



How to Promote Human Rights in Egypt

Blueprint for the Obama Administration

Released May 2009

BLUEPRINT

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Human Rights First is practical and effective. We advocate for change at the highest levels of national and international policymaking. We seek justice through the courts. We raise awareness and understanding through the media. We build coalitions among those with divergent views. And we mobilize people to act.

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“Now, the Egyptian Government must put its faith in its own people. We are all concerned for the future of Egypt’s reforms when peaceful supporters of democracy—men and women—are not free from violence. The day must come when the rule of law replaces emergency decrees—and when the independent judiciary replaces arbitrary justice.”

The Egyptian Government must fulfill the promise it has made to its people—and to the entire world—by giving its citizens the freedom to choose. Egypt’s elections, including the Parliamentary elections, must meet objective standards that define every free election.”

**Secretary of State, Condoleezza Rice,
June 20, 2005**

“To empower forces of moderation, America must ... provide the kind of steady support for political reformers and civil society that enabled our victory in the Cold War.”

**Senator Barack Obama,
July 2007**

“To those who cling to power through corruption and deceit and the silencing of dissent, know that you are on the wrong side of history.”

**President Barack Obama,
January 20, 2009**

INTRODUCTION

The United States’ relationship with Egypt is central to several policy challenges facing the new administration in the Middle East. As the most populous Arab state, Egypt is a major regional power. Since signing a peace treaty with Israel in 1979, it has played a key role in negotiations for an Israeli-Palestinian and a broader Israeli-Arab peace agreement. Egypt helped to mediate a tense ceasefire between Israel and Hamas that broke down with the outbreak of conflict in the Gaza Strip at the end of December 2008, and continues to serve as an intermediary between the warring parties in the Gaza conflict. Egypt is again at the center of renewed peace making efforts in the region launched by the Obama administration with the appointment of former Senator George Mitchell as Special Envoy in January 2009.

In a part of the world where so many vital U.S. interests are at stake, Egypt is a key partner for any U.S. administration. The Egyptian government can greatly assist the United States in legitimizing and supporting the new government in Iraq, for example, and, as the owner of the Suez Canal and as an oil producer, Egypt is vital to the security of energy supplies from the region.

Egypt is also a testing ground for U.S. human rights promotion in the region, and was frequently the target of exhortations to move forward with political reform and democratization during the Bush administration. Successive administrations have been encouraging the Egyptian government to reform for decades, but after the 9/11 attacks, with the prominent involvement of Egyptians like Mohamed Atta and Ayman al-Zawahiri, calls for reform took on greater centrality—and a new urgency—in U.S. policy. Human rights and democracy were no longer just desirable; they became national security concerns and the subject of a new “Freedom Agenda.” President Bush declared a clean break from the failed policies of “excusing and accommodating the lack of freedom in the Middle East” and urged reform on Egypt and other U.S. allies.

Carrying out a policy that effectively promotes freedom in Egypt and the region has proved to be challenging in practice. While not giving up on its rhetorical commitment to the Freedom Agenda, the Bush administration ended up implementing a policy that closely resembled the more traditional “stability first” approach of previous administrations. Over time, the administration’s rhetoric shifted to a more conventional bifurcation of the region into moderates and extremists, with the unreformed authoritarian U.S. allies like Egypt firmly in the moderate fold.

The disappointing results of the Freedom Agenda, not least in Egypt, underline the challenges facing the new administration in devising a new approach to promoting human rights. President Obama has indicated his support for promoting democracy in Egypt and elsewhere in the Middle East, but his statements have suggested a patient approach that will focus more on institutional development than on transformative elections.

With a new administration in place in Washington, and Egypt in the throes of a lengthy transition process that should see the emergence of a new president by 2011, it is timely to reassess prospects and opportunities for improving human rights conditions in Egypt.

The stakes could hardly be higher. Egypt is a trendsetter within the Arab world, and advancing human rights in Egypt could unlock the riddle of how to break the stultifying grip of authoritarianism throughout the Arab world. Conversely, an Egypt that stands as an obstacle to reform, as it has for much of the last three decades, represents a near insurmountable barrier to regional reform efforts. Failure to advance reform efforts in the region would harm U.S. interests. Egypt is in need of more responsive, more capable government if it is to meet the structural challenges it faces and avert damaging instability that could contribute to further political violence in the region and beyond.

The new administration should develop a human rights promotion strategy that emphasizes safeguarding basic rights and freedoms, and which views competitive elections as one tool, among others, for achieving tangible improvements in human rights conditions for all Egyptians, rather than as an end in itself.

In order to play a constructive role in promoting human rights in Egypt the new administration must resolve U.S. ambivalence about the role of Islamists in electoral politics. A democracy promotion strategy that disregards a genuinely popular political force, like Egypt’s Muslim Brotherhood, is doomed to failure.

At the same time, the United States and Egyptian governments, and the Egyptian people have a legitimate interest in ensuring that any increase in the representation of Islamist political parties in parliament does not lead to a further erosion of basic rights and freedoms or to the emergence of an immovable repressive regime in Cairo. The United States government should support the inclusion of non-violent political movements committed to achieving power by constitutional means as part of promoting the goal of a more pluralistic and representative political system in Egypt—a powerful stimulus for positive human rights change. It should also support those elements within Egyptian society, including human rights defenders and other civil society organizations, a free press and an independent judiciary, that are essential to the functioning and consolidation of a democratic society in which human rights are respected.

U.S. policy should pay particular attention to ensuring that the interests of vulnerable groups that have most to lose from extremism and intolerance are not harmed.

Religious minorities, women’s rights activists, homosexuals and those who promote unorthodox interpretations of Islam have all been targets of persecution in recent years. The U.S. government should use its influence to encourage the Egyptian government to protect these vulnerable individuals and groups and provide funding and other support to organizations that promote their rights.

U.S. democracy assistance and human rights promotion initiatives should give special attention to strengthening national, regional and international human rights institutions and mechanisms.

Previous democracy assistance programs have focused on providing direct assistance to local civil society organizations. While such assistance is important, it is not sufficient to bring about positive change. To be more effective, local human rights organizations need national and regional institutions with which they can engage to find remedies for the human rights violations they are concerned about. Supporting local human rights organizations in a vacuum can even be counterproductive since it risks raising unrealistic expectations for their performance. A concerted focus on supporting more responsive national, regional and international human rights institutions would contribute to creating an environment in which local human rights activists could function more effectively by generating regional momentum in support of human rights instead of pressure for human rights coming from primarily from the West.

TOWARDS A MORE COMPETITIVE AND GENUINE POLITICAL PROCESS

Competitive domestic politics provides impetus for positive human rights change. The 2005 USAID Egypt Strategic Plan Update, covering the period up to 2009, set as one of its key goals the creation of an “improved enabling environment for political processes.” The plan aimed to improve the legal and regulatory framework, including the Electoral Law and the Political Parties Law. However, constitutional amendments adopted in 2007 represent a setback for more open politics in Egypt by making it extremely difficult for candidates not approved by the ruling party to be eligible to run. At the same time, these restrictions do provide an opportunity for the U.S. government to exert strong pressure on the Egyptian authorities to ensure a transparent and fair process for the 2011 presidential elections. Since the constitutional amendments have made it impossible for the Muslim

Brotherhood, or probably any other credible opposition force, to field a candidate, the Egyptian government has less reason to object to independent monitoring of the elections by the judiciary and by local civil society.

Holding transparent elections, even with an extremely limited field of candidates, in what will likely be a watershed year for Egypt with the probable end of Hosni Mubarak’s thirty year term in office, could represent an incremental step forward for Egypt and the region. On this basis, the U.S. could then support demands for a two term limit for the presidency, and for fairer, more competitive elections in the future, thereby injecting new life into democratic reform efforts in Egypt and beyond.

1. RECOMMENDATIONS

- The administration should set as a clear goal in its efforts to promote human rights in Egypt the holding of transparent elections for the presidency in 2011.
- The 2005 USAID strategic plan made no specific reference to the need for independent election monitoring. This omission should be remedied as the new administration seeks to harmonize and refocus the myriad Bush administration democratization programs.

While 2011 may seem a long time in the future, in practical terms the timing is probably helpful to the new U.S. administration. Political reform in Egypt is a gradual process. Gaining the assent of the Egyptian authorities to the practical steps that will be required to achieve it, while also supporting the judiciary and civil society to ensure that they are equipped to play their roles, the former with powers to oversee the elections and the latter to be able to serve as effective independent election monitors, will take at least two years.

Coming to Terms with the Challenge of Political Islam

Most analysts trace the reversal in Bush administration policy to two elections. In the parliamentary elections in Egypt in November 2005, independent candidates associated with the banned Muslim Brotherhood secured 88 out of 454 seats, suggesting that they could have won

many more if they had fielded more candidates. This was followed by the electoral victory of Hamas in the January 2006 Palestinian Authority parliamentary elections. These results presented the administration with a stark dilemma: competitive elections, even admirably fair ones in the Palestinian case, can produce undesirable results that, in the parlance of the administration, favored extremists. Faced with the choice between advancing democratic processes and aiding political movements associated with extremism and terrorism, enthusiasm for promoting democracy waned.

It is vital that the new administration crafts a policy for promoting human rights and democracy in the region that faces up to the reality of popular political movements that may exploit elections for anti-democratic purposes.

The Muslim Brotherhood in Egypt, and other popular Islamist movements in many countries, espouse policies that are either hostile to or ambiguous about human rights, including in such areas as women's rights, freedom of speech, religious tolerance and even the continuation of the right to choose elected representatives freely.

The Bush administration's approach of spurning and seeking to isolate such movements has failed. Such movements have remained popular or even grown in popularity. More damagingly, excluding such movements from the political process only strengthens extremists within them who are skeptical of or even completely opposed to democratic politics. The U.S. government's attitude to these movements is also seen as being unprincipled and hypocritical in the sense that the U.S. has shown no hesitation in maintaining cordial relations with authoritarian, anti-democratic governments with well substantiated records of human rights violations. These kinds of double standards are often cited as the basis for distrust and skepticism of U.S. efforts to promote democracy and human rights and a more consistent approach would help to overcome such objections. A blanket policy of having no dealings with those who might oppose democracy and human rights is impractical, and nullifies the possibility of encouraging improved human rights performance through engagement. Engagement does not equate to approval. The United States should not choose sides in Egyptian elections, but it should understand the programs and proposals of all major

political groupings as well as explaining U.S. concerns and interests to those who represent diverse points of view within Egyptian society.

The challenge of how the United States should respond to a popular Islamist political opposition cannot be avoided in Egypt. Pressing for elections without adequately taking into account the risks of either inclusion or exclusion of the Muslim Brotherhood is a recipe for disaster. There are three possible responses, assuming that the emergence of an anti-democratic, anti-American government is to be avoided:

1. Oppose the participation of religiously based political movements in the political process.

Some version of the first option has been the default approach of the United States to Islamic political opposition movements in the Middle East for decades. Its drawbacks include the radicalization of opposition movements driven out of the political process, and the disempowering of those within such movements who advocate human rights and democracy. It is this production of extremism through exclusion and repression that the Bush administration rightly identified as mistaken in its promises for a new direction in U.S. policy towards the region.

2. Accept that such groups run, (in the hope that they will lose) but refuse to deal with them, and even seek to undermine them, if they win.

The second response has been applied catastrophically in Algeria in 1991 and more recently in the Palestinian Authority elections. The damage to the credibility of democracy promotion efforts of being seen to shun or undermine a democratically elected party are self-evident and the resultant violence and destabilization in these instances should serve as cautionary tales.

3. Support the participation of such groups as long as they are committed to the continuance of democratic governance and respect for human rights if elected, and provided that institutional checks and balances can be strengthened to prevent the emergence of an elected tyranny.

2. RECOMMENDATION

- U.S. policy should consistently support a pluralistic political process in Egypt open to all political trends committed to non-violence and constitutional methods, while also encouraging and working to strengthen institutional checks and balances that can prevent an elected tyranny, whether secular or religious.

It is the third approach of working over time towards the participation of non-violent Islamist political movements in the political process that provides a more constructive way forward, although there is no doubt that such an approach is fraught with difficulties. **The crippling stalemate in which continuing authoritarianism and Islamist extremism are presented as the only available alternatives is not sustainable.** There are no guarantees that inclusion of Islamic political groups in the political process will not produce human rights challenges and problems. Nonetheless, the current system of exclusion is not only fueling extremism and political violence in Egypt and beyond, but also postponing indefinitely the development of a genuinely competitive and pluralistic political system that would be conducive to and could even propel human rights progress.

Perhaps the largest challenge to inclusion would be the attitude of the current government. In Egypt, the government portrays itself as a bulwark against Islamic extremism and the Brotherhood as an extremist movement, thereby justifying the periodic imprisonment of Brotherhood leaders and the exclusion or limitation of Brotherhood affiliated candidates from elections. In so doing, the government keeps its strongest political opponents in check.

The government can be expected to resist any steps that would permit the emergence of a democratic Islamist opposition with electoral appeal. Such a development would undermine the government's case that in repressing the Brotherhood it is standing against extremism. It is worth noting that an opening of the political process in Egypt, such as was advocated by the Bush administration prior to the 2005 parliamentary and presidential elections, would also create space for liberal

and secular opposition movements that would also be firm opponents of extremism and political violence.

The stance of Islamist political opposition movements themselves is another challenge. The long running debate over the extent to which the Muslim Brotherhood platform commits the movement to democracy and human rights is a case in point. But that debate, while exposing some rigidly illiberal positions held by some Brotherhood leaders has also revealed the strong interest in democratic values of others within the Brotherhood and among some of its supporters. In a more open political environment, splits between reformists and traditionalists within the Brotherhood would surface and the threat of an extremist Islamic opposition juggernaut could recede.

The implications for U.S. policy in a shift towards the third approach in Egypt would not be drastic. It is not for the U.S. government to pick sides in elections in foreign countries. The recommended actions include:

3. RECOMMENDATIONS

- **The U.S. government should strive for consistency in its comments about incidents of political repression in Egypt.** The U.S. government should have clear, consistent criteria for when it will publicly criticize incidents of political repression, such as the imprisonment of political leaders for the expression of their non-violent opinions. These criteria should be based on the nature and severity of the violation, not the political ideology of the victim.
- **U.S. government officials should also resume dialogue with representatives and supporters of the Muslim Brotherhood in the same way that they meet with other opposition figures.** It is in the U.S. government's interest to be able to explain its views and positions on issues in Egypt and throughout the world to an important constituency of Egyptian opinion. Similarly, U.S. officials would gain a fuller understanding of the views of people in Egypt through direct engagement with Brotherhood leaders.
- **The U.S. government should, in cooperation with the Egyptian government, step up its programs designed to strengthen institutional checks and balances within Egypt that stand as a bulwark**

against tyranny. Democracy and human rights activist Saad Eddin Ibrahim has identified five areas: “the rule of law, the independence of the judiciary, free media, autonomous civil society and gender equality,” as “the infrastructure of democracy.” Strengthening this infrastructure would both safeguard human rights and advance democracy in Egypt.

PROMOTING THE RIGHTS OF HUMAN RIGHTS DEFENDERS

As noted above, governments can be constrained in their ability to violate human rights by the variety of checks and balances that exist within a democratic society. These include a strong legislature and an independent judiciary to hold in check the powers of the executive, as well as a free press and strong civil society organizations. Human rights advocacy organizations in Egypt strengthen these types of checks and balances and their efforts deserve the sustained support of the U.S. government.

There have been improvements in the situation of human rights defenders in Egypt over the past two decades. Today, far more human rights organizations operate, with fewer restrictions than was the case in the past.

Nevertheless, since 1981, Egypt has been under Emergency Law, which effectively suspends key provisions of the Constitution and imposes serious restrictions on the rights to freedom of association, assembly, and expression that significantly hamper the work of human rights defenders. Constitutional amendments approved by the Egyptian parliament and by referendum in March 2007 have further curtailed rights. In particular, changes to Article 179 of the Constitution effectively removed constitutional safeguards requiring judicial warrants before searches of homes, offices, correspondence, telephone calls, and other communications in what the government asserts are terrorism-related matters.

After decades of denying human rights organizations legal recognition, the Egyptian government has allowed numerous non-governmental organizations to officially register with the Ministry of Social Solidarity under Law 84

of 2002 (the “Associations Law”). However, the Associations Law enables the government to interfere with the registration, governance, and operation of NGOs. The Ministry of Social Solidarity may refuse registration or issue an administrative order to dissolve an NGO. The same law restricts the right to seek and receive foreign funding and imposes prison sentences on NGO members and activists for offences related to their activities. These provisions were used to order the closure of two human rights organizations in 2007, the Center for Trade Union and Workers Services and the Association for Human Rights Legal Aid. As restrictive as the current law is, a new NGO law reportedly exists in draft form and may be introduced later this year. There is concern that such a law might impose further restrictions on foreign funding. Among the proposals that may be included in a new regulatory framework for NGOs is the formation of a General Union of NGOs that would be government controlled and to which all NGOs would be obliged to belong.

Although Article 54 of the Constitution grants citizens the right to peaceful assembly without the need for prior notice, in reality, freedom of assembly is highly regulated and restricted. The Ministry of Interior must grant permission for public meetings and rallies or demonstrations. The police have the right to disperse any meeting of five or more persons with no warrant, and Article 86 of the Penal Code provides for prison sentences of up to five years for contributing to activities that damage “national unity and social order.” Demonstrations and even small gatherings are frequently broken up violently by the police, and human rights defenders and activists have been arrested at peaceful demonstrations.

Human rights defenders in Egypt express particular concern about the problem of impunity for violations, including those committed against defenders themselves. The Egyptian authorities do not investigate the great majority of allegations of human rights violations. During a pro-democracy demonstration on May 25, 2005, a mob of men attacked female protestors and journalists covering the protest, while the police stood by. One journalist and blogger who witnessed and photographed these events, Nora Younis, filed a complaint with the public prosecutor's office, which was dismissed. In April of 2008, Dr. Magda

Adly of the Nadim Center for Rehabilitation of Victims of Violence was attacked by a knife-wielding police officer after testifying on behalf of torture victims. Dr. Adly herself has documented numerous cases of sexual assault of women at police stations.

Impunity results from the failure of the prosecutor's office to investigate and from the lack of judicial independence. In addition, provisions in the Emergency Law allow for civilians to be tried in military tribunals and emergency state security courts, where minimum fair trial standards are not observed.

Women Human Rights Defenders

Women defenders in Egypt face many of the same restrictions faced by their male counterparts. However, women defenders, particularly those working on women's rights issues that are deemed sensitive, have to confront not only government restrictions, but also non-state actors and deeply entrenched patriarchal attitudes within the society.

Deep-seated attitudes cannot be changed overnight or through legislation. However, the Egyptian government can support civil society organizations that are working on these issues instead of undermining them as it has in the past, for example:

- In 2006 the Ministry of Education called off the Egyptian Center for Women's Rights (ECWR) celebration of Egyptian Women's Day, where a prominent item on the agenda was draft legislation calling for a quota system to raise the number of women in parliament. The head of the Egyptian Center for Women's Rights (ECWR) has been criticized by officials who felt the campaign was "harming Egypt's image." NGOs working on female genital mutilation and domestic violence legislation have also encountered strong official criticism for their work.
- Feminist scholars and activists such as Nawal el-Saadawi are regularly demonized by the media, including state-controlled publications, and have been subject to hisba lawsuits (suits filed by private parties in the name of protecting state and societal interests).

Freedom of Expression

Despite a general improvement in freedom of the press and expression, as shown by the rise in the number of independent newspapers and the growth of online advocacy, the situation leaves much to be desired. The Egyptian authorities have detained and prosecuted bloggers, journalists, and activists, using broadly-worded laws that criminalize speech that authorities find might harm Egypt's reputation, disturb the public interest, or insult the president or religion.

The Constitution provides for freedom of expression in Articles 47 and 48. In practice, however, free expression in Egypt is restricted under the Emergency Law. Furthermore, the long-awaited reforms to the Press Law in 2006 left in place many provisions in the Penal Code that impose fines and prison sentences on speech, which have been used against human rights defenders, political dissidents, journalists, and online activists. Some of these provisions, with their expansive and vague wording, invite abuse through their broad application to prosecute legitimate, non-violent expression.¹

Conversely, the authorities have taken little or no action to deter the dissemination of material in the press that is anti-Semitic or that seeks to discredit opposition figures and human rights activists. When criticized for this, officials have offered the excuse that they are unable to control the content of a free press. In fact, the government retains and exercises extensive restrictive powers.

These powers have been used against democracy activists, such as Saad Eddin Ibrahim, who have spoken or written about Egypt overseas, or journalists like Ibrahim Eissa or Howaida Taha Mitwalli, who have addressed sensitive issues in the local press.

In addition, bloggers who intersect with broader opposition movements by tapping into issues about which there exists a groundswell of concern have unsettled the

¹ Examples include: Article 80(d) of the Penal Code which imposes a sentence on anyone who discloses information abroad that damages Egypt's reputation, or Article 102, allowing for detention of whoever "deliberately diffuses news" that is liable to "disturb public security, spread horror among the people, or cause harm or damage to the public interest," or Article 179, which allows for the detention of "whoever affronts the President of the Republic."

authorities and attracted repression. Alaa Seif al-Islam, who posted information about protests and other human rights issues, was arrested in 2006 at a peaceful protest calling for the release of those detained in earlier demonstrations and in support of two judges threatened with removal from the bench for exposing electoral fraud. Another blogger, Abdul Kareem Nabil Suleiman (also known as Kareem Amer) is serving a four-year prison term for insulting the president and religion.

Journalists, online activists and human rights defenders are seriously deterred from their legitimate activities as long as the possibility of arrest, fines and imprisonment hangs over their heads. Defenders' freedom to communicate is impaired when defenders are charged for "disseminating false information abroad," or face prosecution for sharing information that could be "harmful to Egypt's reputation."

It is imperative that the authorities end their prosecution of journalists and other activists and that these vaguely-worded laws be repealed or amended so that they cannot be abused. The United States can put its support for human rights and democratization into practice through the consistent support of human rights defenders. The U.S. government can demonstrate this support in the following ways:

4. RECOMMENDATIONS

- Visiting U.S. officials and embassy staff should meet publicly with human rights defenders, attend trials when human rights activists are prosecuted, and raise specific concerns about both individual cases and repressive laws with senior Egyptian officials in bilateral meetings, both publicly and privately. President Obama should make clear the U.S. government's support for human rights defenders in Egypt and express concern about restrictions on their legitimate activities when he meets with President Mubarak in the United States and in Egypt.
- U.S. funding allocations to the security sector and judicial system should include specific provisions for training on human rights, including Egypt's obligations to prevent torture, the role of human rights defenders,

handling domestic violence cases, and prevention of sexual harassment by the police.

- The U.S. government should encourage the Egyptian authorities to engage in an open consultative process with independent civil society organizations on proposed changes to the law on associations. The U.S. government should support reforms that enhance the independence of NGOs in accordance with the U.N. Declaration on Human Rights Defenders and the U.S. State Department Guiding Principles on NGOs.
- The U.S. government should urge the repeal of Egypt's near permanent State of Emergency and oppose efforts by the Egyptian government to retain powers to restrict basic rights of freedom of expression and assembly, and to override the judiciary by passage of a new counterterrorism law. In that regard, the U.S. government should consult with the U.N. Special Rapporteur on the Protection of Human Rights While Countering Terrorism, who carried out a mission to Egypt in April 2009 with a view to supporting his recommendations to the Egyptian government for legislative changes that will both combat the threat of terrorism and protect human rights.

A NEW EMPHASIS ON HUMAN RIGHTS

For all its rhetorical exhortations of democracy and human dignity, the Bush administration shied away from the term "human rights" and almost completely disregarded the development of institutions to advance human rights enforcement and implementation at the regional and international levels.

5. RECOMMENDATION

- The U.S. government should capitalize on commitments to human rights made by the Egyptian government in recent years as the basis for constructive engagement in pursuit of human rights progress.

The Egyptian state has demonstrated willingness and a capacity to adapt to the reform demands coming from its western allies. This adaptability has raised questions about the efficacy of these claimed reform measures. Among the products of the Egyptian government's commitment to reform are a National Human Rights Council (NHRC), as well as the registration of a growing number of human rights organizations under the restrictive terms of the 2002 Associations Law. Egypt is also a State Party to a great many international human rights treaties, placing numerous obligations in the Egyptian government in the human rights field.

There may well be some basis to claims that the Egyptian authorities are interested in superficial concessions to mask continuing violations and non-compliance with international human rights standards, and the shortcomings of the NHRC and the drawbacks of the Associations Law are well known. However, these symbolic steps represent opportunities for engagement by the U.S. government with the Egyptian authorities on human rights issues.

Similarly, declarations of intent to move forward with democratic reform that emanate regularly from the ruling National Democratic Party, and which have been endorsed by Egypt's leaders, including President Mubarak, are commitments that the authorities should be encouraged to keep.

When looking at the tools available to the U.S. government to promote greater respect for human rights in Egypt building on concessionary statements and undertakings already made by the Egyptian authorities offers several advantages over a more confrontational approach.

First, it would allow for a change in tone in the U.S. government's human rights promotion efforts, away from demanding and hectoring which has often raised hackles and even become counter-productive, towards human rights progress as an exercise in partnership and the promotion of mutual interests.

Second, concerted effort by the U.S. government to build on concessions made by the Egyptian authorities in the human rights field to produce concrete human rights progress through interaction with regional and

international human rights mechanisms is almost untried. A new focus on these areas could produce important results. For example:

- The National Human Rights Council was created as a national human rights institution. The functioning of such institutions is governed by the Paris Principles, an international agreement to which the Egyptian government is committed having voted for these principles in the U.N. General Assembly. National human rights institutions have been established in several Arab states in recent years, and some, notably the Moroccan Human Rights Advisory Council, already have some achievements to their name. The U.S. government should support the work of the National Human Rights Council, while encouraging its improved performance, especially through the inclusion of more representatives of independent non-governmental human rights organizations and more broadly by ending the domination of the Council by supporters of the ruling party. The U.S. government could sponsor activities at the Arab regional level to share expertise and develop best practices so as to enhance the capacity of the NHRC to perform the functions for which it was ostensibly established—to serve as a national watchdog body, independent of the government, inclusive of credible independent human rights figures from leading civil society organizations, and able to contribute to human rights promotion in a tangible way.
- In 2004, the Arab League reviewed the draft Arab Charter for Human Rights, approved a text and opened the regional treaty for ratification. It entered into force in 2008 when seven states, not including Egypt, ratified the treaty. The Arab Charter is a flawed document. In some areas it provides fewer safeguards than existing international human rights treaties, it contains offensive language equating Zionism with racism and it has no enforcement mechanism. Nonetheless, it is the green shoots of the type of regional human rights institution that could

contribute substantially to human rights implementation in Egypt and throughout the region. Importantly, a functioning regional human rights instrument would provide for a locus of activity and pressure within the region thereby disarming critics who identify human rights activism as illegitimate foreign interference. In 2004, the U.S. government could have used its influence, working through its regional allies, to seek to improve the language in the Charter document. The U.S. government could now sponsor efforts by local NGOs and friendly government officials to revise the Charter, and to create a functional regional human rights institution that builds on international standards.

- Egypt is an active, and in recent years often obstructive, participant in U.N. human rights mechanisms. However, Egypt has been reluctant to invite U.N. special procedures mandate holders to visit the country to conduct fact-finding missions.

6. RECOMMENDATION

- The U.S. government should encourage the Egyptian government to admit U.N. special procedures mandate holders who are waiting for an invitation, such as the U.N. Special Rapporteur on Human Rights Defenders and the U.N. Special Rapporteur on Torture, and then take up the recommendations produced by such visits as the basis for its own advocacy on issues of concern. Making fuller use of the U.N. human rights machinery in its efforts to advance human rights would situate the U.S. government within a multilateral framework by which Egypt is bound, rather than Egypt being able to evade criticism by complaining of unacceptable western interference.

It is incongruous that such a close U.S. ally as Egypt should so frequently oppose the United States and its democratic allies at the U.N. Human Rights Council. Together with Pakistan, Saudi Arabia and Algeria, Egypt has gained a reputation as being one of the leading spoilers at the Human Rights Council: supporting measures designed to undermine the independence of

U.N. special procedures mandate holders; to diminish the autonomy of the High Commissioner for Human Rights and her office; and to restrict the participation of independent civil society organizations in Council meetings. Egypt's conduct at the Human Rights Council has been damaging to the development of the Council in its first two years of operation.

7. RECOMMENDATION

- The U.S. government should add Egypt's role at the Human Rights Council and in other multilateral human rights bodies to the list of human rights issues that are part of the bilateral relationship. One area where the United States can seek to work in partnership with the Egyptian government on human rights issues is at the Human Rights Council. The United States should use its influence to encourage the Egyptian government to play a less destructive role in multilateral human rights institutions that should be at the center of U.S. human rights promotion efforts in Egypt and throughout the world.

Third, the limitations of other more direct forms of pressure through such measures as aid conditionality are all too apparent. The Egyptian government is adept at trading on its strategic value to the U.S. in many fields and this is unlikely to diminish, meaning that even if the Congress passes legislation attaching human rights conditions to foreign assistance, the administration will be placed under pressure to issue a waiver, as happened last year.

It remains true that threatening aid conditionality is an effective way of getting the attention of Egyptian officials and can sometimes achieve a desired result. But these results have to be weighed against the costs of heightened tensions. Moreover, the threat of conditioning aid cannot be overused without risk of losing its effectiveness. In short, aid conditionality by itself is a poor vehicle for developing sustained constructive engagement necessary for developing strong institutions that can safeguard human rights.

On the other hand, stipulating that a certain amount of U.S. foreign assistance provided to Egypt should be used to advance human rights and democracy sends a clear

message to the Egyptian authorities of the importance the U.S. government attaches to progress in the democracy and governance areas. In the context of a cut in non-military foreign assistance from \$415 million in FY 2008 to \$200 million in FY 2009 the funds allocated for democracy and governance programs were cut from \$50 million to \$20 million. This cut in funding, which was inserted into the FY 2009 budget at the last minute, also included the deletion of language in the appropriations law designed to prevent the Egyptian government from exercising a veto over the NGOs that could be the recipients of U.S. foreign assistance. These changes in the provision of foreign assistance to the Egyptian government risk sending a message that the United States is downgrading its commitment to human rights promotion in Egypt. It also makes it more difficult for Egyptian NGOs out of favor with the Egyptian government, which may include independent human rights organizations, to have access to U.S. foreign assistance funds.

8. RECOMMENDATION

- In the FY 2010 budget the Obama administration should request an increase in the democracy and governance portion of non-military foreign assistance. As noted above, parts of these funds should be redirected to building the capacity of local and regional human rights institutions and to supporting the participation of Egyptian civil society in multilateral human rights mechanisms, notably the U.N. Human Rights Council.
- The FY 2010 appropriations bill should restore the language designed to protect the ability of independent Egyptian NGOs to apply for and receive U.S. government funding without having to obtain prior permission from the Egyptian government.



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