



American ideals. Universal values.

BLUEPRINT

How to Navigate Egypt's Enduring Human Rights Crisis

BLUEPRINT FOR U.S. GOVERNMENT POLICY

January 2016

Human Rights First

American ideals. Universal values.

On human rights, the United States must be a beacon. Activists fighting for freedom around the globe continue to look to us for inspiration and count on us for support. Upholding human rights is not only a moral obligation; it's a vital national interest. America is strongest when our policies and actions match our values.

Human Rights First is an independent advocacy and action organization that challenges America to live up to its ideals. We believe American leadership is essential in the struggle for human rights so we press the U.S. government and private companies to respect human rights and the rule of law. When they don't, we step in to demand reform, accountability and justice. Around the world, we work where we can best harness American influence to secure core freedoms.

We know that it is not enough to expose and protest injustice, so we create the political environment and policy solutions necessary to ensure consistent respect for human rights. Whether we are protecting refugees, combating torture, or defending persecuted minorities, we focus not on making a point, but on making a difference. For over 30 years, we've built bipartisan coalitions and teamed up with frontline activists and lawyers to tackle issues that demand American leadership.

Human Rights First is a nonprofit, nonpartisan international human rights organization based in New York and Washington D.C. To maintain our independence, we accept no government funding.

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“Egypt has a very long, very proud history of independence and leadership. Egypt has really always been the hub of the Arab world and of this region. And we have no doubt that, with the right economic choices and the right choices about governance, Egypt is going to continue to play this vital role.

That’s why the United States is so deeply committed to this relationship. We are confident that Egypt has really good reason to ensure that the fundamental rights of its citizens are protected, that vital principles such as due process and freedom of press and association are cherished, and that women are empowered, and that every Egyptian has the right to participate peacefully within a truly democratic political process. No great country—and Egypt is without question a great country—should settle for any less.”

–Secretary of State John Kerry at the U.S.-Egypt Strategic Dialogue,
August 2, 2015

Egypt Timeline 2009–2015

2009 2010 2011

JUNE 4



President Obama in Cairo: “But I do have an unyielding belief that all people yearn for certain things: ... they are human rights, and that is why we will support them everywhere.”

JANUARY 25



Inspired by the removal from office of President Zein El Abdine ben Ali in Tunisia on January 14, mass protests broke out in Egypt calling for an end to police brutality, lifting the Emergency Law, and an end to President Mubarak’s thirty year rule.

FEBRUARY 11: President Mubarak resigns, Supreme Council of the Armed Forces (SCAF) assumes power.

MARCH 9: Protesters are detained by the military and some are tortured in the Egyptian Museum. Around 150 are tried and convicted by military courts.

APRIL: *How to Seize the Moment in Egypt.*

MAY 19: President Obama: “[Egypt] can set a strong example through free and fair elections, a vibrant civil society, accountable and effective democratic institutions, and responsible regional leadership. ... We look forward to working with all who embrace genuine and inclusive democracy.”

OCTOBER 9



Maspero Massacre: Military police kill at least 25 and wound over 200 mainly Coptic Christian demonstrators protesting against the SCAF outside

the Maspero television building in downtown Cairo.

NOVEMBER 19-21: Clashes between protestors calling for the SCAF to step down and security forces lead to at least 50 deaths and 1500 injuries in central Cairo.

NOVEMBER: *Promoting Reform in Egypt.*

NOVEMBER 28: The first round of post-Mubarak parliamentary elections are held, resulting in a sweep for Islamist parties, with the Muslim Brotherhood’s Freedom and Justice Party the biggest winner.



2012

JANUARY: *Egypt’s Transition to Democracy, One Year On.*

JULY 14: Secretary of State Clinton: “The United States supports the full transition to civilian rule with all that entails.”

JUNE 15: A ruling by the Supreme Constitutional Court to dissolve the Islamist dominated parliament is enforced by the military.

JUNE 30



Mohamed Morsi is sworn in as Egypt’s first civilian president.

NOVEMBER 18–21: Non-Islamist members of the constitutional assembly resign, saying that the new draft will lead to Islamist domination of the government.

NOVEMBER 22: Fearing that the courts will step in to



dissolve the constitutional assembly, President Morsi issues a new constitutional decree, giving him powers to override the judiciary. He

immediately faces accusations that he and the Brotherhood are engaged in a lawless power grab.

NOVEMBER 24: The judiciary condemns Morsi’s decree as an unprecedented assault on judicial independence.

NOVEMBER 29: The Islamist-dominated constitutional assembly produces a new draft constitution that undermines legal safeguards for basic freedoms.

DECEMBER: *How to Make Change in Egypt a Human Rights Success Story.*

COLOR KEY**EVENTS IN EGYPT****HUMAN RIGHTS FIRST REPORTS****U.S. GOVERNMENT ACTIONS/STATEMENTS****2013**

JANUARY 25: Protesters gather in Tahrir Square to mark the two-year anniversary of the uprising and to object to Morsi's abuse of power.

MARCH: *Egypt's Human Rights Crisis Deepens.*

MAY: *Egypt: Attacks on the Media.*

MAY 20: U.S. State Department spokesperson Patrick Ventrell: "On Egypt, we are deeply concerned by the growing trend of efforts to punish and deter political expression in Egypt."

JUNE 21: Defense Minister Sisi warns President Morsi that he must take steps to heal divisions or else the military will be forced to intervene.

JUNE 30: Millions participate in an anti-Morsi demonstration.



JULY 3: Sisi announces that Morsi has been deposed.

JULY 3: President Obama: "We are deeply concerned by the decision of the Egyptian Armed Forces to remove President Morsi and suspend the Egyptian Constitution. I now call on the Egyptian military to move quickly and responsibly to return full authority back to a democratically elected civilian government as soon as possible through an inclusive and transparent process, and to avoid any arbitrary arrests of President Morsi and his supporters."

JULY 8: Soldiers and police open fire on protesters opposing the military coup against deposed President Morsi, killing at least 50.

JULY 27: State Department Spokesperson Jen Psaki: "The law does not require us to make a formal determination ... as to whether a coup took place, and it is not in our national interest to make such a determination."

AUGUST 1: Secretary Kerry: "The military was asked to intervene by millions and millions of people, all of whom were afraid of a descent into chaos, into violence. And the military did not take over, to the best of our judgement—so far. To run the country, there's a civilian government. In effect, they were restoring democracy."

AUGUST 14: Riot police backed by the military drive Morsi supporters from two sit-ins in Cairo, killing hundreds and wounding thousands more.

AUGUST 15: President Obama: "The United States strongly condemns the steps that have been taken by Egypt's interim government and security forces. We deplore violence against civilians. We support universal rights essential to human dignity, including the right to peaceful protest. ... While we want to sustain our relationship with Egypt, our traditional cooperation cannot continue as usual when civilians are being killed in the streets and rights are being rolled back."

SEPTEMBER 5: Interior Minister Mohamed Ibrahim narrowly escapes from a suicide bombing of his motorcade as the crackdown on Morsi supporters continues with more killings of protesters and arrests.

SEPTEMBER 23: A court bans all Muslim Brotherhood activities.

SEPTEMBER 24: President Obama: "[O]ur approach to Egypt reflects a larger point: The United States will at times work with governments that do not meet, at least in our view, the highest international expectations, but who work with us on our core interests."

OCTOBER: The United States suspends delivery of military hardware to Egypt out of concern over the worsening human rights situation.

NOVEMBER 3: Secretary Kerry: "I welcomed [Egyptian Foreign Minister Nabil] Fahmy's restatement of the interim government's commitment to the roadmap that will move Egypt forward on an inclusive path to democracy and to economic stability. . . . The roadmap is being carried out to the best of our perception."

DECEMBER: *How to Turn Around Egypt's Disastrous Post-Mubarak Transition.*

DECEMBER 25: Egypt's interim government declares the Muslim Brotherhood a terrorist organization.

2014

JANUARY: *Back to Square One: The U.S. Government and Political Change in Egypt.*

MARCH 24: Egyptian court sentences 529 members of the Muslim Brotherhood to death. Over 40,000 Brotherhood supporters are reported to be held in detention.

MAY: Former army chief Abdel Fattah al-Sisi wins the presidential election with a reported 96.9% of the vote.

DECEMBER: *How to Prevent Egypt Slipping into a Deepening Crisis.*

2015

MARCH: The United States lifts the suspension on the delivery of military hardware, despite the lack of improvement in human rights conditions.

MAY: Morsi is sentenced to death, having previously been sentenced to twenty years in prison on other charges.

JUNE 29: Prosecutor General Hisham Barakat is assassinated by a car bomb outside his home in Heliopolis as clashes between insurgents and the security forces, and acts of terrorism continue to rise.

AUGUST 2: Secretary Kerry: "We have confidence in Egypt, and it's important to be beginning to rebuild elements of our relationship based on this Strategic Dialogue. ... The American people are committed to the security and to the economic well-being of the Egyptian people, guided by the vibrancy of your own civil society, your politics, your free and fair democratic process."

Introduction

On the fifth anniversary of the mass Tahrir Square protests that ousted former President Mubarak, Egyptians are suffering severe repression and political instability. As this crisis deepens, Washington continues to send troubling mixed messages about its commitment to trying to resolve it. The U.S. government should, at long last, use its considerable influence to support civil society and advance human rights in Egypt. Such an approach would both help Egyptians and serve U.S. interests.

This blueprint draws on dozens of interviews with Egyptian human rights defenders, civil society activists, journalists, academics, families of detainees, lawyers, government officials, and others, conducted during a research trip in January 2016. It examines conditions in Egypt, the strengths and shortcomings of the U.S. response, and potential opportunities for the U.S. government to support civil society and strengthen respect for human rights.

This year will be a defining one as violent extremism, regional conflicts, and political and economic mismanagement threaten Egypt—and as President Obama shapes his legacy in the Middle East. In 2009, he delivered a message of hope in Cairo: “America does not presume to know what is best for everyone, just as we would not presume to pick the outcome of a peaceful election. But I do have an unyielding belief that all people yearn for certain things: the ability to speak your mind and have a say in how you are governed; confidence in the rule of law and the equal administration of justice; government that is transparent and doesn’t steal from the people; the freedom to live as you choose. These are not just American ideas; they

are human rights. And that is why we will support them everywhere.”

Much has changed in the intervening years. In his speech to the U.N. General Assembly in September 2015, President Obama opted for analysis rather than exhortation, noting that: “repression cannot forge the social cohesion for nations to succeed. The history of the last two decades proves that in today’s world, dictatorships are unstable. The strongmen of today become the spark of revolution tomorrow.” He continued: “I believe a government that suppresses peaceful dissent is not showing strength; it is showing weakness and it is showing fear. History shows that regimes who fear their own people will eventually crumble, but strong institutions built on the consent of the governed endure long after any one individual is gone.”

Yet the U.S. government’s handling of the enduring crisis in Egypt has too often failed to draw obvious conclusions from the Administration’s analysis of the detrimental impact of human rights violations on stability and progress. As a result, many Egyptians view the Obama Administration as supportive of the repressive leadership in Cairo. This support for the dictatorship will render Egypt less stable, undermine U.S. efforts to prevent violent extremism, and further damage Washington’s credibility in the region.

“Some people say at least Egypt isn’t as bad as Syria but this is how Syria started—with silencing liberal dissent,” human rights defender Dr. Ahmed Abdullah told Human Rights First in Cairo in January 2016.

This blueprint follows a series of recent Human Rights First reports on Egypt since the fall of the Mubarak regime in February 2011, including *How to Prevent Egypt Slipping into a Deepening Crisis*, December 2014; *Back to Square One*:

The U.S. Government and Political Change in Egypt, January 2014; *How to Turn Around Egypt's Disastrous Post-Mubarak Transition*, December 2013; *Egypt: Attacks on the Media*, May 2013; *Egypt's Human Rights Crisis Deepens*, March 2013; *How to Make Change in Egypt a Human Rights Success Story*, December 2012; *Egypt's Transition to Democracy One Year On*, January 2012; *Promoting Reform in Egypt*, November 2011; and *How to Seize the Moment in Egypt*, April 2011.

Enduring Human Rights Crisis in Egypt

Widespread human rights violations have taken place under the rule of President Abdel Fattah al-Sisi, including the killing of thousands of protesters, the detention of tens of thousands of political prisoners without regard for their legal rights, increasing reports of torture, disappearances, and even the death-squad-style killings of political opponents.

Egypt's delegation appeared before the United Nations Human Rights Council in March 2015 for its Universal Periodic Review process, and accepted recommendations to issue a new NGO law to "fully guarantee to the civil society a set of rights in conformity with international standards" and to "fully implement its international obligations to ensure the protection of human rights defenders and other civil society actors." Yet the Sisi administration's subsequent actions are at odds with its pledges, and many activists have been arrested, driven underground, or forced into exile.

Various forces within the government, including several intelligence agencies, are competing for influence, resulting in multipolar sources of power and splintered governance.

Experienced civil society actors often negatively compare the current situation to that under former President Mubarak, where, even if the laws governing the operation of civil society organizations were repressive, there was in practice some space in which to operate, and some state institutions operated with a degree of competence. The present regime relies on newer, more arbitrary, tools of repression, including a widespread campaign of disappearances.

Today's government occupies and controls virtually all of the political space in Egypt, stifling civilian dialogue and the formation of viable and credible opposition parties. The privileged centers of powers in Egypt include the army, intelligence services, police, and the judiciary.

The parliamentary elections that took place in the fall of 2015 yielded an exceptionally low voter turnout. The lack of genuine opposition parties discouraged vast swaths of the electorate, who viewed the elections as a crude means for the government to claim democratic legitimacy, albeit in name only.

Trust in the political process is low. A common analysis is that the current Sisi regime is "unsustainable" because of a combination of acute economic pressures, infighting between powerful government agencies, and the resumption of popular discontent. Some predict an internal coup; others warn of a violent uprising "worse than we've seen before" and that guns—either originating from the Libyan conflict or locally obtained—are now easily available in Cairo with pistols fetching a street price of around EGP 700 (about \$90).

Others say replacing Sisi with another face from the military or elsewhere from Egypt's "deep state" won't alter the country's fundamental political crisis. There's hollow laughter from some veteran civil society figures about the prospect of yet another "transitional period."

Anniversary Crackdown

Despite rumors of an anticipated release of some political prisoners in the run-up to the anniversary of January 25, the government seems to be moving preemptively against anniversary-related protests, arresting a wide range of activists and former activists. In recent weeks, it has also closed down art spaces in Cairo, including the Townhouse Gallery.

In the weeks leading up to January 25, 2016 security forces arrested dozens of administrators of Facebook pages on charges including support for the now-banned Muslim Brotherhood, for "inciting against state institutions," and for "calling for marches on January 25."

Egyptian poet Omar Hazek was arrested at Cairo airport as he tried to board a plane to accept a Freedom of Expression award in the Netherlands, and the offices of privately-owned news site Masra al-Arabia were raided and closed.

On January 14 prominent medic Dr. Taher Mokhtar was arrested at his home and accused by the prosecution of "possession of publications that call for the overthrow of the regime." He is also a member of the "Medical Neglect in Places of Detention is a Crime" campaign that advocates for health care for Egyptian prisoners and of the rights and freedom committee at the Egypt Doctors' syndicate.

Also in January, Egypt's cabinet approved a presidential decree criminalizing the promotion of terrorist symbols—these would include those depicting hand gestures such as the four-finger salute, which has become a symbol of support for the protesters killed in Raba'a Square in August 2013 and therefore as a sign of support for the Muslim Brotherhood, and the clenched fist of the April 6 Youth Movement.

Egypt's wholesale denial of the right to assembly, and repression of freedom of association and freedom of expression, reduces space for political discussion and weakens moderate, nonviolent, secular, and religious critics essential for open, responsive governance. This vacuum is filled by disinformation and conspiracy theories, and provides fertile ground for violent extremism to take root and flourish. With few checks on the actions of state authorities, the victims of corruption, incompetence, or abuse have no redress—fueling grievances that can be exploited by violent extremists.

Civil Society Targeted

Local civil society organizers remain exceptionally vulnerable. Some activists have fled the country after receiving death threats or hearing that they are on a list of people targeted for arrest. Numerous human rights defenders are already in jail or subject to prosecution. Many NGOs have drastically pared back their work, or suspended their activities in the face of intimidation, harassment, and difficulties in accessing funding. They fear arrest, travel bans, and targeted violence, while expecting their offices to be forced to close. As more repressive measures have been implemented in the past year, the threat to civil society has increased.

Leading human rights defenders have been prevented from travelling. Mohammed Lofty,

Executive Director of the Egyptian Commission for Rights and Freedoms, told Human Rights First that he was prevented from leaving Cairo on June 2, 2015 to travel to Berlin, and had his passport confiscated at the airport. He was told by unidentified security officers there that the authorities would be in touch with him to pursue the case but he has heard no more.

Local civil society figures estimate that dozens of activists have been effectively banned from travel in recent months.

Esraa Abdel Fatah, a prominent activist since before 2008, told Human Rights First that she was due to begin a six-month fellowship at Stanford University on January 15, 2015. She says she was assured she was not the subject of a travel ban but when she attempted to leave Cairo airport on January 13, 2015 she was told she could not travel, although she wasn't given a reason and no charges had been brought against her. She says she is effectively banned from leaving the country.

Some activists say that even if they are allowed to travel to Geneva for the 2016 March session of the U.N. Human Rights Council they are too intimidated to go for fear of reprisals by the Egyptian government on their return.

Local LGBT groups told Human Rights First that the targeting of civil society has heavily impacted their work, not least in trying to find lawyers willing to represent those charged with crimes such as "habitual debauchery." One group told Human Rights First it had recorded over 300 arrests in the last two years on such charges, but that lawyers "are bullied and intimidated into not taking these cases by the authorities" and that as a result the real numbers of such charges are hard to ascertain.

Disappearances

In recent months an especially disturbing form of state repression has emerged, with local human rights groups documenting hundreds of cases of disappearances since mid-2015.

Most of those seized reappear within the criminal justice system within a few weeks, and a minority are released. Several human rights defenders told Human Rights First they now fear disappearance more than arrest.

According to local activists, the National Security Agency and Military Intelligence are typically responsible for these disappearances, where people are arrested without a warrant, often tortured, including with electric shocks, and held in secret for weeks before being charged. Those disappeared are sometimes forced to sign something while blindfolded and don't know what they've signed.

Local rights group the Egyptian Commission for Rights and Freedoms (ECRF) told Human Rights First it had documented 340 disappearance cases between August 1 and November 30, 2015, and that those detained are believed to be held in "secret places or illegal detention places" such as the premises of National Security agencies, including Lazoghli in Cairo, Central Security Forces camps, National Security HQ in Tanta, and military prisons including El-Azzoly prison, or the new El-Azzoly prison located at the El-Galaa military area in Ismailia inside the headquarters of the Second Field Army Command.

"It's a rate of around three a day we've documented and it's still going on," Mohammed Lotfy of ECRF told Human Rights First, "but we believe there are many cases unreported, and in places such as the Sinai there's really very little information about what's going on."

Those abducted do not always reappear within weeks. There are over a dozen cases of longer-term disappearances dating from mid-2013. Maha Mekkawy told Human Rights First in Cairo that her husband Rafaat (known as Ashraf) Shehata, who is 49, was disappeared on January 13, 2014. She said he told her that morning he had been summoned to have coffee with someone from National Security and never returned. Despite repeated attempts to find out from the authorities what happened to him and where he is, there has been no official confirmation of his whereabouts. In recent months some released detainees say he is being held, or until recently was held, in a prison in the military complex at Al-Azouli. "This is a forbidden zone and we can't go there to try to find out any more about him," she said.

Human rights defender and ECRF board member Dr. Ahmed Abdullah told Human Rights First he had been targeted by state security and military intelligence forces since the organization started to publicize disappearances, and that just a few days prior to meeting Human Rights First in Cairo he had narrowly escaped abduction.

"Three men in civilian clothes went to a coffee shop where I often go in El Agouza. They came and asked the staff there about me and even described what I was wearing and the bag I was carrying. It was a near miss," he said.

Restrictive Laws

The Sisi government has a wide range of expansive restrictive laws that it uses to limit freedom of peaceful assembly and expression and to block the activities of civil society organizations. Citing the need to combat terrorism as a catchall pretext, the government has created sweeping legal mechanisms to

further expand its powers to detain and prosecute its critics.

A centerpiece of this framework is the Counterterrorism Law issued in August 2015, which imposes harsh punishments on journalists for legitimate activities and allows for indefinite detention without a court order. This law makes publishing news about military operations and counterterrorism measures which contradict official reports a crime subject to up to two years' imprisonment. If journalists cite non-military sources, they can be subjected to imprisonment, deportation, or house arrest, and the law also establishes penalties for failing to cite official death tolls. The law makes reliable, independent reporting of terrorist and counterterrorist incidents in Egypt a criminal offense.

Another disturbing aspect of the Counterterrorism Law is its creation of a new category of detention, "restraining," which allows the police to detain someone solely on the basis of suspicion for a seven day period, which prosecutors can then renew an unlimited number of times without judicial oversight. This kind of indefinite detention was a feature of President Mubarak's regime as part of the state of emergency that was in force for over 30 years. The removal of these exceptional powers was a major demand of the protesters who brought an end to Mubarak's rule in 2011.

Egypt's government has made a concerted effort to crackdown on civil society's access to funding from abroad, without which few if any organizations could operate. Under amendments to Article 78 of the penal code decreed by President Sisi in September 2014, prosecutors can seek life in prison for receiving foreign funding "with the aim of pursuing acts harmful to national interests or destabilizing the general peace or the country's independence

and its unity.” These broad terms pose a severe threat to human rights work. The Egyptian authorities have long realized that dependence on foreign funding is a vulnerability for civil society organizations, especially those that might criticize government policies and highlight abuse. The authorities can easily discredit their critics by pointing out that they are supported by foreign entities, a necessity which the authorities are pleased to perpetuate by deterring potential local donors from supporting independent activists in sensitive areas, like human rights. State dominance of the economy and of the media means that wealthy individuals with the means to support local activism can suffer harm to their business interests and public reputation if they are seen as critical of the government.

These latest measures date back to December 2011, when the Supreme Council of the Armed Forces held power, investigated NGOs that received foreign funding, and convicted and sentenced staff from several international organizations—including Freedom House, the National Democratic Institute, the International Republican Institute, and the International Center for Journalists—for allegedly operating without authorization despite their repeated attempts to become registered entities. The position of both international and Egyptian civil society has deteriorated since.

In a more recent development, in June 2015 government investigators working at the behest of a judge overseeing the four-year-old case against international and Egyptian NGOs visited the main office of the Cairo Institute for Human Rights Studies (CIHRS) and asked the staff to produce documents regarding the Institute’s registration, founding contract, and statute, as well as the budgets, financial accounts, and funding contracts for the past four years. The

investigators had previously visited the Egyptian Democratic Academy (EDA) and looked into their activities, funding sources, and whether they were in compliance with the current law on associations. Four EDA staff members were banned from traveling outside Egypt.

Egypt’s restrictive anti-protest law, issued in 2013 by then-interim president Adly Mansour, is another tool often used by authorities to imprison human rights defenders. Many of those who have been jailed were targeted by the Egyptian government for speaking out against the country’s crackdown on civil society. In September 2015, Egypt pardoned around 100 political prisoners, including prominent human rights lawyer Yara Sallam, who earned her Masters of Law (LL.M.) in international human rights law from the University of Notre Dame in the United States. This move was long overdue and suggests that Egypt is not impervious to international pressure. But reports indicate that the newly elected Parliament will not review the anti-protest law, which remains a stark denial of a basic political freedom for the Egyptian people.

Religious Minorities Targeted

The protection of religious minorities is vital to the future stability of Egypt. Religious persecution is not new in Egypt; Coptic Christians have been discriminated against for centuries under various governments. But violence against Copts and other religious minorities has spiked in recent years, fueled by the political turbulence and the erosion of law and order in the post-January 2011 period.

As the U.S. government’s 2014 International Religious Freedom Report on Egypt observed, the Morsi government and the following interim government “failed to prevent, investigate, or prosecute crimes targeting members of religious

minority groups” including Christians, and the government “continued to prosecute individuals for denigrating religions.” For many Copts, President Sisi is perceived as a hero who helped to rescue them from the Morsi government and the Muslim Brotherhood. But failure to hold to account those who incite and commit acts of violence against Christians remains the norm, and there has been no change in discriminatory laws that require Christians to obtain special permits to build or repair churches or religious buildings—conditions that are not placed on the majority Muslim population. Egypt’s laws continue to punish blasphemy, restrict freedom of religion, and establish divergent treatment for people of different religious beliefs. Religious minorities also remain threatened by other forms of repression including limits placed on freedom of expression. In June 2014 a Coptic man was sentenced to six years in prison for “liking” a Facebook page deemed offensive.

Egyptian authorities need to enhance protections for the Coptic community, to be more responsive to reports of assaults or harassment of religious minorities by extremists, and to hold accountable those who incite and take part in sectarian violence. The current government also should remove some of the long-standing restrictions on freedom of religion and deconstruct the building blocks of legal and societal discrimination targeting religious minorities, which would include repealing abusive laws prohibiting blasphemy and defamation of religions, repealing the decree banning Baha’is, and implementing a unified law for the construction and repair of all places of worship that protects the rights of religious minorities.

U.S. Government Response

Looking back on five years of U.S. policy towards a key regional ally on an unpredictable and volatile course: from mass protests resulting in the removal of a dictator; to the election of a civilian president; to his removal by a military coup backed by mass protests; to the consolidation of a new authoritarian order under general turned president Abdel Fattah al-Sisi, it is important to recognize that U.S. government policy priorities and aspirations have not been met. Egypt is in a much worse situation today, in almost every respect, than it was in December 2010. Human rights conditions have worsened precipitously, and there has been no progress towards democracy. These developments have been a disaster for the Egyptian people and have not served U.S. interests.

Of course, the calamitous events that have befallen Egypt were not willed or caused by the United States. Nevertheless, the challenges facing a country like Egypt, with weak traditions of democratic, pluralistic governance, were predictable and indeed predicted—by, among others, President Obama. The president cautioned in his speech on May 19, 2011: “Change of this magnitude does not come easily.” He rightly noted that it would be “years before this story reaches its end. Along the way there will be good days and there will be bad days... calls for change may give way, in some cases, to fierce contests for power.”

In its relations with Egypt the Obama Administration has too often made strong prescriptive statements of what must or will happen and then fallen short of implementing policies to make these desired outcomes a

reality. In short, rhetoric has outrun practical policy.

For example, in May 2011, President Obama outlined a new policy approach to the Middle East in which it would be “a top priority” to “promote reform across the region, and to support transitions to democracy.” He noted that the authoritarian status quo “is not sustainable” and committed the United States to supporting core principles, including human rights, as a priority. With respect to Egypt specifically the president said that “we will oppose an attempt by any group to restrict the rights of others, and to hold power through coercion and not consent.” Few Egyptians today would say that the U.S. government has consistently abided by this pledge.

President Obama changed course and set out his reasoning in his address to the United Nations General Assembly in September 2013. His new priorities for U.S. policy in the Middle East were not the promotion of human rights and democratic principles, but the defense of other national interests of the United States, like energy security, non-proliferation of weapons of mass destruction, and countering terrorism. Promoting human rights and political reform, while still important, were no longer to be a top priority. Crucially, they became objectives that the United States would not pursue unilaterally.

While it is preferable that the United States should work multilaterally to achieve its foreign policy goals in almost all cases, the explicit demotion of human rights and democratic reform represented a shift. President Obama even conceded, with specific reference to Egypt, the need to “work with governments that do not meet... the highest international expectations, but who work with us on our core interests.”

The administration cannot escape the fact that this decision to sometimes overlook or downplay human rights concerns in deference to “core” interests contradicts the promises it made in early 2011, when President Obama noted the insufficiency of the “narrow pursuit” of core interests, and set the United States firmly against the unsustainable status quo of societies “held together by fear and repression.”

Egypt today is a society held together by fear and repression, but it is repression that the Obama Administration has decided to support.

This shifting policy underlies the mixed messages on human rights and democracy that the administration has communicated over the last five years.

Mixed Messages on Human Rights

Since those early days of hope Egypt has been in a virtually constant state of political upheaval, and U.S. government policy towards the crisis has often been opaque and seemingly confused. In spite of mounting evidence to the contrary, Egypt has generally been characterized by U.S. officials since 2011 as taking a bumpy path in the right direction to democracy.

The U.S. government, in service of a few narrowly defined goals—including maintaining cooperation on counterterrorism, stability in the Suez Canal, continued adherence to the Camp David Accords, and support for the U.S. manufacturing base—appears unwilling to move beyond an approach where it supports the central power in Cairo—whether Mubarak, direct military rule by the Supreme Council of the Armed Forces, the Muslim Brotherhood, or the current Sisi government.

Washington has generally chosen to stay quiet about its close military ally's crackdown on civil

society. Measured against President Obama's rhetoric supporting civil societies operating under repressive governments, including specific citations of Egypt, U.S. policy appears disjointed, incoherent, and sometimes contradictory, not least in providing military aid to a series of Egyptian regimes.

Leading civil society activists see a vacuum of ideas and leadership on human rights from the American government and a yawning gap between rhetoric and the realities of the bilateral relationship. The U.S. government's tone deafness in addressing Egyptian civil society has long been a problem. And, in the absence of a robust and independent civil society, further political unrest in Egypt threatens the future of U.S. national interests.

In March 2015 President Obama lifted the hold on military aid to Egypt, which was originally placed in October 2013 to demonstrate U.S. concern over the military coup which brought President Sisi to power, overthrowing the democratically elected civilian president Mohamed Morsi, and the mass killings of pro-Morsi protesters in August 2013. The Administration's original statement announcing the hold in 2013 said that it would remain until Egypt had achieved "credible progress toward an inclusive, democratically elected civilian government through free and fair elections." But when the hold was lifted, the Sisi government had made little progress in this regard. Parliamentary elections had yet to be held and Sisi had issued worrying decrees affecting due process such as Law 136, which led to the prosecution of civilians under military jurisdiction. Releasing the aid at this time, even though the conditions set by the Obama Administration remained unmet, sent a troubling message on human rights while legitimating the acts taken by the Sisi regime.

Congress continues to weigh in on the human rights situation, however. The Senate Committee on Appropriations, in its report accompanying the FY2016 Department of State, Foreign Operations, and Related Programs Appropriations Bill, said that it "expects that respect for human rights and the rule of law remain part of the strategic dialogue" between the United States and Egypt.

Senior U.S. officials who travel to Egypt routinely miss opportunities to raise human rights concerns in high-level dialogues. For instance, CIA Director John Brennan met with President Sisi in Cairo in April 2015 in talks geared towards "laying the foundations for peace and stability in the Middle East," according to an official statement released by Sisi's office after the meeting. There is no indication whether or not Director Brennan raised the issue of human rights with President Sisi and other Egyptian leaders. Director Brennan was in Cairo again on January 18–19 conducting talks on counterterrorism cooperation. There is no indication from reports of the meetings that human rights were on the agenda at all. This is a notable omission, given the severity of the violations taking place in Sisi's Egypt, and the "direct link" between repression and violations of human rights and the grievances that feed violent extremism, repeatedly noted by President Obama while promoting his global initiative to counter violent extremism.

U.S.-Egypt Strategic Dialogue

On August 2, 2015, Secretary Kerry traveled to Cairo for the U.S.-Egypt Strategic Dialogue, which had last been held in 2009. He sat down with Egyptian Foreign Minister Sameh Shoukry and also met with President Sisi to discuss Egypt's counterterrorism efforts. Ahead of

Secretary Kerry's visit, the State Department issued a statement saying that the dialogue "reaffirms the United States' longstanding and enduring partnership with Egypt."

Prior to the Strategic Dialogue, the Egyptian government stepped up its harassment and disruption of the legitimate activities of human rights organizations. On July 30 the Egyptian authorities notified the Hisham Mubarak Law Center (HMLC), one of Egypt's leading independent human rights organizations, that it was under investigation by a judicial committee. This incident was a continuation of a sustained pattern of harassment and intimidation of independent civil society organizations and nonviolent government critics in Egypt.

Also in advance of this high-profile event, a bipartisan group of prominent U.S. Senators issued a letter urging Secretary Kerry to raise civil society concerns during the trip. Senator Ben Cardin (D-MD), ranking member of the Senate Foreign Relations Committee, along with Senators John McCain (R-AZ), Tim Kaine (D-VA), Marco Rubio (R-FL), Chris Coons (D-DE), Mark Kirk (R-IL), and Bob Casey (D-PA) stated: "A key element of U.S. foreign policy has always been and must continue to be support for human rights, political reform, and civil society. In the U.S.-Egypt relationship, we are concerned that these core principles seem to be no longer a priority. Policies pursued by the Egyptian authorities are fueling instability. ... [W]e insist that discussion of human rights, political reform, and civil society freedoms are a central element of the [dialogue] agenda."

Yet in the Strategic Dialogue itself, Secretary Kerry ultimately conceded too much to his Egyptian interlocutors. He failed to clearly state that the Egyptian government is responsible for widespread violations of human rights that are detrimental to stability and security in Egypt and

harmful to the bilateral relationship between the United States and Egypt. By failing to push back against implacable refusal from the Egyptian side to engage in honest discussion about countering terrorism while protecting human rights, he handed the Sisi regime the seal of approval from the United States that it was seeking.

The U.S. government should have anticipated Egyptian recalcitrance. There was no indication at the time of the dialogue that the Sisi government was prepared to make any steps in this direction. After all, the dialogue took place at a time when serious human rights abuses were taking place at a level unprecedented in Egypt's modern history. And the Egyptian government's response to criticisms of its human rights record has been one of brazen denial.

It was disappointing and harmful to U.S. interests when Secretary Kerry answered a question about the need for the Egyptian government to "show greater respect for human rights" with an equivocal response, saying that "it's a very difficult choice for Egypt because there is evidence of engagement in violence by certain people and certain leaders."

Secretary Kerry was also wrong to suggest that holding elections would demonstrate the Egyptian government's intentions to show greater respect for human rights. Elections were held regularly under President Mubarak and were neither free nor fair. With much of the political opposition already in jail and opposition political parties in disarray, parliamentary elections under President Sisi in 2015 contributed nothing to ending the alarming cycle of violence or fostering national reconciliation.

Military Assistance Conditionality

What the U.S. government actually does about military assistance speaks much more loudly about human rights conditions in Egypt than any speech delivered by the president, the Secretary of State, or any other senior official. The administration and Congress must adhere to certain core principles if they want to signal support for human rights and peaceful, democratic reform in Egypt. Words in this context are not just cheap; they are empty, and in the eyes of many Egyptian human rights activists have been shown to be so.

Secretary Kerry used the national security waiver to resume aid to Egypt in May 2015, enabling the Administration to sidestep the human rights and democracy conditions attached to Egypt's military aid package by Congress in the FY2015 appropriations act.

The State Department's report to Congress invoking this waiver noted that "Egypt and the United States have common interests in countering transnational threats in an increasingly volatile region." It observed, "While Egypt has implemented parts of its 'democracy roadmap,' the overall trajectory of rights and democracy has been negative. A series of executive initiatives, new laws, and judicial actions severely restrict freedom of expression and the press, freedom of association, freedom of peaceful assembly, and due process, and they undermine prospects for democratic governance. Since July 2013, human rights NGOs and civil society activists describe a steadily shrinking space for peaceful dissent, leading some of them to self-censor many of their political activities that could be deemed controversial, or even leave the country." Yet despite these human rights violations, the State Department deemed delivering military aid to be in the interests of U.S. national security.

The U.S. Appropriations Act for 2016 included \$1.3 billion in Foreign Military Financing (FMF) to Egypt, 15 percent of which is subject to five provisions related to democratic reforms that the Secretary of State must certify and report on to the Committees on Appropriations. The Egyptian government must (1) take steps to advance democracy and human rights, including the rights of religious minorities and women; (2) take action to protect freedom of expression, association, and peaceful assembly as well as the activities of civil society organizations and the media; (3) work towards releasing political prisoners and upholding rule of law; (4) hold security forces more accountable for abuses of human rights; and (5) allow U.S. officials regular access to areas of the country where assistance is used.

But the Secretary of State may waive these provisions if "to do so is important to the national security interest of the United States." If a waiver is invoked, the Secretary must submit a report to the Appropriations Committees justifying this decision and clarifying why the provisions cannot be met.

Inadequate Support for Human Rights Defenders

Activists in Egypt and elsewhere have long complained of a lack of U.S. government-wide coherence when it comes to protecting and promoting civil societies abroad—with some parts of the administration supplying weapons and political support to successive Egyptian dictatorships that have cracked down on civil society, and other parts of the U.S. government speaking out against the repression.

While an association with the U.S. government is often negative or even dangerous for Egyptian civil society actors who fall victim to smears and conspiracy theories claiming they

are America's puppets out to undermine the Egyptian government, several human rights defenders told Human Rights First they wanted more public statements of support from Washington. Some want the U.S. embassy in Cairo to offer to send trial observers to their court cases—which is not happening at all now.

In May 2013, the State Department issued a document entitled “U.S. Support for Human Rights Defenders,” which made headway in addressing concerns of inconsistent engagement by embassies with civil society and in setting realistic expectations about what the United States can and cannot do to assist human rights defenders. It is a useful document for diplomats and civil society in outlining the sorts of actions taken by U.S. officials to support activists. But almost three years later, it has still not been translated into Arabic, the U.S. Embassy Cairo website has not posted it, and Egyptian human rights defenders and even U.S. government officials engaged on human rights issues abroad have almost never heard of it.

The presidential memorandum on “Deepening U.S. Government Efforts to Collaborate with and Strengthen Civil Society,” issued in September 2014, was a welcome measure, but its effect on activists’ lived experience in Egypt has been limited. The administration’s rhetorical commitment to help civil society, especially those in repressive countries, has not translated to engagement with Egyptian civil society by other parts of the U.S. government beyond the traditional elements in the State Department. The Department of Defense has not demonstrated its shared responsibility for challenging undue restrictions on civil society and continues to issue statements praising the military partnership between Egypt and the United States.

Recommendations

The United States should not surrender its values and further tarnish its international reputation as a global leader on human rights in its relationship with a key regional partner and longtime ally. U.S. efforts should be focused on using the significant leverage it still has, and on developing further avenues of influence in a critical relationship for U.S. interests in the region.

As part of its bilateral and multilateral diplomatic engagement on Egypt, the U.S. government should implement the following recommendations.

Statements on Human Rights and Democratic Progress

- The U.S. government should continue to make clear its support for civilian democratic rule in Egypt, and should not make assertions or certifications about democratic progress that have no basis in reality. It should withhold support for authoritarian leaders in Cairo (in concert with other like-minded governments if possible), and be seen to be doing so, when the government fails to protect universal rights, even if in the short-term other interests might suffer. It should recalibrate its relationship and avoid replicating an over-reliance on the super-empowered presidency.
- Opaque and politic messages from the United States on Egypt’s political direction have not helped. Top U.S. officials should stop saying that Egypt is on the path to democracy, when it is not. There is a need for much clearer public statements from Washington on its assessment of what is

happening in Egypt and the ramifications for U.S. interests, including human rights and democracy.

- Consistently emphasize the importance of freedom of expression, association, and assembly in high-level bilateral discussions, as an integral part of any return to credible, inclusive civilian democratic politics.

Comprehensive Reassessment of U.S. Aid to Egypt

- The U.S. government should carry out a comprehensive reassessment of the aid relationship with Egypt, including: rebalancing military and civilian assistance; reviewing the ways in which military assistance is spent; and developing ways that U.S. assistance could be better employed to meet the basic needs of the Egyptian people. Congress should support President Obama's decision to end cash flow financing to Egypt by FY2018.
- Closely evaluate and produce reports on the use of military aid which has been reinstated to Egypt, assessing the extent to which such aid is furthering shared U.S. and Egyptian interests and is being used for designated national security purposes.
- Deliver a strong and consistent response at the highest levels to Egyptian officials to ensure that they make progress toward meeting human rights and governance conditions attached to aid. Military assistance can be a tool for the United States to encourage and persuade the Egyptian military (and other Egyptian institutions, by extension) to be more transparent about its expenditures. The United States should use discussions around current and future military aid to Egypt to raise the issue of restrictive reporting on military issues; it should urge that the onus be on the military to explain what information should be kept from the public and the media.
- Complement U.S. support for civil society with targeted support to build the capacity of state institutions essential to the functioning of democratic society (like the Parliament and the National Human Rights Council). Respond to widespread demands in Egyptian society for greater transparency in U.S. foreign assistance to Egypt (which would help to counter disinformation). The U.S. Embassy should work with embassies from like-minded countries to explain how its support for civil society is part of a global commitment to human rights, not some conspiracy to harm Egypt's interests or undermine its sovereignty.
- Initiate consultations with the Egyptian government and Parliament on protecting civil society organizations' independence and right to receive domestic and foreign funding.
- Explore the possibility of developing a multilateral fund to support civil society organizations in Egypt that may avoid the negative attention that U.S. democracy assistance has been subjected to.

Support for Legal Reforms to Protect Civil Society

- The U.S. government should press for reform in laws governing the functioning of NGOs to free them from government interference, burdensome registration requirements, and foreign funding restrictions. Urge the Egyptian authorities to immediately halt enforcement of the 2002 Law on Associations, including by withdrawing any prosecutions or travel bans

leveled against NGO staff simply for their work or membership in such an organization.

- Offer technical assistance to the Egyptian authorities to enact a new law on associations that complies with international human rights standards, and urge for meaningful consultation with independent civil society organizations in the drafting process. Speak forcefully and publicly against any proposed NGO law that falls short of international standards. Work with the Egyptian government, civil society, and international partners to establish a regulatory framework for NGOs that protects the right of freedom of association while ensuring that organizations are transparent and accountable.
- Urge the Egyptian government to bring counterterrorism legislation into line with Egypt's constitutional requirements and its international human rights commitments.

Challenging Attacks on NGOs and Human Rights Defenders

- The U.S. government should challenge undue restrictions on Egypt's civil society. Publicly urge the Egyptian government to stop attacks on NGOs and activists, including through state media outlets; announce a moratorium on NGO closures, raids, or prosecutions; repeal restrictive laws; and immediately release all detainees who are currently detained for the peaceful expression of their views.
- Send trial observers from the U.S. Embassy to politically-motivated trials of human rights defenders, if the defender so wishes, and issue public statements on the fairness of proceedings.

- Negotiate a durable arrangement with the Egyptian authorities to ensure the long-term stability and integrity of U.S. assistance to independent human rights and democracy organizations in Egypt.
- The U.S. Embassy should be in regular contact with a wide range of civil society actors, including human rights defenders, and provide clear public support for those subject to harassment, threats, and violence. The U.S. government should be more transparent about why it wants to engage human rights defenders, why it values their input, and how it intends to use their information.
- Translate into Arabic, publicize, and promote the State Department policy on engaging with human rights defenders worldwide, and recognize that journalists and other media figures are often human rights defenders. Link this policy to the U.S. Embassy in Cairo website.
- Promote the presidential memo on civil society on relevant agency websites, and translate it into Arabic.
- Propose the creation of a voluntary standards body for civil society organizations in Egypt (not one that is government-controlled).
- Promote internet freedom by funding human rights defenders to develop tools and trainings on safe communication technologies for human rights advocacy; training government officials on best practices in protecting freedom of expression online, and user privacy and security issues; promoting legislative and regulatory reform to ensure more transparent, representative, and rule-based regulatory authority for the ICT sector; and

considering ways to leverage existing trade, aid, and investment policies to support internet freedom goals.

- Strongly express support for reform of Egypt's criminal justice system and condemn its practices of arbitrary arrests, unfair trials, and unlawful detentions. The U.S. government should speak out in support of political prisoners and make clear that their mistreatment jeopardizes U.S.-Egypt relations. The United States should take into account the state of the criminal justice system as a strong indicator of the country's commitment to reform and democracy.

Support for Freedom of the Press

- The U.S. government should speak out publicly about physical and judicial attacks on journalists; issue statements and hold events with like-minded governments on media freedoms; and coordinate with other embassies to offer and deliver trainings to journalists and media figures in Egypt.
- Push back forcefully against efforts to limit media freedom through legal reforms or enforcement practices. Freedom of expression is an essential right that leads to the exercise of other rights, and a key indicator of democratic progress would be an Egyptian media whose freedom of expression is respected, promoted, and guaranteed.

Protections for Religious Minorities

- The U.S. government should make clear its opposition to blasphemy laws and the defamation of religions concept, and encourage public officials to protect freedom of expression and religious pluralism. The U.S. should push the Egyptian authorities to investigate all incidents of violence against Christians and other religious minorities, assaults on their property and institutions, and hold accountable those responsible. The Department of Justice could also make resources available for prosecutions and police trainings.

Conclusion

Five years after Egypt's popular uprising began, the country's human rights situation has worsened, and there has been no progress towards democracy. Egypt is held together by repression, a repression that the Obama Administration has decided to support even though the current political conditions harm not only Egyptian but also U.S. interests. The U.S. government needs to fundamentally shift its approach and put human rights at the core of its relationship with Egypt, and Egyptians. ■



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