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How to Protect Civil Society and Promote Stability in Egypt

August 2017



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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.

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Introduction

Citing a steadily worsening human rights situation, activists and foreign diplomats in Cairo urge the U.S. government to withhold military aid from the Egyptian government. They say this would send an important signal to the government of President Sisi, put a brake on its repression of civil society, and help create vital space for peaceful dissent.

In April 2017, President Trump granted President Sisi the White House visit he had been denied under the Obama Administration. But apart from releasing from prison Egyptian-American human rights defender Aya Hijazi, her husband, and four co-workers, President Sisi has made no improvements in the human rights climate since the meeting.

With a mounting economic crisis and the worst government repression in decades, activists say Egypt is headed for severe instability. “In the years after 2011, there was some organization to the protests and dissent,” said Mina Thabet of the Egyptian Commission for Rights and Freedoms (ECRF). “Now the social movement leaders are in jail or silenced or exiled. Now there’s no-one to control and stabilize things. We had organized anger for five or six years. Next time we’ll have disorganized anger.”¹

Under the Consolidated Appropriations Act of 2016, Secretary of State Rex Tillerson must decide by September 30th whether to release the 15 percent of U.S. Foreign Military Funding (FMF) aid Congress made contingent on human rights reform. Prior to releasing these funds, Secretary Tillerson must certify that the government “is taking effective steps to protect freedoms of expression, association, and peaceful assembly, including the ability of civil society organizations and the media to function without interference.”²

President Sisi’s government is clearly failing on all of these fronts. Secretary Tillerson should say so

publicly and withhold FMF pending adequate reform. The funds should be reallocated to support democratic reform and human rights elsewhere in the region. If Secretary Tillerson invokes the law’s national security waiver—which allows him to release the funds on national security grounds without certifying progress on human rights—or certifies progress and releases the funds, Congress should object in the strongest terms.

Although American pressure cannot transform Egypt overnight—and Sisi has no magic wand to halt terrorist attacks or sectarian violence—there are important steps the Egyptian leader could take in the near term. These include lifting travel bans on human rights defenders, releasing political prisoners, halting executions, dropping charges against activists accused in the notorious foreign funding cases—which include several American citizen defendants—and shelving the new repressive NGO law, which violates Egypt’s obligations under international law. These steps would ease polarization and increase stability, while removing unnecessary sources of tension in the bilateral relationship between Egypt and the United States.

Human Rights First’s fact-finding trip to Cairo in July 2017 was a rare occurrence because the government of Egypt has blocked international human rights organizations from sending researchers to the country since 2014. This report draws on interviews with dozens of Egyptian human rights defenders, civil society activists, foreign diplomats, and others. It is the latest in a series of Human Rights First reports on Egypt since the fall of the Mubarak regime in February 2011.

Background

President Sisi seized power in a popular coup in July 2013, ousting President Mohamed Morsi,

who had been elected the year before as the candidate of the Muslim Brotherhood-backed Freedom and Justice Party.

In August 2013, security forces killed more than 800 people when they attacked and cleared two pro-Morsi protest camps in Cairo in an incident known as the “Rabb’a Massacre.” Soon after, the Sisi government banned the Muslim Brotherhood and jailed its leaders. All told, it has jailed and intimidated tens of thousands of people—including liberal secular activists—because of their political views. Recently released activists told Human Rights First that prisons are hotbeds of radicalization, with extremist groups finding easy prey among abused detainees. Terrorist attacks, including those against Coptic Christian communities, have increased since Sisi came to power.

Sisi’s government has also passed a series of new laws designed to prevent human rights work, including a notorious new law restricting the work of NGOs. The law was passed by parliament in November 2016 and ratified by Sisi in May 2017.³

Meanwhile Sisi has failed to get a grip on the country’s economic crisis. Testifying before the U.S. Senate Appropriations Subcommittee on State, Foreign Operations, and Related Programs in April 2017, Michele Dunne of the Carnegie Endowment for International Peace said:

“In the first few months of 2017, the misery index—the rate of annual inflation plus unemployment—for Egyptians has been about 45 percent. Core inflation in recent months has been between 30 and 33 percent; food prices are rising at an annual rate of 39 percent... Unemployment according to official statistics is about 12.6 percent; many experts believe this underestimates the true unemployment rate, which for young people is estimated at an average 30

percent and for young women nearly 50 percent.”⁴

The government’s failure to stop the country’s economic slide has resulted in public protests, while gasoline subsidies lifted in July have resulted in higher food prices. The killing of two German holidaymakers in July at the seaside resort of Hurghada was the latest blow to the country’s tourism industry. According to official figures, 15 million tourists visited Egypt in 2010. Last year, the figure was 5.3 million.⁵

“While President Sisi is fond of presenting Egypt as a bastion of stability in a troubled region, in reality the country is at best limping along and is likely headed for unrest within a few years,” said Dunne.⁶

Once again, the United States finds itself backing a dictatorship in Cairo. Successive administrations have lent virtually unconditional support—in the form, primarily, of \$1.3 billion in annual military aid—to the central power in Egypt, whether Mubarak, the Supreme Council of the Armed Forces, the Muslim Brotherhood, or Sisi’s military-backed regime. This U.S. policy strategy aims to secure military-to-military cooperation on counterterrorism, stability in the Suez Canal zone, continued adherence to the Camp David Accords, and support for the U.S. manufacturing base that supplies Egypt with military hardware. Yet these core interests will be put at risk if instability—caused in large measure by government repression continues to worsen.

A new complication is the divide among U.S. allies in the Gulf. Egypt has sided with Bahrain, Saudi Arabia, and the United Arab Emirates (UAE) in the dispute with Qatar, which is backed by Turkey. The United States has thousands of military personnel in Qatar, Bahrain, and the UAE. As the tension persists, the more complicated the Trump administration’s relationship with the Egyptian government becomes.⁷

Amid these overlapping crises, Tillerson must decide whether to release the fenced 15 percent of FMF—\$195 million of the \$1.3 billion annual package—by September 30, 2017. The law gives Tillerson the authority to invoke a national security waiver, enabling him to release the funds without certifying progress on human rights. While this approach would be more honest than certifying progress, its result would be identical.

Tillerson will have a similar decision to make at the same time next year, as the FY2017 appropriations law also conditions 15 percent of FMF on human rights reform. There is also around \$400m in non-military aid that goes to Egypt, but the new law on NGOs receiving money makes that very difficult to dispense because of the heavy restrictions placed on Egyptian NGOs, including those involved in development and humanitarian assistance, receiving foreign funding.⁸

Members of Congress are still working on their approach to conditioning funds in the FY 2018 appropriations law. Egyptian activists say Congress should link military aid to reform more firmly by scrapping the national security waiver. “The waiver makes a joke of the conditions,” one rights activist told Human Rights First. “Tie the aid to reform or don’t, but don’t have a special card that lets you escape the decision.”⁹

Egypt’s presidential election next year, say some activists, is another opportunity to push for reform. They say the United States and other major powers should press for free and fair elections, and insist that the government allow independent international monitors into the country.

The New NGO Law and Other Attacks on Activists

Activists say the country’s new NGO law will criminalize their work and make it virtually impossible for their organizations to function. “This

is something which is in Sisi’s hands to carry out or to stop,” said Mohamed Lotfy, executive director of ECRF. “Other problems like the Sinai conflict are longer term, but this he can put an end to now, and the American government should encourage him to do that.”¹⁰

The new NGO law—Law 70 of 2017 for Regulating the Work of Associations and Other Institutions Working in the Field of Civil Work—prohibits NGOs from conducting activities that “harm national security, public order, public morality, or public health.” Such vague, catch-all terms mean that the law will be used to curtail legitimate activity, say local NGO staff.

Law 70 also creates a “National Authority for the Regulation of Foreign Non-governmental Organizations” to oversee the work of NGOs. This entity includes representatives of Egypt’s top national security bodies—the General Intelligence Directorate and the Ministries of Defense and Interior—as well as representatives from the Foreign Affairs Ministry and the Central Bank of Egypt. This body places NGOs under government control, stripping them of the independence from government that should define *non-governmental* organizations.

“The law strictly controls the funding of NGOs,” explained a number of groups in a statement reacting to the new legislation. “It states that associations must obtain permission from the authority 30 days in advance to receive donations from Egyptian entities or individuals inside Egypt Additionally, the law gives the government the authority to monitor and challenge NGOs’ day-to-day activities, from choices in leadership to the schedule of internal meetings.”¹¹

The new law punishes violations with sentences of one to five years in prison and heavy fines. Analysis of the law by eight local and international NGOs indicates that prohibited activities that could result in prison sentences include:

- assisting or working with a foreign NGO that is conducting work in Egypt without a license;
- establishing or managing any entity that does NGO work without following the provisions of this law;
- sending or receiving foreign funds as a president or member of an NGO in violation of the law's provisions.

“It should not be a crime to advocate for human rights and development in Egypt, but this law does just that, crippling civil society for years to come,” say the NGOs.¹²

The new NGO law is the latest in a series of measures that target dissent. Sisi's government has for years used arbitrary detention, mass trials, travel bans, torture in custody, enforced disappearances, and illegal killings to attack dissidents.

Beyond the NGO law, the Egyptian state uses several forms of legislation to target civil society. In a case known as Case 173, since December 2016, investigative judges in the case have summoned, charged, and released on bail prominent Egyptian human rights defenders, including: Mohamed Zaree, Cairo director of the Cairo Institute for Human Rights Studies (CIHRS), and a finalist for the 2017 Martin Ennals Award for Human Rights Defenders; Ahmed Ragheb, a lawyer and director of the National Community for Human Rights and Law; Mostafa al-Hassan, former director of the Hisham Mubarak Law Center; and women's rights defender Azza Soliman, founder of the Center for Egyptian Women's Legal Assistance. Mozn Hassan, founder and executive director of Nazra for Feminist Studies, winner of the 2016 Right to Livelihood Award, is also being investigated. The authorities have banned her from travel and frozen both her personal assets and those of her NGO.¹³

Hundreds of other activists, journalists, and human rights defenders have been detained or harassed for simply exercising their rights to freedom of expression and association.

Egyptian human rights defenders based outside the country have also been intimidated. At a human rights workshop in Italy in May 2017, Egyptian activists were followed and their pictures taken by men who harassed them.¹⁴

Local activists estimate that 140 websites and virtual private networks (which enable greater security for activists) are now blocked. Several activists Human Rights First met with in Cairo said that they are making plans for their arrest, assuming they will be sent to prison in the coming months.

Prison Radicalization

The increase in terrorism and growing repression are related. There are no official, public statistics on the number of prisoners held in Egypt, but local activists put the figure at roughly 60,000. Activists have long warned that one dangerous consequence of Sisi's repressive measures is the radicalization of prisoners by ISIS operatives.

Prominent dissident Ahmed Maher warned that:

“Prison has really become a breeding ground for extremists. It has become a school for crime and terrorism, since there are hundreds of young men piled on top of each other in narrow confines, jihadists next to Muslim Brotherhood members next to revolutionaries next to sympathizers.... Everyone is accused of being either a terrorist or a member of the Muslim Brotherhood. This is turning the people arrested by mistake who don't belong to any movement into jihadists. Moreover, Muslim Brotherhood members are gradually becoming radicalized, since they suffer from inhumane treatment in

the prisons...ISIS has exploited the situation.”¹⁵

Another activist recently released from jail said he met many young prisoners who were “easy prey for ISIS. The older guys are sort of immune to what ISIS says, but for the younger ones it’s a powerful appeal. The ISIS guys tell them ‘You tried politics, elections, and it didn’t work,’ and many of the younger guys are susceptible,” he said.¹⁶

Expanding, this activist noted:

“One guy who was there, I was scared of him. He said he joined ISIS after the Rabb’a massacre. He used to talk to guys who weren’t members of the Muslim Brotherhood but who supported them. They were desperate for change, and he exploited that, telling them they needed to defend themselves. They had believed they could change things through the ballot box, but the ISIS guy was persuasive - he would say ‘when you have an election it’s my arguments against your arguments, but once a gun enters the equation you need your own gun to fight back.’ I saw many people attracted by this logic.”

The activist also said that he saw a different appeal for ISIS from prisoners who originated from Sinai, where the government has long been accused of human rights violations against the local population.

“For the guys who originate from Sinai, it’s less about ideology,” he said. “They support ISIS because ISIS gives them a chance to fight for their land, to humiliate the army. ISIS trains them in how to use guns and ISIS provides a convenient way for them to fight back, but it’s not that they really buy into the ISIS ideology.”

He added: “One young guy was in ISIS, he was 18 but looked 14, barely had a beard. He wasn’t ideological, he couldn’t hold a discussion about beliefs - he was from Sinai and he said, ‘the army humiliated us so we will humiliate the army.’ This is the appeal.”

The activist said he saw how ISIS recruited prisoners:

“It wasn’t just Islamists or ISIS people or political prisoners there in jail, there were just people who had been picked up at road blocks with something anti-Sisi on their Facebook, or on their phone. Many had been tortured in prison, given electric shocks in their mouth or on their genitals. Or benzine put on their skin and set alight with the electric shock baton. After prisoners had been tortured they were more open to hearing from ISIS.”

Others agree that prison radicalization is a major problem, a time bomb that threatens to cause chaos. “The radicalization in jails means a whole new generation of terrorists being fed with an ideology and hate against Christians,” says Thabet of ECRF.¹⁷

Attacks on Religious Minorities

In the weeks following the coup, angered by Coptic support for President Sisi,¹⁸ pro-Morsi mobs attacked hundreds of Christian properties and churches.

The Egyptian president’s rhetoric on the issue of religious minorities has been better than his predecessors’. He publicly condemns some sectarian attacks, and for the last few years has attended a Coptic Christmas Mass.

Another longstanding problem for Copts is the issue of church construction. For generations, it has been difficult to get legal permission to build or renovate a church in Egypt. Last year,

President Sisi ratified a long-awaited law to regulate authorization for new churches. It was welcomed by Pope Tawadros II, leader of the Coptic Orthodox Church, who said it would “correct a wrong that lasted 160 years.”¹⁹

But NGOs say that instead of protecting the rights of minorities, this law codifies discrimination against them, including by allowing governors to deny permits without appeal. “The law gives the executive authority broad discretion to violate the right to build and repair churches. It gives the security apparatus a say in the granting of permits and allows it to monitor activities and any modifications to religious buildings,” said Ishak Ibrahim of the NGO the Egyptian Initiative on Personal Rights.²⁰

Others criticize the new committee set up to adjudicate the legality of proposed and existing churches. “Eight of the nine members are from the government, including the military and intelligence services. One spot is for a church representative. We don’t even know if they’ve met yet,” one activist told Human Rights First.²¹

The United States’ Relationship with President Sisi

As the regional crisis centered on Qatar unfolds, the U.S. relationship with the Egyptian government is falling under increasing scrutiny. Secretary Tillerson embarked on a round of shuttle diplomacy in the region in mid-July. “You know all four of these [Gulf] countries are really important to the U.S.,” said the Secretary of State. “It’s the reason I came over to take a direct interest in it, because we need this part of the world to be stable and this particular conflict between these parties is obviously not helpful.”²²

The dispute centers on allegations by Bahrain, Egypt, Saudi Arabia, and the UAE that Qatar is financing terrorism in the region. The Qatari government denies these accusations. The four

countries, fearful of growing Muslim Brotherhood influence, imposed sanctions on Qatar on June 5. They subsequently issued a list of 13 conditions for removing sanctions. These include curbing Qatar’s relations with Iran, closing the Doha-based Al Jazeera TV channel, and shuttering a Turkish military base in Qatar.²³

The spat further complicates the U.S relationship with Egypt, which had badly frayed during the Obama Administration. The month after President Sisi seized power in 2013, President Obama canceled joint U.S.-Egypt military exercises, known as Operation Bright Star, which were due to take place later that year and had been held regularly since 1981.²⁴

Speaking in Washington, D.C. last summer before he joined the government, now-Secretary of Defense James Mattis indicated his support for resuming Bright Star exercises:

“...we’re concerned about any political system has to have a counterweight [sic], and whether or not there is a sufficient allowance for legitimate political dissent. But that said, right now the only way to support Egypt’s maturation as a country with civil society, with democracy, is to support President el-Sisi. We should have Bright Star reinstated, perhaps not with tank battles but with counterterrorism-type training....”²⁵

Secretary Mattis is right to be concerned about the narrowing space for dissent, and right that the United States should use its military relationship to push for reform. The United States is Egypt’s most valued security partner, and resuming joint military exercises would send a clear message of support that the Egyptians grew to doubt under the previous administration.

A European diplomat based in Cairo said, “The U.S. has power that the European Union doesn’t have. Sisi manages to split the EU countries, so

that Hungary and Greece won't join in a consensus EU position to criticize Egypt. But the U.S. has real power."²⁶

In March 2015, the Obama Administration ended cash flow financing (CFF) for Egypt's FMF-funded purchases, starting in FY 2018 (which begins October 1, 2017). As Christian Bischoff of the Project on Middle East Democracy explains:

"CFF allows a foreign government to pay for U.S. defense equipment in installments over several years rather than up front. CFF has enabled Egypt to enter into contracts with multi-year payment structures that well exceed the amount of FMF that it receives from the United States each year. The outstanding balance of the contracts is intended to be paid with the (assumed) provision of future years' appropriations of FMF, an arrangement that effectively obligates the U.S. government to continue providing FMF at the same level or higher in perpetuity"²⁷

While the Trump Administration should not reintroduce CFF, it should make clear that it is prepared to improve relations with Cairo, and that it views Egypt as a valued partner. At the same time, it should underline the reality that a bilateral partnership can only flourish to the benefit of both parties if Sisi changes course on human rights. Such a change is necessary to restore stability and sustainable social peace in Egypt, and to ensure that the country is an effective partner in the global struggle against terrorism.

Barring such an understanding, the Trump administration is at risk of being held hostage by an authoritarian leader who believes that his country is "too big to fail," and that the United States will support him unconditionally because of the absence of viable alternatives. Blackmail is a

poor basis for a mutually supportive relationship between allies.

The Trump Administration, at the highest levels, should speak clearly and consistently to Egypt's leaders about the concrete reforms it expects. These should include an end to the sustained attack on independent human rights organizations, progress combating engrained institutional discrimination against religious minorities, an end to enforced disappearances and torture, the release of prisoners detained after unfair trials for nonviolent political offenses, and the lifting of restrictions on freedom of expression.

President Sisi is up for election in 2018 (slated for April with no precise date yet set), and wants public support from the United States. He won a virtually uncontested, highly flawed election in May 2014 with 96 percent of the vote, but turnout was reportedly only 38 percent.²⁸

His visit to the White House earlier this year helped boost his credibility internally. An announcement that the United States is now withholding aid because of his repression would be deeply embarrassing.

On May 23, Egyptian authorities summoned prominent opposition leader and rights lawyer Khaled Ali. They charged him with "offending public decency" over a gesture he allegedly made while celebrating a court victory in January. Ali's case is widely seen as an attempt to intimidate and disqualify potential political opponents from participating in the 2018 presidential elections.

The 15 Percent

Congressional pressure is mounting, with committees having held four hearings in June on aid to Egypt. On June 19, a bipartisan group of ten senators wrote to President Trump saying that they were "gravely concerned by the worsening situation for human rights and civil society in

Egypt, including the new law restricting nongovernmental organizations (NGOs),” signed into law by President Sisi in May.²⁹

Separately, Senators John McCain (R-AZ) and Lyndsey Graham (R-SC) publicly warned Sisi that “with this [NGO] law in place, Congress should strengthen democratic benchmarks and human rights conditions on U.S. assistance for Egypt.”³⁰

Human rights activists in Cairo told Human Rights First that withholding the 15 percent of FMF is a crucial signal to send to President Sisi. The United States must try everything, they say, to stop the intensifying attacks on what remains of Egyptian civil society. One told our researcher, “This 15 percent is a major deal. It’s a chance for Washington to show it doesn’t approve of Sisi’s attacks on human rights, that it’s serious about pushing for reform. The U.S. has leverage, and it should use it.”³¹

Congress is still considering the Fiscal Year 2018 appropriations bill. On July 12, the House of Representatives Appropriations Subcommittee on State, Foreign Operations and Related Programs released its draft bill, earmarking the usual \$1.3 billion for FMF. But in a change, the bill would not tie aid to human rights reform. Instead, it would require the State Department to submit a report on human rights and governance in Egypt every 90 days.³²

Rather than weakening U.S. leverage over Egypt by eliminating fenced funding, Congress should consider increasing the percentage tied to human rights reform. In testimony to the Senate Appropriations Subcommittee on State, Foreign Operations, and Related Programs in April 2017, senior fellow for Middle Eastern studies at the Council on Foreign Relations Elliot Abrams suggested Congress should look at increasing the proportion from 15 percent to 25 percent.³³ By even considering such an increase, Congress would send a strong message to the Egyptian

authorities that its human rights policies are unacceptable to the United States.

Conclusion

As long as the Egyptian government continues to suppress peaceful dissent and stifle pluralism, it is part of the problem of growing instability, not part of the solution.

Repression by the government not only violates the human rights of Egyptians and causes pervasive suffering, it threatens core interests of the United States, including its battle against terrorism.

For years, U.S. presidential administrations have delivered military aid to the Egyptian government regardless of its actions. It’s long past time for a new approach, one that uses U.S. leverage to compel its ally to back away from repression and advance toward a more stable and sustainable politics. As part of broad effort to press for reform, the Trump Administration should withhold on human rights grounds the 15 percent of FMF authorized by Congress.

Recommendations

The Trump Administration should:

- Withhold the 15 percent of FMF funding authorized by Congress under the FY2016 appropriation act unless and until the Egyptian government introduces extensive human rights reform. This should include the immediate halt of prosecutions and dropping of charges against those in foreign funding Case 173, a halt to implementation of the new NGO law (with a view to its abolition or

overhaul), and a lifting of travel bans against human rights activists.

- 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.
- Urge the elimination of discrimination against religious minorities, and the amendment of the new law on church building. The administration should also urge Egyptian authorities to investigate all incidents of violence against Christians and other religious minorities, assaults on their property and institutions, and to hold accountable those responsible.
- Publicly call on 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.
- 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.
- 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.

- Make clear that enforced disappearances, arbitrary arrests, and the mistreatment of political prisoners jeopardize 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 the access of international election observers to Egypt for the country's 2018 presidential elections, and push for free and fair elections.

Members of Congress should:

- Urge Secretary Tillerson to use his authority to withhold the 15 percent of fenced FMF aid tied to human rights progress, until such progress is achieved.
- Consider increasing the percentage of FMF funding tied to human rights conditions in FY2018 appropriations legislation, and not include a national security waiver that can be used to override the withholding of aid.
- Review the entire aid relationship with Egypt to better address the security and other needs of Egypt and to better serve American interests, and prohibit a reinstatement of cash-flow financing.
- Continue to issue public statements making clear to President Sisi and his government that Egypt is on a path that threatens U.S. interests.
- Visit Egypt, meet with civil society leaders to hear how they want the U.S. government to support them.

Endnotes

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- 31 Interview with activist, Cairo, July 3 2017.
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- 33 <https://www.voanews.com/a/us-congress-urged-to-make-aid-to-egypt-more-conditional/3828555.html>