



# **Aiding Repression in Egypt**

## **Why the United States Needs to Keep Human Rights Conditions on Military Aid**

September 2018

**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.

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Founded in 1993, the **Cairo Institute for Human Rights Studies (CIHRS)** is an independent regional non-governmental organization which aims to promote respect for the principles of human rights and democracy in the Arab region. For this purpose, CIHRS focuses on analyzing the difficulties facing the application of international human rights law, disseminating a culture of respect for human rights in the region, and engaging in dialogue between cultures regarding the various international human rights treaties and declarations. CIHRS further seeks to attain this objective by developing, proposing, and promoting changes to policy and practice in the Arab region in order to bring them in line with international human rights standards. In addition, CIHRS conducts human rights advocacy at national, regional, and international human rights mechanisms, carries out research, and provides human rights education, both for youth and for established human rights defenders seeking ongoing professional development. CIHRS is a major publisher of information related to human rights in the Arab region, and its publications include a magazine, an academic quarterly, and scores of books dealing with various human rights-related issues.

**This briefing is offered jointly by Human Rights First and the Cairo Institute for Human Rights Studies.**

## Executive Summary

Civil society leaders in Egypt are urging the U.S. government to continue to condition and withhold military aid to Egypt until the Egyptian government makes meaningful reforms to its human rights practices. The call from activists comes as the U.S. State Department reverses earlier decisions to limit military aid over human rights concerns, despite the Government of Egypt having made no meaningful progress in addressing rampant politically-motivated prosecutions, disappearances, torture, extra-judicial killings, and other human rights violations.

In August 2017, then-Secretary of State Rex Tillerson withheld \$195 million in Foreign Military Financing (FMF)—military aid that enables foreign governments to purchase U.S.-made defense articles—from the Egyptian government. In explaining the decision, Tillerson acknowledged that he could not certify to Congress that the Egyptian government had met the human rights conditions set by the Fiscal Year 2016 Consolidated Appropriations Act (PL 114-113), which required that the \$195 million (amounting to 15% of the \$1.3 billion in FMF provided annually to Egypt) be withheld until the Secretary of State reported to Congressional committees that the Government of Egypt was “taking effective steps” to:

- (i) advance democracy and human rights in Egypt, including govern democratically and protect religious minorities and the rights of women which are in addition to taken during the previous calendar year for such purposes;
- (ii) implement reforms that protect freedoms of expression, association, and peaceful

assembly the ability of civil society organizations and the media to function without interference;

(iii) release political prisoners and provide detainees with due process of law;

(iv) hold Egyptian security forces accountable, including officers credibly alleged to have violated human rights; and

(v) provide regular access for U.S. officials to monitor such assistance.<sup>1</sup>

In a legally-mandated report submitted to Congressional Appropriations Committees and obtained by the Associated Press, Tillerson justified his decision on grounds that “There is a continuing problem with arbitrary arrests, detentions and disappearances...There are reports of extrajudicial killings. There are numerous allegations of torture and deaths in detention.”<sup>2</sup>

In keeping with recent practice by secretaries of state from both U.S. political parties, Tillerson invoked the appropriations law’s national security waiver, which allowed him to “waive the certification requirement...if the Secretary determines and reports to the Committees on Appropriations that to do so is important to the national security interest of the United States.”<sup>3</sup> Yet instead of releasing the FMF to Egypt under the waiver, Tillerson announced that the U.S. government would establish certain conditions for the Egyptian government to meet before the funds would be transferred. These conditions have not been made public.<sup>4</sup>

<sup>1</sup> <https://www.congress.gov/114/plaws/publ113/PLAW-114publ113.pdf> Section 7041(a)(3)(A)

<sup>2</sup> <https://www.hsdl.org/?view&did=808497>;  
<https://www.usnews.com/news/politics/articles/2017-09-20/us-report-points-to-egyptian-abuses-anti-democracy-actions>

<sup>3</sup> <https://www.congress.gov/114/plaws/publ113/PLAW-114publ113.pdf> Section 7041(a)(3)(B)

<sup>4</sup> <https://www.usnews.com/news/politics/articles/2017-09-20/us-report-points-to-egyptian-abuses-anti-democracy-actions>

Roughly one year later, human rights conditions in Egypt have further deteriorated.<sup>5</sup> Notwithstanding that fact, the State Department, under new Secretary of State Mike Pompeo, announced in July 2018 that it would reverse Tillerson’s decision and lift its hold on Fiscal Year 2016 FMF. In making this decision, the new secretary once again chose to invoke a national security waiver, thereby annulling the human rights conditions set by Congress. In defending the policy, an unnamed State Department official told the press that although “serious concerns regarding human rights and governance in Egypt” remained, “strengthened security cooperation is important to U.S. national security. Secretary Pompeo determined that releasing these funds is important to supporting these needs and continuing to improve our partnership with Egypt.”<sup>6</sup>

In late August 2018, Pompeo doubled down on his strategy of providing Egypt no-strings-attached military aid. On September 7, the State Department announced that on August 21 Pompeo had signed a national security waiver permitting the release of an additional \$195 million in Fiscal Year 2017 FMF. In justifying the decision, the State Department recycled talking points nearly identical to those it had used two months prior, stating that “strengthening our security cooperation with Egypt” overrode human rights concerns.<sup>7</sup> =

As relayed by numerous Egyptian human rights activists who agreed to speak with Human Rights First during the summer of 2018, the State Department’s decision to release FMF conditioned by Congress is viewed as squandering the U.S. government’s leverage on President Abdel Fattah Al Sisi. The decision, activists say, thereby

undermines those struggling for freedom in Egypt, while exacerbating the conditions that lead to instability in the long term.

According to the State Department’s annual report on human rights conditions in Egypt, Egypt’s government carries out human rights violations in “an environment of impunity.”<sup>8</sup> Among other violations of Egyptian citizens’ rights, authorities are thought to have incarcerated tens of thousands of men and women on political grounds. Police and security service officers routinely torture detainees—using techniques such as electric shocks, beatings, and sexual assault. In 2017, President Sisi ratified a draconian law restricting the work of non-governmental organizations (NGOs), essentially criminalizing the practice of advocating for human rights and development.

While there are no official, public statistics on the number of prisoners held in Egypt, local activists put the figure at roughly 60,000. Activists have long warned that one dangerous consequence of President Sisi’s repressive measures is the radicalization of prisoners by so-called Islamic State, or ISIS, operatives and representatives of other militant groups. Human Rights First’s highlighted this dynamic in an August 2017 report entitled *How to Protect Civil Society and Promote Stability in Egypt*.<sup>9</sup>

On July 16th, days before the State Department announced that it would lift its FMF hold, the Egyptian government announced that it would further restrict the country’s media. Under a new law passed by parliament, anyone with a Twitter or other personal social media account with more than five thousand followers is considered a media outlet subject to prosecution for violating a

<sup>5</sup> <https://pomed.org/fact-sheet-human-rights-conditions-on-u-s-military-aid-to-egypt/>

<sup>6</sup> <https://www.reuters.com/article/us-usa-egypt-aid/u-s-lifts-restrictions-on-195-million-in-military-aid-for-egypt-official-idUSKBN1KF2UU>

<sup>7</sup> <https://apnews.com/547037174c104eeab1ea651b5e509e9b>  
<sup>8</sup> <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>

<sup>9</sup> <https://www.humanrightsfirst.org/press-release/new-report-calls-us-suspend-military-aid-egypt-over-abuses>

vaguely-worded prohibition on publishing “fake news.”<sup>10</sup>

In the same week, Egypt’s parliament passed a new law giving senior military commanders immunity from prosecution for the killing of protestors in 2013.<sup>11</sup> Granting senior military commanders such immunity strengthens Sisi’s support-base within Egypt’s military leadership. By choosing which officials will get immunity, and which to leave theoretically vulnerable to prosecution, Sisi aims to further enhance his power over the military.

Sisi came to power in a popularly supported 2013 coup that overthrew the democratically-elected Mohamed Morsi, who was backed by the Islamist Muslim Brotherhood. In April 2018, Sisi declared victory in a presidential election widely viewed by analysts as unfree and unfair.<sup>12</sup> According to Egyptian government sources, 97 percent of Egyptian voters supported Sisi in his election to a second four-year term. The vote tally followed an election process marred by threats, intimidation, and a highly unfair electoral landscape. Sisi’s main challenger, Egypt’s former military chief of staff Lieutenant General Sami Anan, was arrested and spent the election in prison.<sup>13</sup> Other opposition figures pulled out of the race in the months leading up to the election, leaving Sisi to run against a self-described supporter. It is widely assumed that Sisi will soon move to abolish term limits through an amendment to Egypt’s constitution, enabling himself to run again.<sup>14</sup> His

systematic closure of public space, suppression of dissent, and elimination of options for the peaceful transfer of power has largely foreclosed Egyptians’ ability to advance change through peaceful political or civic channels.

As Egypt’s economy and politics continue to deteriorate, civil society leaders want the U.S. government to maintain its holds on military aid, while expanding human rights conditionality. “The military aid is the only thing the authorities here care about,” said one veteran activist. “It’s the best card for the Americans to play.”<sup>15</sup>

Underscoring this point, Secretary Pompeo’s reversal of Tillerson’s aid hold occurred just as it was beginning to show some limited effect. On April 5<sup>th</sup>, Egyptian authorities agreed to order a retrial in the notorious Case 173 on Foreign Funding,<sup>16</sup> in which a criminal court sentenced 43 employees of foreign NGOs to up to five years in jail and ordered the closure of the International Republican Institute, the National Democratic Institute, Freedom House, the International Center for Journalists, and the Konrad Adenauer Foundation. When the Court of Cassation announced a retrial in April, civil society leaders greeted this as a welcome first step. The hearing, however, was later postponed until November 11, 2018.<sup>17</sup>

Current U.S. policy 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.

<sup>10</sup> <https://www.newsweek.com/egypt-passes-new-restrictions-free-press-1031784>

<sup>11</sup>

<https://af.reuters.com/article/worldNews/idAFKBN1K62JP?feedType=RSS&feedName=worldNews>

<sup>12</sup>

<https://www.nytimes.com/2014/05/30/world/middleeast/international-observers-find-fault-with-egypt-vote.html>

<sup>13</sup> [https://www.washingtonpost.com/news/monkey-cage/wp/2018/08/15/egypts-new-political-system-of-one-its-president/?noredirect=on&utm\\_term=.8532dfb8d594](https://www.washingtonpost.com/news/monkey-cage/wp/2018/08/15/egypts-new-political-system-of-one-its-president/?noredirect=on&utm_term=.8532dfb8d594)

<sup>14</sup> <https://www.telegraph.co.uk/news/2018/04/03/egypts-sisi-wins-97-percent-election-no-real-opposition/>

<sup>15</sup> Interview with an Egyptian human rights defender working for a human rights NGO, who wished to remain anonymous in order not to draw attention from authorities, Cairo, July 2018.

<sup>16</sup> <https://cihrs.org/further-background-on-case-no-173-the-case-against-human-rights-ngos-imminent-risk-of-prosecution-of-hrds-accused-of-committing-human-rights-work/?lang=en>

<sup>17</sup>

<https://af.reuters.com/article/commoditiesNews/idAFL4N1R1318>

manufacturing base that supplies Egypt with military hardware. Yet these interests will be put at risk if instability—caused in large measure by government repression—continues to worsen. At the same time, official mismanagement, corruption, and the increasing weight of the military on the Egyptian economy are combining to undermine government promises of socio-economic stabilization and inclusive growth—a recipe for future destabilization.<sup>18</sup>

In the long run, Egypt sliding further into dictatorship will only exacerbate the tensions and instability that threaten U.S. interests in the Middle East. Rather than ignoring Egypt's worsening human rights situation, the U.S. government should revert to its recent policy of conditioning and withholding FMF until the Egyptian government achieves meaningful progress on human rights. The Trump Administration has leverage in the form of military aid, and it should use it.<sup>19</sup> Conditionality should include significant, positive movement on Case 173 and other human rights violations.

If the administration remains unwilling to act, Congress should strengthen the human rights language passed in recent years through successive appropriations bills, including by limiting the administration's ability to invoke a national security waiver to end run the law's intent. Congress should make clear to both the Trump Administration and the Egyptian government that the latter should either comply with human rights conditions or be prepared to forego a meaningful portion of future U.S. military aid.

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<sup>18</sup> <https://www.swp-berlin.org/en/publication/flash-in-the-pan-development-in-egypt/>

<sup>19</sup>

<https://www.amnesty.org/en/latest/campaigns/2016/12/close-case-173/>

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## Egypt's Human Rights Situation

On July 26, 2018, just after the State Department announced it was lifting the holds on Fiscal Year 2016 FMF, Mohamed Zaree of the Cairo Institute for Human Rights Studies, winner of the prestigious 2017 Martin Ennals Award for Human Rights Defenders, tweeted, "To me, an Egyptian living in Egypt, I don't see nor feel any improvements in the #HumanRights situation."<sup>20</sup>

Human rights activists interviewed in Egypt in July agree that attacks on civil society are increasing as compared to recent years. Several noted that there is greater repression now than under former strongman Hosni Mubarak, whose dictatorship was forced out of office by mass public protests in 2011. Egyptian authorities are imprisoning tens of thousands on grounds widely understood as political. Many of these prisoners are convicted in mass trials, or detained for months or years without charge. At the end of July 2018, an Egyptian court sentenced 75 people to death as part of a mass trial of more than seven hundred people, including senior members of the now outlawed Muslim Brotherhood.<sup>21</sup>

President Sisi celebrated his tainted April 2018 election victory by initiating a wave of arrests of critics and human rights activists. These included prominent political activist Hazem Abd al-Azim, journalist and rights defender Wael Abbas, lawyer Haitham Mohamadeen, satirist Shady Abu Zaid, University of Washington doctoral student Walid Khalil al-Shobaki, and activist Amal Fathy.<sup>22</sup>

<sup>20</sup> Mohamed Zaree @mzaree 26 July 2018 tweet. Disclaimer: the Cairo Institute for Human Rights Studies jointly produced this report.

<sup>21</sup> <https://www.bbc.co.uk/news/world-middle-east-44993661>

<sup>22</sup> <https://www.hrw.org/news/2018/05/31/egypt-activists-arrested-dawn-raids>

Attacks on freedom of expression continue. A recent analysis conducted by the International Center for Non-Profit Law on Egypt's cybercrime statute, which was given preliminary approval by parliament in May and ratified by Sisi in August, notes that the new legislation "provides for at least six months' imprisonment and a fine between 50,000-100,000 Egyptian pounds (\$2,800-\$5,600) for anyone who sends unsolicited emails that violate 'family principles or values of Egyptian society.'" The report goes on to say about Article 7 of the new law:

[It] provides that the competent authority in charge of investigating cybercrime may close down Egyptian-based or foreign websites that 'threaten national security' through the use of any digital content. More than 497 Egyptian websites have been blocked since May 2017, according to local NGO the Association for Freedom of Thought and Expression. The blocked websites include the sites of political groups, news outlets, and rights organizations.<sup>23</sup>

The law further enables security bodies to conduct comprehensive communications surveillance without a judicial order or any limitation on time. These security bodies focus on repressing peaceful dissent, especially from human rights defenders and democracy activists.<sup>24</sup>

Although the notorious anti-NGO law of 2017 has yet to be implemented, it has created an atmosphere of fear. 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." 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 effectively places NGOs under government control, making a mockery of the independence from government that should define non-governmental organizations. The new law punishes violations with sentences of one to five years in prison and heavy fines.<sup>25</sup>

Human rights defenders in Cairo say they are making plans for their own arrests, and widely assume they will be sent to prison in the coming months for their peaceful dissent. They also say they are routinely harassed and intimidated, sometimes having their lives threatened. "We haven't seen anything like this before," said one veteran activist. "Even without the new laws against us, the atmosphere now is that we are all unsafe, anyone working for human rights is unsafe."<sup>26</sup>

In March 2018, a government-friendly TV show host in Egypt called on Egyptian authorities to "deal with" human rights defender Bahey el-Din Hassan "the same way the Russian spy was dealt with"—an obvious reference to the nerve agent attack on Serjei Skripal in the United Kingdom in March 2018. Hassan is general director of the Cairo Institute for Human Rights Studies (a co-producer of this report) and a longtime critic of repression in Egypt under various governments. Harassment and threats forced Hassan out of

<sup>23</sup> <http://www.icnl.org/research/monitor/egypt.html>

<sup>24</sup> [https://afteegypt.org/digital\\_freedom-2/2018/06/20/15358-afteegypt.html?lang=en](https://afteegypt.org/digital_freedom-2/2018/06/20/15358-afteegypt.html?lang=en)

<sup>25</sup> <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21678>

<sup>26</sup> Interview with human rights defenders who has worked at several human rights NGOs in Egypt, July 2018.



Egypt and into exile in 2014, but the campaign of intimidation against him has continued.<sup>27</sup>

Likewise, discrimination and violence against Egypt's Christian Coptic community continues. The country's Coptic community is estimated to constitute roughly ten percent of Egypt's total population of one hundred million.<sup>28</sup> According to local NGO the Egyptian Initiative for Personal Rights (EIPR), Egyptian authorities recently closed several Christian churches. In 2016, authorities passed new legislation (Law 80/2016) on the construction of churches, which *inter alia* indicated that pre-existing churches would be allowed to continue operation. Despite this, the EIPR found that between September 2016, when the law was passed, and April 2018, "state institutions have shuttered 14 existing churches that were hosting religious services," including four in 2018, "with Copts denied access to them and prayer services in them prohibited."<sup>29</sup>

Parliament passed Law 80/2016, which was drafted by the Sisi government, in just three days. Human rights activists have called long called for a unified law on the building of houses of worship—as opposed to separate laws for Christians and Muslims.

Yet the new law approaches the matter of church-based worship as an issue to be restricted, not loosely regulated.

The law codifies several restrictions on church construction that have existed for the past 150 years, while adding additional restrictive measures. For instance, it gives Egyptian authorities a limited period in which to respond to an application for a church building permit, but does not specify that the permit is automatically granted at the end of that time in the absence of

affirmative action. In the context of similar laws enacted with respect to the registration of NGOs, this legal construction is likely to result in a system of "passive denial" of permits by Egyptian authorities. Additionally, the law contains a security provision that links the threat of sectarian violence—an ongoing and frequent problem in Egypt—to future denials of building permits. EIPR documented 77 such incidents from 2011 to 2015 in the province of Minya alone.

The fact that a number of Coptic members of parliament ultimately approved Law 80/2016 should not be taken as confirmation of its acceptance by the Egyptian Christian community, as explained by EIPR: "several Coptic MPs who had initially objected to the proposed legislation backed out of the discussion (...) most of them entered Parliament to meet the Coptic quota, which is selected based on proposals from The Church and state security services. (...) they had little space to properly criticize the law, especially after the church approved it."<sup>30</sup>

According to the State Department's 2017 report on human rights conditions in Egypt:

The most significant human rights issues included arbitrary or unlawful killings by the government or its agents; major terrorist attacks; disappearances; torture; harsh or potentially life-threatening prison conditions; arbitrary arrest and detention; including the use of military courts to try civilians; political prisoners and detainees; unlawful interference in privacy; limits on freedom of expression, including criminal "defamation of religion" laws; restrictions on the press, internet, and academic freedom; and restrictions on freedoms of

<sup>27</sup> <https://euomedrights.org/publication/death-threats-against-cihrs-director-bahey-el-din-hassan/>

<sup>28</sup> <https://www.brookings.edu/blog/future-development/2018/05/22/egypts-population-boom-then-bust/>

<sup>29</sup> <https://eipr.org/en/press/2018/04/eipr-decries-state-s-closure-churches-filed-legal-status-and-demands-release-all>

<sup>30</sup> <https://eipr.org/en/press/2018/04/eipr-decries-state-s-closure-churches-filed-legal-status-and-demands-release-all>



assembly and association, including government control over registration and financing of NGOs. LGBTI persons faced arrests, imprisonment, and degrading treatment. The government did not effectively respond to violence against women, and there were reports of child labor.<sup>31</sup>

Echoing the State Department's own dire assessment, warnings emanating from Washington, D.C.-based analysts about an overall deterioration of Egypt's human rights conditions, and the link between this worsening situation and regional security, dovetail with those of local Egyptian activists interviewed by Human Rights First. In testimony to the Foreign Affairs Committee of the U.S. House of Representatives presented in July, Michele Dunne of the Carnegie Endowment for International Peace noted that, "Egypt is undergoing a deepening of authoritarianism verging on totalitarianism," and that there has been a recent, "new wave of repression against those who have criticized Sisi."<sup>32</sup>

At the same hearing, Andrew Miller of the Project on Middle East Democracy (POMED) warned that, "In contrast to previous authoritarian regimes in Egypt, which allowed some space for civil society to operate, al-Sisi seems determined to snuff out all room for activity independent of the state. And, while some authoritarian regimes have proven durable, totalitarian ones are seldom

stable, tending to collapse in ways that are deeply dangerous for their neighbors."<sup>33</sup>

Irish-Egyptian citizen Ibrahim Halawa spent four years in prison in Egypt, charged with murder, arson, and illegal possession of weapons. He was tried alongside nearly five hundred other people before a court declared him innocent and released him in October 2017.<sup>34</sup>

Halawa says ISIS is preying on prisoners, "In the beginning, no one had even heard of Daesh [ISIS], but by the time I left, maybe 20 percent were openly supporting their ideas," said Halawa. "It could have been just talk—many of them were engineers, students and doctors who just wanted to get home to their families—but after all those years of being in jail with no explanation, many wanted revenge."<sup>35</sup>

## The United States and Egypt

Ironically, in 2017 the State Department announced its decision to withhold the \$195 million in FMF just four months after President Trump welcomed President Sisi to the White House, an honor the latter had been denied under the Obama Administration.<sup>36</sup> Following the hold's announcement, Egypt's positive, if nonetheless minor, movement concerning Case 173 signaled to the U.S. government that it could use its leverage over military aid to some effect. The State Department's more recent decisions to reverse its aid hold undercut this point of leverage.

<sup>31</sup> U.S. State Department, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices for 2017, Egypt, found at: <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>

<sup>32</sup> <https://foreignaffairs.house.gov/hearing/subcommittee-hearing-egypt-security-human-rights-and-reform/>

<sup>33</sup> <https://foreignaffairs.house.gov/hearing/subcommittee-hearing-egypt-security-human-rights-and-reform/>

<sup>34</sup> <https://www.telegraph.co.uk/news/2017/09/18/irish-man-cleared-charges-egypt-four-years-prison/>

<sup>35</sup> <https://www.cbsnews.com/news/egypt-prisons-isis-breeding-grounds-irish-ibrahim-halawa-jailed-no-reason/>

<sup>36</sup> <http://thehill.com/blogs/pundits-blog/international-affairs/348538-tillerson-withholding-aid-to-egypt-is-a-necessary>

The United States' ability to deftly balance sticks and carrots while pushing for reform has likewise been undercut by the lack of a presidential envoy stationed in Cairo. The position of U.S. ambassador to Egypt has been vacant since the July 2017 departure of Ambassador Steve Beecroft. Local activists told Human Rights First that the lack of an ambassador weakens U.S. influence in Egypt. They urge the Trump Administration to nominate, as soon as possible, an experienced successor to Beecroft who understands, and will promote, the vital role of civil society in Egypt.

For its part, Congress has scrutinized the impact of governmental repression in Egypt to a degree that has frequently exceeded that of the Trump Administration. In July 2018, the House Foreign Affairs Committee's Subcommittee on the Middle East and North Africa held hearings entitled "Egypt: Security, Human Rights, and Reform." At the hearing, Chairperson Ileana Ros-Lehtinen (R-FL) noted that since President Sisi's re-election, "we have seen little indication that Egypt will be able to stabilize its economy, secure its borders, improve its human rights record, or make the reforms necessary to move forward."<sup>37</sup>

Over the last 12 months, congressional interest in Egypt's human rights record has focused on several key areas and cases. These include those convicted in the 173 foreign funding case, and the cases of U.S. legal permanent residents Ola al-Qaradawi and her husband Hossam Khalaf, who have been jailed since June last year. The couple, both of whom are in their 50s, were arrested at their vacation home in Alexandria on June 30, 2017, allegedly due to their affiliation with the

banned Muslim Brotherhood organization and other "terrorist" activities.

Al-Qaradawi is the daughter of Yusuf Al-Qaradawi, a leading Islamic scholar and Muslim Brotherhood member who lives in exile in Qatar. She has been held in solitary confinement in what the U.N.'s Office of the High Commissioner for Human Rights described in July 2018 as "one of the worst prisons in Egypt."<sup>38</sup> Her husband is being held in similar conditions in a different prison, according to media reports.<sup>39</sup>

In June, the U.N. Working Group on Arbitrary Detentions called for the couple's immediate release, declaring that they are being arbitrarily detained, that repeated renewals of 45-day detention orders are violating their rights to fair trial and due process, and that Al-Qaradawi's prolonged solitary confinement could also amount to torture or cruel, inhuman, or degrading treatment. The working group further stated that "Ms. al-Qaradawi and Mr. Khalaf have been arrested and detained for their family ties with Sheikh Yusuf al-Qaradawi. This is the only plausible explanation for the subversion of the equal protection of the law they experienced."<sup>40</sup>

These interventions came after Congressman Randy Hultgren (R-IL), co-chair of the House's Tom Lantos Human Rights Commission, spoke out about the couple in December 2017. In his remarks, Hultgren noted that Al-Qaradawi and Khalaf have "eight American citizen family members," and that they had both been denied access to family or legal counsel, and subjected to dire prison conditions.<sup>41</sup>

<sup>37</sup> <https://foreignaffairs.house.gov/hearing/subcommittee-hearing-egypt-security-human-rights-and-reform/>

<sup>38</sup> <https://news.un.org/en/story/2018/07/1013822>

<sup>39</sup> <https://news.un.org/en/story/2018/07/1013822>

<sup>40</sup> [https://www.ohchr.org/\\_layouts/15/WopiFrame.aspx?sourcedoc=/Documents/Issues/Detention/Opinions/Session81/A\\_HRC\\_WGAD\\_2018\\_26.pdf&action=default&DefaultItemOpen=1](https://www.ohchr.org/_layouts/15/WopiFrame.aspx?sourcedoc=/Documents/Issues/Detention/Opinions/Session81/A_HRC_WGAD_2018_26.pdf&action=default&DefaultItemOpen=1)

<sup>41</sup> [https://humanrightscommission.house.gov/sites/humanrightscommission.house.gov/files/documents/2017\\_Hultgren%20Remarks\\_Egypt\\_public.pdf](https://humanrightscommission.house.gov/sites/humanrightscommission.house.gov/files/documents/2017_Hultgren%20Remarks_Egypt_public.pdf)

These and other cases received significant attention from U.S. media and politicians, and interest in the 2016 killing of Italian student Giulio Regeni in Cairo appears to hold the concern of senior elements within the Egyptian government.

In an in-depth August 2017 investigative article for *The New York Times*, reporter Declan Walsh revealed that, “In the weeks after Regeni’s death, the United States acquired explosive intelligence from Egypt: proof that Egyptian security officials had abducted, tortured and killed Regeni.” Walsh further reported that an Obama administration official told him, “We had incontrovertible evidence of official Egyptian responsibility... There was no doubt.”<sup>42</sup>

Walsh’s reporting indicates that the U.S. government passed its conclusion to the Italian government. “What the Americans knew for certain, they told the Italians, was that Egypt’s leadership was fully aware of the circumstances around Regeni’s death,” wrote Walsh, who also reported that then-secretary of state John Kerry bluntly raised the issue with Egypt’s foreign minister, Sameh Shoukry, during a 2016 meeting.<sup>43</sup>

Authorities have gone so far as to arrest activist Amal Fathy, the wife of Mohamed Lotfy, executive director of the Egyptian Commission on Rights and Freedom (ECRF), which represents the Regeni family in the murder’s ongoing investigation. Detained in May, Fathy was initially held on the grounds that she posted an online video complaining about sexual harassment. She

was later charged with “joining a terrorist group” and “using the internet to call for acts of terrorism.” Sources close to her case say her detention may also serve as a reprisal against the ECRF’s work on the Regeni case.<sup>44</sup>

In March, Senators Marco Rubio (R-FL) and Bob Menendez (D-NJ) introduced a resolution pointedly noting that the Egyptian government “has created a hostile environment for nongovernmental organizations (NGOs), which provide essential services to the people of Egypt and for whom peaceful association for civic activities is a fundamental right.”<sup>45</sup> Two months later, Rubio’s office tweeted support for award-winning photojournalist Mahmoud Abou Zeid, better known as Shawkan, who was arrested in 2013 for covering anti-Sisi protests. “The Egyptian government should immediately release photojournalist @ShawkanZeid, who was arrested while covering the 2013 protests in Egypt. He faces trial once again this weekend on false charges and could face the death penalty. #ExpressionNOToppression,” said the tweet.<sup>46</sup>

On September 8, 2018, an Egyptian court sentenced Shawkan to five years imprisonment in a mass trial where 612 defendants were convicted, including 75 to death.<sup>47</sup>

These and other members of the Congress are rightly concerned over the deteriorating situation. As local activists relayed to Human Rights First, members of Congress should follow their statements by increasing the amount of FMF apportioned to Egypt that is conditioned on human

<sup>42</sup> <https://www.nytimes.com/2017/08/15/magazine/giulio-regeni-italian-graduate-student-tortured-murdered-egypt.html>

<sup>43</sup> <https://www.nytimes.com/2017/08/15/magazine/giulio-regeni-italian-graduate-student-tortured-murdered-egypt.html>

<sup>44</sup> <https://www.fidh.org/en/issues/human-rights-defenders/egypt-ms-amal-fathy-remains-in-detention-despite-worsening-health>

<sup>45</sup> [https://www.rubio.senate.gov/public/\\_cache/files/a7a6a170-75d9-464f-8b54-](https://www.rubio.senate.gov/public/_cache/files/a7a6a170-75d9-464f-8b54-)

[1d23ba700550/37F67489DF799946DC73C78EFFB46278.dav18342.pdf](https://www.rubio.senate.gov/public/_cache/files/a7a6a170-75d9-464f-8b54-1d23ba700550/37F67489DF799946DC73C78EFFB46278.dav18342.pdf)

<sup>46</sup> Tweet @SenRubioPress 27 July 2018

<sup>47</sup> <https://www.amnesty.org/en/latest/news/2018/09/egyptdeath-sentences-and-heavy-prison-terms-handed-down-in-disgraceful-mass-trial/>; Shawkan has already spent more than five years in prison should ought to be released shortly.

rights improvements to at least three hundred million dollars in the FY2019 Appropriations Act. The Senate version of the bill currently includes a provision for the conditioning of aid at this level, while the House version does not. While providing flexibility in the event of an actual national emergency, members should also limit the secretary of state's ability to invoke a national security waiver to end-run congressional intent.

## Conclusion: Using Leverage Wisely

Egyptian activists continue to ask that American officials speak out publicly and privately on their behalf, and on behalf of democratic values. Local activists relayed to Human Rights First that they are registering a decline in visits to Egypt from members of Congress over the last year, which they find worrisome. They urge members to travel to Egypt in order to consult with civil society and to press Egyptian officials in person on the vital need for reform.

Indicative of this message, one human rights activist who wished to remain anonymous to ensure his personal safety told a Human Rights First researcher that “Dozens of us are on travel bans. We can't leave the country, so now we need international politicians to come to us to hear what we have to say, to see for themselves.”<sup>48</sup>

More broadly, the U.S. government needs to rethink its relationship with Egypt. The United States remains the Egyptian government's most valued security partner, and making military aid conditional on human rights improvements is the most obvious way that the U.S. government can press its ally for reform. For years, successive administrations delivered aid to the Egyptian government regardless of its actions. Such an approach has all but guaranteed a vicious cycle of

repression, resentment, radicalization, and upheaval.

It's long past time for implementation of a new approach, one that uses U.S. leverage to nudge its ally toward a more stable and sustainable politics.

Discussions over the final version of the FY2019 Appropriations Act are currently under way in Congress. During the conference process, members should examine the overarching nature of the United States' aid relationship with Egypt, and ask whether the \$1.3 billion in FMF annually continues to serve American interests. A no-strings-attached approach to such aid has clearly been shown to enable the Sisi government's repression. At present, given the approach adopted by the Trump Administration, Egypt believes that the United States will support it unconditionally, given a lack of viable alternatives. This belief is misguided, and, in the long-run, will serve neither Egyptian nor U.S. interests.

## Recommendations

### The Trump Administration should:

- Announce that, moving forward, it will withhold all FMF conditioned by Congress until the Egyptian government fulfills publicly-acknowledged human rights benchmarks. The administration should use the leverage provided under existing legislation to push for substantial progress, including by demanding that the Egyptian government declare innocent those convicted in the first trial phase of Case 173, dropping charges against all others subsequently charged in subsequent phases of the same case, releasing other political prisoners, lifting restrictions on the media, and

<sup>48</sup> Interview with civil society leader, Cairo July 2018.

holding senior government officers found guilty of human rights violations accountable.

- Speak clearly and consistently to Egyptian leadership at the highest levels about the concrete reforms it expects and how human rights intersect with national security. These messages should include a demand for an end to the sustained attack on independent human rights organizations and peaceful dissidents, 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.
- Issue public statements making clear to President Sisi and his government that deepening repression in Egypt erodes the country's security and threatens U.S. interests.
- Nominate a suitably qualified ambassador to Egypt as soon as possible.
- Negotiate a durable arrangement with Egyptian authorities to ensure the long-term stability and integrity of U.S. assistance to independent human rights groups.
- Review the totality of the United States' aid relationship with Egypt to better address the security and other needs of Egyptians, and to better serve American interests.
- Sanction individual Egyptian officials found to have engaged in human rights abuses using authority provided under the Global Magnitsky Human Rights Accountability Act.

## Members of Congress should:

- Increase the amount of FMF funding tied to human rights conditions in the FY2019 Appropriations Act and future legislation to at least three hundred million dollars; and limit the secretary of state's ability, absent a national emergency, to invoke a national security waiver to end-run congressional intent.
- Visit Egypt to meet with civil society leaders and human rights activists to hear first-hand how the U.S. government can support long-term stability and security.
- Adopt a resolution calling for an end to discrimination against Egypt's Coptic Christian minority and for an end to impunity for attacks on Christians and Christian property, such as H. Res. 673, which enjoys bipartisan support in the House.<sup>49</sup>

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<sup>49</sup> <https://www.congress.gov/bill/115th-congress/house-resolution/673>

