints system in law.*

Local investors establish and operate their businesses under the Commercial Companies Law (159/1981). The Commercial Companies Law and its bylaws regulate the formation, operation, insolvency and winding up of businesses within its remit. The principal forms of businesses regulated under this law are: limited liability companies, companies limited by shares, and joint-stock companies.<sup>1032</sup>

Foreign investors can establish and operate their businesses under the Commercial Companies Law or under the Investment Incentives Law (8/1997). The law permits foreign investors to establish limited liability companies (LLCs), commandite (limited partnership) companies limited by shares, or joint-stock companies. Rules governing the formation and winding up of businesses under the Commercial Companies Law and the Investment Incentives Law are the same. Steps and requirements for registering each type of company are clearly defined under the law. In the case of LLCs, for example, registration begins by submitting an application form to request registration. As for other types of companies, between two and fifty shareholders can establish an LLC under the Commercial Companies Law.<sup>1033</sup> Once registration in the commercial register is obtained, the LLC is successfully incorporated. The register requires information about the LLC's name, nationalities, occupations and number of shares owned by partners in the LLC.<sup>1034</sup> The same holds true for companies operating under the Investment Incentives Law, which allows businesses to be set up following a clear series of steps. Companies operating under the Investment Incentives Law are eligible for tax and capital incentives. Tax incentives include tax holidays of 5, 10, or 20 years, selected fee waiving and tax breaks. Incentives include guarantees against nationalisation or undue governmental interference in the pricing of companies' products.<sup>1035</sup>

In an attempt to improve the legal framework governing intellectual property, Egypt passed a revised intellectual property rights (IPR) law in 2002. Law 82 (2002) reflects the major

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<sup>1032</sup> Article 1, Law 159 (1981).

<sup>1033</sup> Articles 59 and 60, ministerial decision implementing the Commercial Companies Law.

<sup>1034</sup> Article 275, Commercial Companies Law.

<sup>1035</sup> Investment Law (8/1997).

provisions of the Trade Related Aspects of Intellectual Property Rights (TRIPs) Agreement.<sup>1036</sup> Nevertheless Egypt remains on the US Trade Representative's Special 301 Watch List of countries with high risks of IPR violations.<sup>1037</sup> Egyptian law does not offer clear mechanisms for a business complaints system, which leaves room for bribery and corruption without proper channels to report them.<sup>1038</sup>

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<sup>1036</sup>U.S.-Egypt Business Council, *The US Commercial Relationship with Egypt and the Middle East & North Africa: Issues of Importance*(Washington, DC: U.S.-Egypt Business Council, 2011).

<sup>1037</sup>Ibid.

<sup>1038</sup>Anti-corruption expert and advocate who requested anonymity, interview with Ahead of the Curve, July 2013.

## PRACTICE

To what extent are individual businesses able in practice to form and operate effectively?

Score: 50 / 100

*Businesses in practice face difficulties in forming and operating effectively. They report having to pay bribes for both registering and operating in Egypt.*

Egypt is ranked 109 out of 185 countries in the World Bank's 2012 Ease of Doing Business index.<sup>1039</sup> Egypt ranked 26 out of 185 countries when it comes to ease of registering businesses. It takes six simple steps<sup>1040</sup> that are completed over the span of seven days to register a firm in Egypt,<sup>1041</sup> with costs of registering businesses accounting for 10.2 per cent of GNI per capita.<sup>1042</sup> In 2009, 42 per cent of small and medium enterprises (SMEs) surveyed by the Center for International Private Enterprise and the Ahrm Center for Political and Strategic Studies reported having paid a bribe to obtain establishment licences, while 29 per cent reported paying bribes in the course of their operations.<sup>1043</sup>

Although a law exists, IPR are not effectively protected in practice. Egypt is ranked 67<sup>th</sup> out of 144 in terms of protection of intellectual property in the Global Competitiveness Report.<sup>1044</sup> Egypt is also ranked 152 out of 185 in the Ease of Doing Business "enforcing contracts" index.<sup>1045</sup> Intellectual property protection and enforcement affects a series of sectors in the Egyptian economy. In an attempt to curb intellectual property violations, the General Authority for Investments has created a hotline for receiving complaints from businesses established under the Investment Incentives Law.<sup>1046</sup>

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<sup>1039</sup>World Bank, *Ease of Doing Business in Egypt, Arab Rep.*,

2012: [www.doingbusiness.org/data/exploreeconomies/egypt/](http://www.doingbusiness.org/data/exploreeconomies/egypt/) [accessed 12 January 2014].

<sup>1040</sup>World Bank, *Doing Business: Starting a Business in Egypt, Arab Rep.*,

2013: [www.doingbusiness.org/data/exploreeconomies/egypt/starting-a-business](http://www.doingbusiness.org/data/exploreeconomies/egypt/starting-a-business) [accessed 12 January 2014].

<sup>1041</sup>Ibid.

<sup>1042</sup>Business Anti-Corruption Portal, *Egypt: General Information*, 2011: [www.business-anti-corruption.com/country-profiles/middle-east-north-africa/egypt/general-information.aspx](http://www.business-anti-corruption.com/country-profiles/middle-east-north-africa/egypt/general-information.aspx) [accessed 12 January 2014].

<sup>1043</sup>Ibid.

<sup>1044</sup>Klaus Schwab, *The Global Competitiveness Report 2012-2013* (Geneva: World Economic Forum, 2012): [www3.weforum.org/docs/WEF\\_GlobalCompetitivenessReport\\_2012-13.pdf](http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2012-13.pdf) [accessed July 2013].

<sup>1045</sup>World Bank, 2013.

<sup>1046</sup>Egyptian Government Portal: [www.egypt.gov.eg/english/general/portalfaq.aspx](http://www.egypt.gov.eg/english/general/portalfaq.aspx) [accessed July 2013]; U.S.-Egypt Business Council, 2011; Intellectual Property Rights Law (82/2002).

# CAPACITY: INDEPENDENCE

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## LAW

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of private businesses?

Score: 75 / 100

Public officials are involved in the process of reviewing company documents, issuing detailed invoices for fees, registering documents and articles of association, and ratifying and approving the establishment of companies. The Investment Incentives Law is clear with regard to the state guarantees for the investor. These guarantees restrict undue interference of the state in private businesses established under the Investment Incentives Law,<sup>1047</sup> which prohibits the state from nationalisation or confiscation of investment projects covered by the law. It also prohibits seizure, requisition, blocking and placing of assets under custody or sequestration.<sup>1048</sup>

Articles 26 and 27 of the Investment Incentives Law state that a committee should be formed to issue binding awards in disputes between investors and the administrative sector. The committee should be constituted through a ministerial decree issued by the prime minister and contain a number of other ministers who will review the case. This committee is also formed if a binding award needs to be issued in cases of due compensation to the business.<sup>1049</sup>

Businesses can use the courts to seek redress for business disputes and for issues such as arbitration; however, courts are slow and can take years to resolve cases.<sup>1050</sup>

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<sup>1047</sup>Articles 8-15, Law 8 (1997).

<sup>1048</sup>U.S. Department of State, *2013 Investment Climate Statement – Egypt*, February 2013: [www.state.gov/e/eb/rls/othr/ics/2013/204635.htm](http://www.state.gov/e/eb/rls/othr/ics/2013/204635.htm)[accessed 3 February 2014].

<sup>1049</sup>Articles 26 and 27, Law 8 (1997).

<sup>1050</sup>U.S. Department of State, 2013.

## PRACTICE

To what extent is the business sector free from unwarranted external interference in its activities in practice?

Score: 25 / 100

The Egyptian Ministry of State for Administrative Development has listed several areas where corruption and bribery are commonly found, such as public services (e.g. police, education), customs and taxes, public utilities and procurement.<sup>1051</sup> According to the 2009 Egypt SME Survey Report, 47 per cent of business owners who took part in the survey reported paying bribes to receive government tenders, 42 per cent of the SMEs reported having paid bribes to obtain licences in the establishment process, and 29 per cent reported paying bribes to government officials in different circumstances during the operations of the company.<sup>1052</sup> According to an interviewee, bribes are most frequently required to facilitate the completion of legal procedures, rather than to request an otherwise illegal act.<sup>1053</sup>

Several public officials in Egypt have been sued for the unlawful acquisition of land in the past.<sup>1054</sup> While land titles can be difficult to trace, the Egyptian Penal Code has been able to punish wrongdoers.<sup>1055</sup>

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<sup>1051</sup>Business Anti-Corruption Portal, 2011.

<sup>1052</sup>Elizabeth Johnson and Maira Martini, *Corruption trends in the Middle East and North Africa Region* (Bergen: U4 and Transparency International, 2012).

<sup>1053</sup>Anti-corruption expert and advocate who requested anonymity, July 2013.

<sup>1054</sup>"Ibrahim Soliman questioning postponed for accusations of appropriation of public land", *Alborsa newspaper*, 20 May 2013: <http://tinyurl.com/o9y35x8> [accessed 26 June 2014].

<sup>1055</sup>U.S. Department of State, 2013.

# GOVERNANCE: TRANSPARENCY

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## LAW

To what extent are there provisions to ensure transparency in the activities of the business sector?

Score: 75 / 100

*In general, companies are required to submit their accounts for financial audit, with listed companies required to publish summaries of their annual and biannual reports in two newspapers. Egypt has taken steps to align its financial reporting to international standards; however, it is not yet fully compliant.*

The Commercial Companies Law (159/1981) requires companies to prepare annual audited financial statements. Listed companies are required by Law 95/1992 to follow Egypt's accounting standards, which are aligned with international accounting standards, according to a World Bank report.<sup>1056</sup> Recently, the government has required banks to follow a unique set of accounting and auditing standards, set by the Central Bank of Egypt.<sup>1057</sup> Egypt has also taken steps to align its financial reporting standards with international ones, such as the International Financial Reporting Standards (IFRS),<sup>1058</sup> although it is not yet fully compliant.<sup>1059</sup>

Article 103 of the Commercial Companies Law defines the role of auditors within companies established under this law. The article states:

the shareholders of a company shall have one or more auditors of accounts fulfilling the stipulations contained in the law on the exercise of the accountancy and auditing profession, to be appointed by the General Assembly, and their remuneration fixed by it. In case of a multiplicity of auditors, they will be responsible jointly. In exception to this rule, the founders of the company shall nominate the first auditor.

It is not necessary to disclose the fees for consulting services at the annual general assembly meeting. However, the new rules of autonomy bar auditors from providing any consultation to a company they examine and audit unless they obtain a licence from auditing authorities.<sup>1060</sup>

Listed companies are obliged to publish complete summaries of their annual and biannual reports in two widespread daily newspapers; at least one of them must be in Arabic.

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<sup>1056</sup>World Bank, *Reports on the Observance of Standards & Codes: Egypt, Arab Republic – Accounting and Auditing*, 2002.

<sup>1057</sup>World Bank, 2002.

<sup>1058</sup>United Nations Conference on Trade and Development, *Review of Practical Implementation Issues Relating to International Financial Reporting Standards* (Geneva: United Nations Conference on Trade and Development, 2008).

<sup>1059</sup>U.S. Department of State, 2013.

<sup>1060</sup>The Egyptian Exchange (EGX), *Cairo & Alexandria Stock Exchanges Membership Rules*: [www.egx.com.eg/pdf/Membership\\_rules.pdf](http://www.egx.com.eg/pdf/Membership_rules.pdf) [accessed 26 June 2014]; SamihaFawzy, *Assessment of Corporate Governance in Egypt* (Cairo: Egyptian Center for Economic Studies, 2003).

Companies must prepare their financial statements according to the Egyptian accounting standards, which are issued by the Ministry of Foreign Trade and are largely in compliance with international accounting standards.<sup>1061</sup>

Every company registered on the stock exchange is obliged to disclose its financial position and its operational performance to the Egyptian Financial Supervisory Authority. This disclosure should take place either annually or quarterly. The information that must be disclosed in the financial position and the income statements includes changes in equities, cash flows, complementary clarifications of the statements, the report of the board of directors and the report of the external auditor.<sup>1062</sup>

There is a code of conduct that accountants need to abide by. The code also states that the IFRS are applicable in Egypt and have to be met.<sup>1063</sup> However, annual banking inspections are not carried out.<sup>1064</sup>

In financial service companies, audits are carried out in accordance with international standards. This is because they report to the Egyptian Financial Supervisory Authority (EFSA), previously known as the Capital Market Authority, which is the supervisory body responsible for reviewing the audits of the financial services non-banking sector.<sup>1065</sup> This also guarantees third party verification, as EGX companies are required by law to have an internal audit system that is periodically revised by the EFSA. Other companies apply internal audit systems, which vary from one workplace to the other in terms of effectiveness.

Article 30 of Capital Market Law (95/1992) grants the chairman of the EFSA the right to impose administrative penalties on companies violating the provisions of the law as follows:

- notifying the company to remove the violations within a certain period
- suspending the activities of the company (if the company does not remove the violations attributed to it within the time limit defined by the chairman, namely 30 days from the date of notification)

The Board of Directors of the EFSA has the power to cancel a licence granted to a company if it does not address violations within the suspension period.<sup>1066</sup> Law 159 (1981) also offers guidelines for forming the ownership structure of a business. However, it does not require the company to make the ownership structure public.<sup>1067</sup>

As for the public sector, the Central Audit Organisation (CAO) is the organ responsible for supervising the audits of publicly-owned companies. In addition to reviewing the financial audits, the CAO is concerned with legal breaches of public companies. The CAO does not

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<sup>1061</sup>Fawzy, 2003.

<sup>1062</sup>EGX, *Cairo & Alexandria Stock Exchanges Membership Rules*; Fawzy, 2003.

<sup>1063</sup>EGX, *Cairo & Alexandria Stock Exchanges Membership Rules*.

<sup>1064</sup> Ibid.

<sup>1065</sup>EFSA website: [www.efsa.gov.eg](http://www.efsa.gov.eg)

<sup>1066</sup>EFSA, *Administrative Measures and Supervisory Procedures*, [www.efsa.gov.eg](http://www.efsa.gov.eg).

<sup>1067</sup>EGX, *List of Member Firms*: [www.egx.com.eg/English/Member\\_Firms.aspx](http://www.egx.com.eg/English/Member_Firms.aspx) [accessed 26 June 2014].

carry out the investigations on its own; it files suspected breaches of the law with the public prosecution, which in turn can investigate and proceed with legal action.<sup>1068</sup>

Disclosure of assets is required by law when the employee is serving in a public sector company.<sup>1069</sup>

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<sup>1068</sup> CAO website: [www.cao.gov.eg](http://www.cao.gov.eg)

<sup>1069</sup> Law 48 (1978).

## PRACTICE

To what extent is there transparency in the business sector in practice?

Score: 75 / 100

*Listed companies often make their financial reports and basic information publicly available and some companies have gone beyond Egyptian laws on transparency. However, non-financial information disclosure remains rare.*

36 private sector companies from Egypt have joined the UN Global Compact (UNGC). The UNGC is a strategic initiative that, if joined by companies, indicates their commitment to aligning their operations with a set of universal principles of human rights, the environment, labour rights and anti-corruption.<sup>1070</sup> The 10<sup>th</sup> principle of the UNGC explicitly lists a commitment to fight corruption “in all its forms, including extortion and bribery.”<sup>1071</sup> A few companies in Egypt have adopted more stringent sustainability standards, such as issuing sustainability reports that are compliant with the Global Reporting Initiative, which encompasses integrity, transparency and anti-corruption.<sup>1072</sup>

In terms of transparency, general data of listed companies is available to the public, which includes contact details and addresses, along with summaries of their annual and biannual reports.<sup>1073</sup>

While financial disclosure has improved among Egyptian stock exchange companies, non-financial disclosure and thus reporting on issues relating to integrity, transparency and anti-corruption remains rare.<sup>1074</sup> Audits of publicly-owned companies are audited externally by the CAO and are rarely made public.<sup>1075</sup>

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<sup>1070</sup>UNGC, The Ten Principles.

<sup>1071</sup>Ibid.

<sup>1072</sup>Global Reporting Initiative, *Sustainability Disclosure Database*: <http://database.globalreporting.org/> [accessed 26 June 2014].

<sup>1073</sup>EGX, *List of Member Firms*.

<sup>1074</sup>Ibid.

<sup>1075</sup>United Nations Office on Drugs and Crime, Egypt, *Authorities and Anti-corruption Agencies*: [www.track.unodc.org/LegalLibrary/LegalResources/Egypt/Authorities/Egypt%20Authorities%20and%20Anti-Corruption%20Agencies%20\[Complete%20List\].pdf](http://www.track.unodc.org/LegalLibrary/LegalResources/Egypt/Authorities/Egypt%20Authorities%20and%20Anti-Corruption%20Agencies%20[Complete%20List].pdf) [accessed 26 June 2014].

# GOVERNANCE: ACCOUNTABILITY

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## LAW

To what extent are there rules and laws governing oversight of the business sector and governing corporate governance of individual companies?

Score: 75 / 100

*Laws on oversight and corporate governance provide a good level of private sector accountability; however, standards set out in the Egyptian code of corporate governance are not legally binding.*

The Capital Market Law (95/1992), Commercial Companies Law (159/1981), and Investment Incentives Law (8/1997), which guide companies' functioning and listing rules of the stock exchange, provide a conducive environment for enhanced corporate governance procedures.<sup>1076</sup>

The current legal framework covers the following aspects of good governance:

- organisation and assignment of responsibilities: specifically shareholders who meet in general assembly meetings and elect the board of directors
- the organisation of the general assembly
- shareholder protection: all shareholders are guaranteed the same rights, internal trading is penalised and minority shareholders are guaranteed rights
- ownership registration and record keeping
- internal control and audit systems
- takeover mechanisms
- accountability to shareholders
- rights of shareholders, including voting in general shareholder meetings and nominating the board of directors
- penalties for violations<sup>1077</sup>

Supervision of the previously outlined legal framework is the primary responsibility of the EFSA.<sup>1078</sup> The EFSA was established as an independent public authority and is governed by a

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<sup>1076</sup> Ashraf Shamseldin, *Strengthening Corporate Social Responsibility in the MENA Region: Case Study of Egypt* (Al Urdun Al Jadid Research Center, 2006).

<sup>1077</sup> Shamseldin, 2006; EFSA, *Regulatory Roles in Capital Markets*: [www.efsa.gov.eg](http://www.efsa.gov.eg).

<sup>1078</sup> World Bank, *Report on the Observance of Standards and Codes (ROSC): A Corporate Governance Country Assessment for The Arab Republic of Egypt* (Washington, DC: World Bank, 2009); EFSA, *Regulatory Roles in Capital Markets*.

board of directors; it supervises all non-financial service entities and the Egyptian stock exchange's board of directors.<sup>1079</sup> Enforcement of listing rules is the responsibility of the stock exchange.<sup>1080</sup>

In 2005, Guidelines and Standards for an Egyptian Code of Corporate Governance were published. The code applies to a wide array of private enterprises including joint-stock companies, LLCs and financial institutions. The code details standards for enhanced efficiency and integrity of general assemblies, boards of directors, internal audit departments, external auditors and audit committees. The code also urges companies to enhance policies pertaining to conflicts of interest, as well as to enhance disclosure of non-financial information such as environmental, social and governance performance, including managing corruption within a company's supply and value chain. While in line with international responsible and sustainable management best practices, the code is not mandatory or legally binding.<sup>1081</sup>

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<sup>1079</sup> Amr Abbas and Mohamed Nabil Hazzaa, "Regulatory framework of Egypt's capital market: room for reform?", *Law in transition 2012: Developing capital markets* (London, European Bank for Reconstruction and Development, 2012).

<sup>1080</sup> Alissa Amico, *What role for MENA Stock Exchange in Corporate Governance?* Organisation for Economic Co-operation and Development (OECD): [www.oecd.org/daf/ca/48897794.pdf](http://www.oecd.org/daf/ca/48897794.pdf) [accessed 3 July 2014].

<sup>1081</sup> World Bank, 2009; Egypt Code of Corporate Governance, 2005.

## PRACTICE

To what extent is there effective corporate governance in companies in practice?

Score: 50 / 100

*While the legal framework is generally thorough, its enforcement remains problematic due to a lack of effective separation between boards and management, a lack of independent board members and problems in enforcing shareholder rights through the courts.*<sup>1082</sup>

Ownership of a large proportion of companies listed on the stock exchange is concentrated in families. This poses governance challenges, especially in terms of succession planning and a lack of independence among boards, increasing the chances of conflict of interest, and decreasing separation between boards and management.<sup>1083</sup> Most boards lack independent members and face diffusion between management and the board in guidance and oversight roles, as well as in responsibilities.<sup>1084</sup>

Boards tend to lack committees, in general, and specifically committees concerned with sustainability and responsibility.<sup>1085</sup> Although companies are required to have independent audit committees, the roles and responsibilities of these often remain vague.<sup>1086</sup> Governance of companies is also characterised by several other shortcomings including, but not limited to a lack of clarity on the role and accountability of board members to their shareholders, in addition to a lack of adherence to or adoption of codes of conduct that address conflict of interest. A lack of adherence to integrity codes coupled with the frequent absence of independent members often results in issues of accountability and integrity including:

- questionable integrity of financial and non-financial reporting
- a lack of transparency and thus integrity with regard to the appointment and remuneration of senior executives and board members
- internal audit functions lacking in independence, since the appointment and dismissal of chief internal auditors remains the responsibility of CEOs
- insider (shareholder) control of external auditor appointment<sup>1087</sup>

Companies lack properly effective compliance functions and policies. Although well outlined in the law, shareholder rights are not thoroughly protected primarily due to the weak court system.<sup>1088</sup>

Prospects for change are not bleak given a number of success stories. These include selected companies that underwent corporate governance reform schemes that successfully moved them from closely held companies experiencing “growth pains”, due to issues such as a lack of distinction between board and management roles, to well-governed, transparent and thus more

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<sup>1082</sup>World Bank, 2009.

<sup>1083</sup>World Bank, 2009.

<sup>1084</sup>World Bank, 2009.

<sup>1085</sup>World Bank, 2009.

<sup>1086</sup>World Bank, 2009.

<sup>1087</sup>World Bank, 2009.

<sup>1088</sup>World Bank, 2009.

sustainable companies.<sup>1089</sup> Moreover, in 2009, the largest companies on the Egyptian stock exchange adopted good governance practices.<sup>1090</sup> Increasing dialogue around issues of sustainability and the active role business networks, chambers of commerce, and international initiatives such as the UNGC are taking are also positive signs of potential for change in the Egyptian private sector.

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<sup>1089</sup> *Corporate Governance Success Stories: IFC Advisory Services in the Middle East and North Africa* (Cairo: International Finance Corporation, 2010).

<sup>1090</sup> World Bank, 2009.

# GOVERNANCE: INTEGRITY

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## LAW

To what extent are there mechanisms in place to ensure the integrity of all those acting in the business sector?

Score: 50 / 100

*Bribery and corruption are criminalised under the penal code; however, penalties for bribing a private sector employee are less severe than those for bribing a public official. Egypt does not specifically prohibit bribing a foreign public official, but the penal code does allow for Egyptian prosecution of crimes committed abroad where the crime exists in Egypt. Public procurement anti-corruption mechanisms do not extend to state-owned or state-controlled companies and no sector or industry wide anti-corruption codes of conduct exist.*

Bribery and corruption are primarily dealt with under the Egyptian Penal Code, which addresses bribery in both the public and private sectors and contains sanctions for the bribery of a government employee for the purpose of the performance (or lack of performance) of his or her duties. Less severe penalties apply for bribery of a private employee.<sup>1091</sup> Egypt ratified the UN Convention against Corruption in 2005. Egypt has also joined a number of international initiatives and projects to combat corruption. They include the MENA-OECD Task Force on Anti-Bribery, the OECD Good Governance for Development in Arab Countries Initiative, the Arab Anti-Corruption and Integrity Network (ACINET), and the UN Development Programme's Programme on Governance in the Arab Region project to support the Ministry of Investment in the fight against corruption.<sup>1092</sup>

Egypt does not have legislation that explicitly prohibits the bribery of foreign government officials. Legislation in Egypt does not extend to criminal acts committed abroad, except in the event that an Egyptian citizen commits an act abroad, which constitutes a crime both in that country and in Egypt. Egyptians who commit crimes related to bribery outside of Egypt may be subject to the penal sanctions relating to bribery crimes under the Egyptian Penal Code upon return to Egypt, unless he or she has undergone trial for that offence in the other jurisdiction.<sup>1093</sup>

Recipients, intermediaries and providers of bribes are equally liable under the code, but providers and intermediaries can be exempted from punishment if they inform the authorities of the offence or confess to it.<sup>1094</sup>

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<sup>1091</sup> Andrew Puddephatt, *Corruption in Egypt* (London: Global Partners and Associates, 2012).

<sup>1092</sup> Puddephatt, 2012.

<sup>1093</sup> Egyptian Penal Code, 1937.

<sup>1094</sup> Book 2, Part II, Section II, Part 3, Egyptian Penal Code, 1937.

Providers of accepted or unaccepted bribes to public employees are considered guilty of a bribery offence. Accepting or offering to be an intermediary in a bribe is also considered an offence. Public employees can be sentenced to terms of imprisonment of between three and fifteen years for bribery offences.<sup>1095</sup>

The Egyptian public procurement law regulates central and local government procurement but does not encompass state-owned or state-controlled companies' procurement. The law regulates the three phases of the public procurement process: pre-tendering, tendering and post-tendering. There is minimal regulation of the post-tendering phase, where oversight of contract management, payments, and completion dates exists. While eligibility criteria for bidding include a clean criminal record and "positive professional conduct",<sup>1096</sup> having ethics and integrity programmes is not one of the eligibility criteria.

Codes of conduct are strictly a matter of the internal regulations in the case of private business. There is no such thing as a collective or sector specific code of conduct to which all private business employees must abide.<sup>1097</sup> Corporate governance practice standards do not generally include anti-corruption provisions.<sup>1098</sup> It is uncommon for SMEs and non-listed companies to adopt procedures such as whistleblower policies, hiring of compliance officers or development of codes of conduct that include integrity and anti-corruption.<sup>1099</sup>

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<sup>1095</sup>Ibid.

<sup>1096</sup>*Public Procurement Sector Assessment: Review of Laws and Practice in the SEMED Region* (London: European Bank for Reconstruction and Development, 2013).

<sup>1097</sup>CEO of a stock market company who requested anonymity, interview with Ahead of the Curve, 2013.

<sup>1098</sup>*Business Climate Development Strategy, Egypt*, (Paris: OECD,2010).

<sup>1099</sup>Anti-corruption expert and advocate who requested anonymity, 2013.

## PRACTICE

To what extent is the integrity of those working in the business sector ensured in practice?

Score: 25 / 100

*Businesses, and particularly domestic business, rarely have anti-corruption policies and practices in place. Interviewees indicate that some businesses are resistant to implementing anti-bribery codes of conduct, in an environment where facilitation payments are widely expected.*

At the individual level, some major Egyptian companies have established codes of conduct and corporate governance policies (examples include MobiNil<sup>1100</sup> and Siemens<sup>1101</sup>). No data is available on other companies having committed to such programmes. Moreover, only international companies seem inclined to draw up codes of conduct and compliance programmes, generally under pressure from their major international shareholders. An example of this is Siemens, which operates in Egypt but has an international code of ethics that its employees have to follow.<sup>1102</sup>

Internal mechanisms to prevent bribery in large private businesses (such as stock market companies) are very ambiguous. Mechanisms, if specified, are within the internal policies of the companies, which are generally not available on websites as standard procedure, with the exception of multinationals. In the case of LLCs and SMEs, internal monitoring mechanisms are often non-existent.<sup>1103</sup> 41 per cent of people wanting to do business in Egypt believe they lost business because a competitor paid a bribe.<sup>1104</sup>

Other initiatives, such as the anti-corruption initiative of the Egyptian Junior Business Association, have conducted awareness sessions on the topic, and developed best practices in preventing corruption. While the EJB's efforts have been well received – for example, attendance rates were high – firm commitments from companies and different stakeholders to prevent and safeguard themselves against corruption remain rare. Within the context of an unsupportive system, achieving sustained impact has been difficult. An explicit example lies in the initiative's programme that strives to mainstream anti-corruption practices across SMEs. While some companies are dedicated to the cause, according to an interviewee, the overwhelming majority remains reluctant to commit to any actions unless there are no costs involved. With the current system, where doing business is almost impossible without making facilitation payments or overseeing acts of corruption in a way or another, SMEs have indicated that committing to a zero tolerance to corruption pact is not feasible.<sup>1105</sup>

The Public Services Authority (PSA), which is responsible for public procurement, maintains a “black list” of companies that should be excluded from competing for public contracts due to

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<sup>1100</sup>[www.mobinil.com/en/about/company-overview/code-conduct](http://www.mobinil.com/en/about/company-overview/code-conduct) [accessed 3 July 2014].

<sup>1101</sup>[www.siemens.com.eg/en/compliance/index.htm](http://www.siemens.com.eg/en/compliance/index.htm) [accessed 3 July 2014].

<sup>1102</sup>Ibid.

<sup>1103</sup>CEO of a stock market company who requested anonymity, 2013.

<sup>1104</sup>Deborah Hardoon, *Bribery Is Bad for Business*, Space for Transparency Blog, 6 September 2012:

<http://blog.transparency.org/2012/09/06/bribery-is-bad-for-business/>

<sup>1105</sup>Anti-corruption expert and advocate who requested anonymity, 2013.

non-performance in public contract delivery.<sup>1106</sup> Corruption in public procurement was found to be on the priority list of concerns of a wide spectrum of companies from different sectors that were consulted by the EJB on anti-corruption in Egypt.<sup>1107</sup>

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<sup>1106</sup>European Bank for Reconstruction and Development, 2013.

<sup>1107</sup>EJB Anti-Corruption Taskforce programme coordinator, interview with Ahead of the Curve, July 2013.

# ROLE: ANTI-CORRUPTION POLICY ENGAGEMENT AND SUPPORT FOR/ ENGAGEMENT WITH CIVIL SOCIETY

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To what extent is the business sector active in engaging the domestic government on anti-corruption?

To what extent does the business sector engage with/provide support to civil society on its task of combating corruption?

Score: 25 / 100 (anti-corruption policy engagement)

Score: 25 / 100 (support for/engagement with civil society)

*Some limited initiatives to engage the government and civil society by business do exist; however, there is little systematic engagement by the private sector with the government and civil society on anti-corruption reforms.*

The Anti-Corruption Initiative of the EJB was a result of the EJB joining the UNGC. In line with the commitment to work against corruption, the initiative, which involves raising awareness on anti-corruption, mainstreaming integrity and anti-corruption practices across the private sector, as well as engaging in dialogue with the government, was launched. The initiative is financially supported by Siemens Egypt, which is one of the main business-sector advocates of anti-corruption and integrity practices in Egypt. Senior executives of the company are engaged in awareness raising initiatives related to this.<sup>1108</sup>

Right before the January 25 revolution, the initiative successfully induced the introduction of the Anti-Corruption Ministerial Committee, which was to act as a link between selected ministries and the private sector community. The initiative, however, was halted after the revolution due to continuous cabinet reshuffles and political upheaval.<sup>1109</sup> Another citizen-led initiative on anti-corruption, called Zabatak, emerged after the revolution. Zabatak is led by a group of young people who aim to fight corruption and to make Egypt safe and free from bribery and corruption. Politically unaffiliated and having no specific political orientation, Zabatak was established to gather information about criminal, corrupt or semi-legal activities that could be

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<sup>1108</sup>EJB Anti-Corruption Taskforce programme coordinator, 2013.

<sup>1109</sup>Ibid.

useful to the ordinary citizen. It has already become a reliable centre of news. Zabatak also carries the potential for further development.<sup>1110</sup> This initiative has a few Egyptian stakeholders.<sup>1111</sup> The programme is a policy initiative intended for businesses that are committed to aligning their operations with globally agreed upon principles in the fields of human rights, labour, environment and anti-corruption.<sup>1112</sup>

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<sup>1110</sup> *Zabatak the anti-crime, anti-corruption initiative*: [www.youthaward.org/winners/zabatak-anti-crime-anti-corruption-initiative](http://www.youthaward.org/winners/zabatak-anti-crime-anti-corruption-initiative) [accessed 3 July 2014].

<sup>1111</sup> The American Chamber of Commerce in Cairo, the Businesswomen Association for Development, the Cairo Chamber of Commerce, the Egyptian Pharmacist Syndicate, the Federation of Egyptian Industries, the German-Arab Chamber of Industry and Commerce, and Kasr El Salam Co.

<sup>1112</sup> UN Global Compact website: [www.unglobalcompact.org/](http://www.unglobalcompact.org/)



# CONCLUSIONS AND RECOMMENDATIONS

# CONCLUSIONS

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Overall, the “pillars” of the integrity system in Egypt are weak to average in terms of their integrity, with few exceptions. The pillars that emerge from the assessment as relatively strong in terms of adherence to NIS indicators and in relation to other pillars are the supreme audit institution and executive, followed by the judiciary; however, all three face serious shortcomings in their ability to be effective anti-corruption actors. It is important to note that the strength of the executive pillar is not necessarily a positive sign – its high score reflects ample resourcing and a troubling degree of independence, which facilitates its current dominance over other pillars. The weakest pillars are the law enforcement agencies, the anti-corruption agency (which only exists in the form of an inter-ministerial committee headed by the minister of justice), and civil society.

In general, pillars tended to score better on law than on practice, meaning that while the legislation does at times provide the framework necessary for the NIS, in reality institutions do not live up to the rules in place and implementation of laws is generally weak. Notwithstanding this general trend, a number of laws are found to act as limitations to the strength of pillars, including civil society funding laws, while other laws do not go far enough, for example in not requiring public asset disclosure and in not providing the audit institution with enforcement powers.

Core governance institutions, which comprise of the **legislature**, **executive** and **judiciary**, had a high degree of variance in their results, illustrating the imbalance among them. The lack of a legislature and an under-resourced and increasingly politicised judiciary, coupled with the current excessive independence and dominance of the executive, prevent the core governance institutions from effectively addressing corruption.

In their role of providing a check on other actors’ powers and performing key anti-corruption functions, the public sector, law enforcement and watchdog institutions score comparatively well in some areas, but are hampered by a range of weaknesses in their integrity systems, including the lack of an independent **anti-corruption commission**. The absence of access to information prevents citizens from holding the **public sector** to account, while there is no independent mechanism for complaints about **law enforcement**. Scoring relatively strongly, the **electoral management body**, **ombudsperson** and **supreme audit institution** all have weaknesses however that undermine these strengths and prevent them from achieving their potential.

Non-state actors, representing the role of the broader society in building a NIS, are all generally weak pillars when it comes to anti-corruption. Particular issues include weak capacity in **political parties**, laws that hamper the work of **civil society**, a lack of **business** anti-corruption initiatives, and a difficult operating environment for the **media**.

# RECOMMENDATIONS

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This current assessment is an opportunity for Egyptians as they seek to rebuild their country, providing a roadmap to reestablish institutions on a more transparent and accountable basis and to address structural issues that continue to allow corruption to flourish three years after the revolution. The following recommendations outline key areas for reform, both at the general (priority) level and for each pillar. Implementing these recommendations would help to build a strong NIS in Egypt, capable of preventing, detecting and addressing corruption.

PRIORITY RECOMMENDATIONS
1. <u>Pass and implement an access to information law.</u> The lack of transparency and access to information is a cross-cutting barrier to an effective NIS. The government and legislature, when constituted, should urgently pass and effectively implement an access to information law that complies with international standards. This was a recommendation also made in our 2009 NIS assessment.
2. <u>Give a voice to the people.</u> CSOs are hindered from carrying out their role by the regulatory environment, as per our 2009 report. The government should immediately reform the CSO Law (84/2002), Freedom of Assembly Law and other laws to allow CSOs to operate in an environment where they can be effective anti-corruption watchdogs. Development agencies should focus on strengthening the capacities of CSOs.
3. <u>Establish an anti-corruption commission.</u> The inter-ministerial committee is not yet an active player in pushing forward national anti-corruption strategies. The government should establish a politically independent and well-resourced anti-corruption commission with prosecutorial powers that unifies the work of the 28 existing anti-corruption bodies. Establishing an independent anti-corruption commission is a prerequisite for a functioning NIS.
4. <u>Promote political party engagement.</u> The capacity of many political parties to engage with their constituencies and to develop programmes is low. Development agencies and concerned actors should support political parties to become credible and effective advocates for anti-corruption policy and legal reform before and after the upcoming elections.
5. <u>Reform judicial appointments.</u> The role of the executive in the appointment of the public prosecutor and senior judges limits the perception of fair enforcement of anti-corruption laws. The government should legislate to make these institutions independent of executive control.
6. <u>Establish a police complaints mechanism.</u> The government should establish an independent police complaints commission with the mandate of transparently and accountably investigating and enforcing complaints made by the public against police personnel.
7. <u>Bolster supreme audit institution enforcement powers.</u> A key weakness of the CAO is its lack of enforcement powers. The government should provide it with the power to require public bodies and ministries to respond publicly to its reports and create a mechanism for CAO findings to trigger corruption investigations, as recommended by Transparency International in 2009.
8. <u>Promote inclusive regulatory reform.</u> Despite the ongoing legal reforms, stakeholders feel that progress has been slow and reforms have not produced sound results. The government (and

Parliament when reconstituted) should ensure that a systematic process for inclusive stakeholder consultation and assessment of comparative best practice is included before passing laws.

## Pillar recommendations

LEGISLATURE	
<b>Capacity</b>	When reconstituted, ensure that the resources and independence of the legislature in practice conform to the strong legal provisions in place.
<b>Governance</b>	Members of the legislature should ensure a systematic process is in place for inclusive stakeholder consultation and assessment of comparative best practice before passing laws.
	Members of the legislature should develop and implement a code of conduct for parliamentarians that complies with international best practice and includes rules on gifts, hospitality, post-employment restrictions and public disclosure of assets.
<b>Role</b>	Government and the legislature should work to ensure that in practice Parliament is able to provide effective oversight of the executive.
EXECUTIVE	
<b>Governance</b>	The government should introduce to the legislature, when reconstituted, an access to information bill that complies with international standards and best practice, and actively implement access to information principles in its work, including through proactively publishing information.
	The government should proactively and substantively publicly consult with those who will be affected by executive policies before passing them and publish asset declarations of senior officials and those in control of public funds.
	The government should introduce to the legislature, when reconstituted, a whistleblower protection bill that complies with international standards and best practice, and actively implement whistleblower protection in its work. The government should ensure that existing mechanisms, including conflict of interest rules, have effective enforcement mechanisms.
<b>Role</b>	The government should ensure transparency in public sector employee hiring and dismissal policies and mainstream Article 218 of the constitution on “fighting corruption” into its work.

JUDICIARY	
<b>Capacity</b>	The Judicial Council should work with the executive and legislature to reform laws, to ensure that judicial pay is in line with modern pay scales and keeps in pace with inflation, to set clear criteria for incentives and reimbursements, and to give the Judicial Council full control in setting its budget. Issues with resources and staffing of courts should be assessed and, where appropriate, funding should be provided.
<b>Governance</b>	The Judicial Council should ensure that asset disclosure of judges is made public and work with the executive and legislature to ensure there is independent oversight of judicial asset declarations.
	The Judicial Council should work with the executive and legislature to amend Law 46 (1972) to include post-employment restrictions and prevent judges from working as consultants to ministers. The Disciplinary and Eligibility Council should impose sanctions for failure to disclose assets.
<b>Role</b>	The Judicial Council should collate and publish comprehensive statistics on corruption cases, prosecutions and convictions.
PUBLIC SECTOR	
<b>Capacity</b>	The government should develop and implement legislation or rules to ensure public sector employees act in a politically impartial manner.
<b>Governance</b>	The government and legislature, when reconstituted, should work together to pass and implement an access to information law that requires the public sector to both proactively publish information and provide it on citizen demand. The government should publish asset declarations of senior public sector employees and those in control of public funds and ensure that public sector bodies publish their budgets and audit reports.
	The government should ensure public sector whistleblowers receive appropriate protection in line with international standards and best practice. It should also ensure that the CAO can effectively audit the public sector and consider addressing public sector reporting procedures to ensure they can be completed with ease by public sector employees and understood with ease by citizens.
	The government should assign the members of the Prevention of Corruption Committee, overseeing conflict of interest, require anti-corruption rules in public contracts and introduce an anti-corruption code of conduct for the public sector.

<b>Role</b>	The government should task the public sector with running public awareness campaigns and education on anti-corruption, working with CSOs and other public and private institutions to develop coherent anti-corruption programmes, and should review the public procurement process to ensure that its time-consuming nature does not lead to facilitation payments.
<b>LAW ENFORCEMENT</b>	
<b>Capacity</b>	Law enforcement agencies should work with the government to bolster the independence of law enforcement, to allow it to be seen as an impartial force for investigating and prosecuting corruption, including through reducing the role of the executive in senior appointments and introducing professional appointment criteria.
<b>Governance</b>	Law enforcement agencies should work with the government and Parliament to ensure law enforcement bodies are subject to access to information laws and should promote a culture of proactive publication of information, including on numbers of corruption cases investigated and prosecuted.
	Law enforcement agencies should work with the government and Parliament to establish an independent police complaints mechanism with the mandate of transparently and accountably investigating and enforcing complaints made by the public against police personnel.
<b>Role</b>	Law enforcement agencies and government should work to ensure investigations and prosecutions are – and are seen as – impartial and not motivated by political concerns or public opinion.
<b>ANTI-CORRUPTION COMMISSION (NCCCC)</b>	
<b>Capacity</b>	The government should establish a politically independent and well-resourced anti-corruption commission with prosecutorial powers that unifies the work of the 28 existing anti-corruption bodies. The NCCCC does not yet fulfil this role.
<b>Governance</b>	The NCCCC should work with the government and legislature to set legal rules for publication of its structure, appointment and dismissal procedures, reports, activities and budgets.
	The NCCCC should work with government and the legislature to clarify legal provisions on accountability of the NCCCC and include provisions allowing for parliamentary review of its reports. The NCCCC should publish information detailing the numbers of complaints it receives and successfully resolves.
	The NCCCC should establish and implement a code of conduct for its members and staff.
<b>Role</b>	The NCCCC should ensure that monitoring, evaluation and learning assessments are built into its projects and that these assessments are made publicly available.

ELECTORAL MANAGEMENT BODY	
<b>Capacity</b>	The SEC and government should ensure its resources are adequate for training and recruitment procedures are clear. They should also consider revising the procedure for appointing the SEC board, to address sustainability concerns.
<b>Governance</b>	The SEC should work with the government to establish a law or rules to codify the SEC practice of publishing its decisions.
	The SEC should work with the legislature to remove laws that prevent SEC decisions from being challenged in the courts and ensure that independent reviews are possible.
	The SEC should ensure that a code of conduct is established and implemented for its members.
<b>Role</b>	The SEC should work with the government and legislature to establish laws or rules allowing the SEC to monitor campaign financing and the government should provide the SEC with the resources to do this in practice.
OMBUDSPERSON	
<b>Capacity</b>	The government and legislature should designate the ombudsperson offices as official bodies in law or establish an independent ombudsperson office. The government should ensure replacements of boards does not affect the ability of the NCHR and NCW ombudsperson offices to operate.
<b>Governance</b>	The NCHR, NCW and government should ensure laws or rules require transparency and access to information in the ombudsperson offices, including in recruitment.
	The NCHR and NCW should ensure they publish reports to a regular and transparent timetable and include information on ombudsperson activities.
	The NCHR and NCW should develop and implement regulations for staff at the ombudsperson offices, covering asset declarations, conflict of interest and post-employment restrictions.
<b>Role</b>	Ombudsperson offices should take a more proactive role in raising awareness and campaigning against corruption.
SUPREME AUDIT INSTITUTION	
<b>Capacity</b>	The government should ensure the CAO has a budget sufficient to carry out its activities.
<b>Governance</b>	The CAO should work with the government and legislature to amend laws to require the CAO to publish its reports and ensure these reports are presented in a format that makes them accessible to the public. The government should require public body responses to these

	reports to be made public.
	The CAO should work with the government and legislature to amend laws to subject the CAO to independent audits and publish the reports.
	The CAO should put in place an enforcement mechanism for its code of conduct.
<b>Role</b>	The CAO should work with the government and legislature to amend laws to provide the CAO with the power to require public bodies and ministries to respond publicly to its reports and to create a mechanism for CAO findings to trigger corruption investigations.
<b>POLITICAL PARTIES</b>	
<b>Capacity</b>	The government and legislature should address barriers to participation of political parties, including removing high-cost items such as the requirement for notarised founder signatures, and consider instituting public funding for political parties.
	The government and legislature should ensure laws do not allow for executive influence in political party registration. The government should ensure laws are not used to reduce space for political parties to operate and should reaffirm its commitment to political pluralism.
<b>Governance</b>	Political parties should work with the government and legislature to establish laws or rules requiring political parties to publish their sources of finance, including campaign finance, and make these accessible for the public.
	The government and legislature should allow the SEC to monitor campaign finance and allow and require the CAO to publish its political party audit reports and the responses of the political parties.
	Development agencies and concerned actors should support political parties to develop internal regulations for transparent and accountable governance within the party.
<b>Role</b>	Development agencies and concerned actors should support political parties to become credible and effective advocates for anti-corruption policy and legal reform before and after the upcoming elections.
<b>MEDIA</b>	
<b>Capacity</b>	The government and legislature should remove provisions in laws, such as Article 68 of the Press Law, that allow for executive influence over the media. The government should ensure funding sources of public media organisations are published and accessible.
	The government and legislature should specify the rules, criteria and procedures for obtaining a broadcasting licence and set out the rules allowing the Supreme Press Council to refuse registration for newspapers.
	The government should establish procedures and rules on the independence of state-financed media and clearly and transparently set rules for carrying government messages.

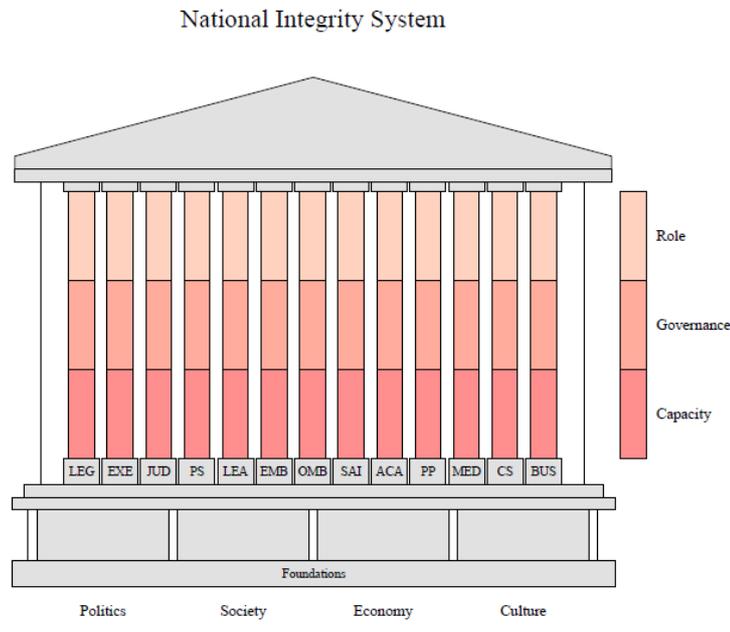
	The government should ensure that journalists and media personnel are free to investigate and expose corruption without facing harassment and intimidation from public and private bodies. The government and legislature should ensure that laws on defamation are not a deterrent to accurate reporting of corruption.
Governance	Media institutions should improve their transparency, particularly on their budgets and income.
	The government and legislature should remove provisions that could be used to stifle anti-corruption critique, for example Article 184 of the Penal Code, which allows for prosecution of journalists for insulting the president, People's Assembly and authorities.
	The Supreme Press Council and Egyptian Radio and Television Union should revise their respective codes of conduct to bring them in line with international journalism standards.
Role	Media institutions should develop and be supported in developing investigative skills and in campaigning for anti-corruption reforms.
<b>CIVIL SOCIETY</b>	
Capacity	The government should immediately reform the CSO Law (84/2002), Freedom of Assembly Law and other laws to allow CSOs to operate in an environment where they can be effective anti-corruption watchdogs.
Governance	The government and legislature should work with civil society to reform rules in the CSO Law (84/2002) allowing the government to intervene in the internal running of CSOs, to approve their funding and the vague grounds for dissolution for a CSO.
	Development agencies should support civil society to develop its capacity to act as an anti-corruption actor and to ensure strong internal accountability mechanisms, including clear distinctions between boards and executive staff.
Role	Development agencies should focus on strengthening the capacities of CSOs.
<b>BUSINESS</b>	
Capacity	The government should establish a clear complaints mechanism for businesses to report corruption.
Governance	The government, civil society, business associations and development agencies should work with the business community to instil an anti-bribery culture and the government and judiciary should ensure business can receive redress for complaints through the courts within a reasonable period of time.
	The government and legislature should revise company laws to ensure they are fully compliant with international corporate reporting standards. The government should work towards making the 2005 Guidelines and Standards for an Egyptian Code of Corporate Governance legally binding.

	<p>Businesses should publicly report on non-financial information in line with international norms on corporate reporting.</p>
	<p>Government and the legislature should ensure that penalties for bribing a private sector official are in line with penalties for bribing a public sector official. Businesses should put anti-corruption strategies and policies in place.</p>
<b>Role</b>	<p>Businesses should become active partners with the government and civil society in working on anti-corruption reforms.</p>

# ANNEXES

# ANNEX I: ABOUT THE NIS ASSESSMENT

The NIS assessment approach used in this report provides a framework to analyse the vulnerabilities of a given country to corruption as well as the effectiveness of national anti-corruption efforts. The framework includes all principal institutions and actors that form a state. These include all branches of government, the public and private sector, the media and civil society (the “pillars” as represented in the diagram below). The concept of the NIS has been developed and promoted by Transparency International as part of its holistic approach to fighting corruption. While there is no blueprint for an effective system to prevent corruption, there is a growing international consensus as to the salient institutional features that work best to prevent corruption and promote integrity.



- |                                   |                                   |
|-----------------------------------|-----------------------------------|
| LEG.    Legislature               | SAI.    Supreme Audit Institution |
| EXE.    Executive                 | ACA.    Anti Corruption Agencies  |
| JUD.    Judiciary                 | PP.     Political Parties         |
| PS.     Public Sector             | MED.    Media                     |
| LEA.    Law Enforcement Agencies  | CS.     Civil Society             |
| EMB.    Electoral Management Body | BUS.    Business                  |
| OMB.    Ombudsman                 |                                   |

A NIS assessment is a powerful advocacy tool that delivers a holistic picture of a country's institutional landscape with regard to integrity, accountability and transparency. A strong and functioning NIS serves as a bulwark against corruption and guarantor of accountability, while a weak system typically harbours systemic corruption and produces a myriad of governance failures. The resulting assessment yields not only a comprehensive outline of reform needs but also a profound understanding of their political feasibility. Strengthening the NIS promotes better governance across all aspects of society and, ultimately, contributes to a more just society.

## Definitions

The definition of “corruption” that is used by Transparency International is as follows:

“The abuse of entrusted power for private gain. Corruption can be classified as grand, petty and political, depending on the amounts of money lost and the sector where it occurs.”<sup>1113</sup>

“Grand corruption” is defined as “Acts committed at a high level of government that distort policies or the functioning of the state, enabling leaders to benefit at the expense of the public good.”<sup>1114</sup> “Petty corruption” is defined as “Everyday abuse of entrusted power by low- and mid-level public officials in their interactions with ordinary citizens, who often are trying to access basic goods or services in places like hospitals, schools, police departments and other agencies.”<sup>1115</sup> “Political corruption” is defined as “Manipulation of policies, institutions and rules of procedure in the allocation of resources and financing by political decision makers, who abuse their position to sustain their power, status and wealth.”<sup>1116</sup>

## Objectives

The key objectives of the NIS assessment are to generate:

- an improved understanding of the strengths and weaknesses of Egypt's NIS within the anti-corruption community and beyond
- momentum among key anti-corruption stakeholders in Egypt for addressing priority areas in the NIS

The primary aim of the assessment is therefore to evaluate the effectiveness of Egypt's institutions in preventing and fighting corruption and in fostering transparency and integrity. In addition, it seeks to promote the assessment process as a springboard for action among the government and anti-corruption community in terms of policy reform, evidence-based advocacy

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<sup>1113</sup> Transparency International, *The Anti-Corruption Plain Language Guide* (Berlin: Transparency International, 2009): 14;

[www.transparency.org/whatwedo/pub/the\\_anti\\_corruption\\_plain\\_language\\_guide](http://www.transparency.org/whatwedo/pub/the_anti_corruption_plain_language_guide) [accessed 21 December 2012].

<sup>1114</sup> *Ibid.*: 23.

<sup>1115</sup> *Ibid.*: 33.

<sup>1116</sup> *Ibid.*: 35.

or further in-depth evaluations of specific governance issues. This assessment should serve as a basis for key stakeholders in Egypt to advocate for sustainable and effective reform.

## Methodology

In Transparency International's methodology,<sup>1117</sup> the NIS is formed by 13 pillars representing all key public and private institutions in a country.

CORE GOVERNANCE INSTITUTIONS	PUBLIC SECTOR AGENCIES	NON-GOVERNMENTAL ACTORS
Legislature	Public sector	Political parties
Executive	Law enforcement agencies	Media
Judiciary	Electoral management body	Civil society
	Ombudsperson	Business
	Supreme audit institution	
	Anti-corruption agency	

Each of the 13 pillars is assessed along three dimensions that are essential to its ability to prevent corruption:

- its overall capacity, in terms of resources and independence
- its internal governance regulations and practices, focusing on whether the institutions in the pillar are transparent and accountable and act with integrity
- its role in the overall integrity system, focusing on the extent to which the institutions in the pillar fulfil their assigned role with regard to preventing and fighting corruption

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<sup>1117</sup>In 2008/2009, a number of refinements and revisions in the NIS assessment approach were undertaken. The revised approach to the NIS offers detailed guidelines of analysis by a) analysing analytical dimensions in law and in practice, b) offering guiding questions for every dimension and c) offering scoring questions for every dimension, allowing researchers to assess provisions/practices in comparison to international best practice standards in a quantitative way. Prior to these revisions, scores were not included in the NIS.

Each dimension is measured by a common set of indicators. The assessment examines for every dimension both the legal framework of each pillar as well as the actual institutional practice, thereby highlighting any discrepancies between the formal provisions and reality in practice.

DIMENSION	INDICATORS (LAW AND PRACTICE)
Capacity	Resources Independence
Governance	Transparency Accountability Integrity
Role within governance system	Pillar-specific indicators

The assessment does not seek to offer an in-depth evaluation of each pillar. Rather it seeks breadth, covering all relevant pillars across a wide number of indicators in order to gain a view of the overall system. The assessment also looks at the interactions between pillars, as weaknesses in a single institution could lead to serious flaws in the entire system. Understanding the interactions between pillars helps to prioritise areas for reform.

In order to take account of important contextual factors, the evaluation is embedded in a concise analysis of the overall political, social, economic and cultural conditions – the “foundations” – in which the 13 pillars operate.

POLITICS	SOCIETY	ECONOMY	CULTURE
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The NIS assessment is a qualitative research tool. It is guided by a set of “indicator score sheets”, developed by Transparency International. These consist of a “scoring question” for each indicator, supported by further guiding questions and scoring guidelines. The following scoring and guiding questions, for the resources available in practice to the judiciary, serve as but one example of the process:

<b>PILLAR</b>	Judiciary
<b>INDICATOR NUMBER</b>	3.1.2
<b>INDICATOR NAME</b>	Resources (practice)
<b>SCORING QUESTION</b>	To what extent does the judiciary have adequate levels of financial resources, staffing and infrastructure to operate effectively in practice?
<b>GUIDING QUESTIONS</b>	Is the budget of the judiciary sufficient for it to perform its duties? How is the judiciary's budget apportioned? Who apportions it? In practice, how are salaries determined (by superior judges, constitution, law)? Are salary levels for judges and prosecutors adequate or are they so low that there are strong economic reasons for resorting to corruption? Are salaries for judges roughly commensurate with salaries for practising lawyers? Is there generally an adequate number of clerks, library resources and modern computer equipment for judges? Is there stability of human resources? Do staff members have training opportunities? Is there sufficient training to enhance a judge's knowledge of the law, judicial skills including court and case management, judgement writing and conflicts of interest?
<b>MINIMUM SCORE (1)</b>	The existing financial, human and infrastructural resources of the judiciary are minimal and fully insufficient to effectively carry out its duties.
<b>MID-POINT SCORE (3)</b>	The judiciary has some resources. However, significant resource gaps lead to a certain degree of ineffectiveness in carrying out its duties.
<b>MAXIMUM SCORE (5)</b>	The judiciary has an adequate resource base to effectively carry out its duties.

The guiding questions, used by Transparency International worldwide, for each indicator were developed by examining international best practices, as well as by using our own experience of existing assessment tools for each of the pillars, and by seeking input from (international) experts on the respective institutions. These indicator score sheets provide guidance for the Egypt assessment, but when appropriate the lead researcher has added questions or left some questions unanswered, as not all aspects are relevant to the national context. The full toolkit

with information on the methodology and score sheets are available on the Transparency International website.<sup>1118</sup>

To answer the guiding questions, the research team relied on four main sources of information: national legislation, secondary reports and research, interviews with key experts, and written questionnaires. Secondary sources included reliable reporting by national CSOs, international organisations, governmental bodies, think tanks and academia.

To gain an in-depth view of the current situation, a minimum of two key informants were interviewed for each pillar – at least one representing the pillar under assessment, and one expert on the subject matter but external to it. In addition, more key informants – that is, people “in the field” – were interviewed. Professionals with expertise in more than one pillar were also interviewed in order to get a cross-pillar view.

### The scoring system

While this is a qualitative assessment, numerical scores are assigned in order to summarise the information and to help highlight key weaknesses and strengths of the integrity system. Scores are assigned on a 100-point scale in 25-point increments including five possible values: 0, 25, 50, 75 and 100. The scores prevent the reader getting lost in the details and promote reflection on the system as a whole, rather than focusing only on its individual parts. Indicator scores are averaged at the dimension level, and the three dimensions scores are averaged to arrive at the overall score for each pillar, which provides a general description of the system’s overall robustness.

VERY STRONG	81-100
STRONG	61-80
MODERATE	41-60
WEAK	21-40
VERY WEAK	0-20

The scores are not suitable for cross-country rankings or other quantitative comparisons, due to differences in data sources across countries applying the assessment methodology and the absence of an international review board tasked to ensure comparability of scores.

<sup>1118</sup> [http://archive.transparency.org/policy\\_research/nis/methodology](http://archive.transparency.org/policy_research/nis/methodology)

**Consultative approach and validation of findings**

The assessment process in Egypt had a strong consultative component, seeking to involve the key anti-corruption actors in government, civil society and other relevant sectors. This approach had two aims: to generate evidence and to engage a wide range of stakeholders with a view to building momentum, political will and civic demand for reform initiatives.

# ANNEX II: STAKEHOLDERS CONSULTED

NAME	INSTITUTION	PILLARS
Ayman Ramses	Civil society	Civil society
Mona Boraiei	Government	CAO
Dina Wafaa	University	All pillars discussed through a stakeholder engagement meeting
Qusaii Salama	Business	Business
Emad Mubarak	Civil society	Civil society
Hana Aboul Ghar	Political party	All pillars discussed through a stakeholder engagement meeting
Hazem Mounir	Civil society / political party	All pillars discussed through a stakeholder engagement meeting
Kamal Sedra	Civil society	Civil society
Laila El-Baradei	University	All pillars discussed through a stakeholder engagement meeting
Maged Sorour	Civil society	All pillars discussed through a stakeholder engagement meeting
Wadei Hanna	Government	Audit, Civil society, Electoral Management Body, Judiciary, Media, Ombudsperson, Public Sector discussed through a stakeholder engagement meeting
Ahmad Sangafli	Civil society	All pillars discussed through a stakeholder engagement meeting
Yosry Ezbawi	Civil society	All pillars discussed through a stakeholder engagement meeting
Yasser Abdelgawad	Civil society	All pillars discussed through a stakeholder engagement meeting
Khaled Badawy	Civil society	All pillars discussed through a stakeholder engagement meeting
Lubna Saeed Zaki Mohamed	Government	All pillars discussed through a stakeholder engagement meeting
Ibrahim Moustafa Zahran	Political party	All pillars discussed through a stakeholder engagement meeting
Islam Ahmed	Civil society	All pillars discussed through a stakeholder engagement meeting
Nader Bakkar	Political party	Political parties
Ghada Moussa	Government	Public Sector

Tamer El-Mehy	Political party	Political parties
Hassan Abdulla	University	Media

## ANNEX III: LIST OF REGISTERED POLITICAL PARTIES

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### Registered before the revolution<sup>1119</sup>

1. Al-Ghad (Tomorrow) Party
2. Arab Democratic Nasserist Party
3. Conservative Party
4. Democratic Front Party
5. Democratic Geel (Generation) Party
6. Democratic Peace Party
7. Democratic Unionist Party
8. Egypt Youth Party
9. Egyptian Arab Socialist Party
10. Egyptian Green Party
11. Free Constitutional Party
12. Free Republican Party
13. Liberal (al-Ahrar) Party
14. Misr (Egypt) 2000 Party
15. Misr El-Fatah (Young Egypt) Party
16. National Conciliation Party
17. National Progressive Unionist Party (Al-Tagammu)
18. New Wafd Party
19. People Democratic Party
20. Social Justice Party
21. Social Solidarity Party
22. Ummah Party

### Registered after the revolution<sup>1120</sup>

1. El Adalawa El Tamiyeh El Masri (Egyptian Justice and Development) Party
2. El Adl (Justice) Party
3. El Ahrar El Dostoriyeen El Godid (New Free Constitutionals) Party
4. El ArabiLiladalwa El Masawah Party (Arab Party for Justice and Equality)
5. El Asalah (Originality) Party
6. El Asalah (Reform) Party
7. El Bidayeh (Beginning) Party
8. El Biinaawa El Tanmiyah (Building and Development) Party

<sup>1119</sup>Egypt's Information Portal: <http://www.eip.gov.eg/Directories/Directory.aspx?id=56> [accessed 8 January 2014]. Unofficial translation of party names.

<sup>1120</sup>Ibid.

9. El Dostoor (Constitution) Party
10. El Etihad Party
11. El Fadilah (Virtue) Party
12. El Hayah (Life) Party
13. El Horayahwa El Adalah (Freedom and Justice) Party
14. El Horiyah (Freedom) Party
15. El Irada (Will) Party
16. El Islaawa El Nahdah (Reform and Renaissance) Party
17. El Islahwa El Tanmiyeh (Refrn and Development) Party
18. El Istiqlal (Independce) Party
19. El Itihadi El Demokrati (Democratic Unionist) Party
20. El Kananah Party
21. El Karama (Dignity) Party
22. El Masri El Demokrati El Igtima3i (Egyptian Social DemocratParty)
23. El Masriin El Ahrar (Free Egyptians) Party
24. El Moatamar (Conference) Party
25. El Moaten El Masrii (Egyptian Citizen) Party
26. El Mosawahwa El Tanmiyah (Equaltiy and Development) Party
27. El NahdahMasr (Egyt Renaissance) Party
28. El Nasr (Victory) Party
29. El Natma El Masrii (Egyptian Affiliation) Party
30. El Noor (Light) Party
31. El Salaam El Igtima3i (Social Peace) Party
32. El Sarh El Masri El Hor (Free Egyptian Building) Party
33. El Sawra (Revolution) Party
34. El Shab El Jamhorii (Republican People's) Party
35. El Tahalof El Shabi Al Ishtiraqi (Public Socialist Coalition) Party
36. El Tahrir El Masrii (EgyptianLiberation) Party
37. El Taqaful El Igtima3i (Social Solidarity) Party
38. El Thawrah El Masriya (Egyptian Revolution) Party
39. El ThorehMostimreh (Ongoing Revolution) Party
40. El Wa3t (Promise) Party
41. El Wasat (Centre) Party
42. El Watan (Motherland) Party
43. El Wataniyeh El Masriyeh (Egyptian National) Party
44. El Wayii (Awareness) Party
45. Etihad El Masrii El Arabii (Egyptian Arab Union) Party
46. Ghad El Mostaqaliin El Godod (Tomorrow of the Newly Independent) Party
47. Ghad El Thowarah El Masrii (Egyptian Revolution of Tomorrow) Party
48. Hadarah (Civilization) Party
49. Hoqoq El Insanwa El Mowataneh (Human Rights and Citizenship) Party
50. Horaas El Sawra (Revolutionary Guards) Party
51. Masr (Egypt) Party
52. Masr El Hadisa (Modern Egypt) Party
53. Masr El Hariyeh (Free Egypt) Party
54. Masr El Qawiyah (Strong Egypt) Party
55. Masr El Qawmii (Nationalist Egypt) Party
56. Masr El Sawra (Egyptian Revolution) Party
57. Masr Mustaqbal (Future Egypt) Party
58. Masr October (Egypt October) Party
59. Masrina (Our Egypt) Party
60. Nasr Bilaadi (My country's victory) party
61. Sout Masr (Egypt Voice) Party



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