

Statement Before

U.S. House of Representatives
Committee on Foreign Affairs
Subcommittee on Middle East and North Africa

“Egypt: Security, Human Rights, and Reform”

Testimony:

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July 24, 2018

Thank for you for opportunity to testify before you today about the situation in Egypt and the important and complex relationship between Egypt and the United States.

In my remarks this afternoon, I will first discuss my perspective on the situation of human rights in Egypt and its impact on the security situation. Second, I will focus on especially important human rights issues impacting the bilateral relationship. And finally, I will provide my recommendations as to how the United States should use its leverage from its annual appropriations to Egypt to secure important reforms.

I. The Situation of Human Rights in Egypt

After the Egyptian military’s coup ousting President Mohamed Morsi in July 2013, the Egyptian people hoped that the social and political upheaval wrought by the toppling of Hosni Mubarak following by the authoritarian rule of Morsi would yield to a new stability. But the next month, the army attacked a demonstration in Rabaa al-Adawiya Square, killing more than a thousand Morsi supporters and then held a mass trial where 739 people, real and imagined supporters of the Muslim Brotherhood, were sentenced to death. President Abdel Fattah al-Sisi’s election in June 2014 was supposed to restore economic and political stability, but today Egypt is more authoritarian than it has been in decades.

Under Sisi, crackdowns on freedoms of speech, expression, assembly, and religion are commonplace and new repressive laws have effectively outlawed dissent. Just a few months into office, for example, Sisi signed a law banning demonstrations without police approval. Since then he has adopted new laws to weaken fair trial guarantees and expand the executive branch’s ability to imprison dissenters – today there are tens of thousands of political prisoners. Police forces employ arbitrary arrests, extrajudicial execution, and enforced disappearances to punish dissent. Travel bans and assets freezes are deployed against human rights defenders. And national security officers routinely torture political detainees with techniques including beatings, electric shocks, stress positions, and

sometimes rape. Coptic Christians, an estimated 10 percent of Egypt’s population and a historic target of legal and societal discrimination, have been victims of sectarian attacks with impunity. And the government has also relentlessly targeted sexual and gender minorities for serious repression, with Human Rights Watch having reported 230 LGBT people prosecuted and 50 sentenced on “debauchery” charges.

Under Sisi, there has also been an unprecedented crackdown on NGOs. In May 2017, Sisi ratified the new NGO law – despite having just come from a trip in Washington where he told President Trump and Members of Congress he wouldn’t sign it – which is effectively eradicating independent civil society groups. The law prohibits NGOs from conducting activities that “harm national security, public order, public morality, or public health”; allows the government to cancel a foreign NGO’s license at any time; and imposes onerous requirements for accepting domestic or foreign funds. More than 180 NGO workers have been arrested or prosecuted in recent years. Sisi now says he won’t enforce the law, but it appears it is already being applied.

While the country has faced major security threats and attacks by armed groups affiliated with ISIL in the Sinai, it is also using counterterrorism and state-of-emergency laws to target legitimate dissenters, some of whose cases have been transferred to the Emergency State Security Courts, a parallel judicial system operating since October 2017, which has limited fair trial guarantees and whose decisions are not subject to appeal. Among those detained, for example, has been Amal Fathy, a political activist and wife of the head of the Egyptian Commission for Rights and Freedoms.

On April 2, 2018, Sisi was reelected president with 97 percent of the votes, with lower than expected turnout and despite all the economic, security, and human rights challenges the country faced during his first term. The only opponent allowed to run against Sisi had supported his campaign until the day before he registered as a candidate.

II. Human Rights Issues in the Bilateral Relationship

The Egyptian people have faced the brunt of the abuses under Sisi’s authoritarian rule. But there are three especially important human rights concerns directly connected to the United States that Sisi has inexplicably allowed to fester, despite the U.S. having provided more than \$76 billion in foreign assistance since 1948 and \$1.3 billion annually in military assistance alone in recent years.

First, some five years after the felony conviction of 43 Egyptian and foreign NGO workers, 17 of whom were Americans, the affair has been an unfortunate irritant in U.S.-Egypt relations. It appears Cairo and Washington are close to a resolution of the case, and I can only hope that for all of those impacted by this case, we see a fair and expedient resolution. I know that both the United States and Egypt have remained actively engaged on this issue, and I believe if it were to get a fair resolution, it could be an important measure that shows Egypt’s willingness to improve our bilateral relations and its human rights record.

Second, the Government of Egypt continues to wrongly imprison close to 20 American citizens and legal permanent residents. These include Mustafa Kassem, an American auto parts dealer caught up in the crackdown in Rab'aa Square. And it includes two clients of mine, Ola Al Qaradawi and Hossam Khalaf, a married couple who were approved for green cards during the Trump Administration, and have eight American citizen family members. In the last month, the UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein called for Ola and Hossam's immediate release and the UN Working Group on Arbitrary Detention found they were both being held arbitrarily and in violation of international law. Both have been held *incommunicado*, in terrible conditions, and without regular access to counsel or any access to family for more than a year. Ola is the longest held female political prisoner in solitary confinement by the Egyptian regime. Ola has also been on a hunger strike demanding her most basic human rights and her immediate release. While the Trump Administration secured the release of two Americans, Aya Hijazi and Ahmed Etiwy, more hostages have been taken by this purported ally of the United States.

Finally, there is the case of April Corley, a U.S. citizen who is also a client of mine, who was seriously injured in Egypt's Western desert in an attack by the Egyptian military using a U.S.-funded and supplied Boeing AH-64 Apache helicopter in September 2015. April is now permanently disabled, unable to work, and in constant pain. Yet while the Government of Egypt has expressed its remorse, it has offered less money as a settlement than the cost of the Medevac out of Egypt, which April had to pay for out of her own pocket. Sisi has rightly concluded that U.S. military assistance comes with a license to kill or injure Americans with total impunity because he actually has the full protection of our legal system to do so. April, in fact, cannot even sue Egypt for her injuries because of the Foreign Sovereign Immunities Act. Inexplicably neither President Trump nor President Obama nor the U.S. Congress has imposed any consequence on Egypt for refusing to fairly resolve April's case or secured a final resolution of the case, despite the fact that it was U.S.-funded equipment that led to her plight.

III. Recommendations to Improve Egypt's Human Rights Record

As a human rights lawyer, I am often asked to comment on the most effective ways to improve the compliance of governments with their binding obligations under human rights treaties to which they are a party. That is indeed, generally, an enormous challenge.

But in the case of the bilateral relationship between the United States and Egypt, our government has enormous leverage. Contrary to the view of the Government of Egypt, which sees our foreign assistance as an entitlement and not a privilege, the United States has no legal obligation to provide assistance to Egypt.

While it is in our regional strategic interests to support Egypt in its fight against Islamic extremism and terrorism, today it is actually a less important and less effective ally as it has aligned itself with Russia and North Korea and its own capabilities to support our objectives have degraded from within. It is equally a major error in judgment for the

United States to ignore the way Sisi is governing, which works directly in contravention of that goal. Indeed, our country knows from experience that radicalization occurs in environments in which an authoritarian ruler suppresses a population's democratic aspirations for self-government, seriously represses its rights, and poorly manages an economy that has a lack of good paying jobs, especially for young people. All of these elements exist today in Sisi's Egypt. Surely Egypt can find a way to address its legitimate security concerns while ensuring that both the rule of law and human rights are respected. Indeed, this is in the interests of both the U.S. and Egypt as its stability and leadership is important for a secure and stable Middle East.

Yet it is business as usual here in Washington, with Egypt's aid flowing, basically unimpeded. This not only sends the wrong message to Cairo, but it puts our regional strategic interests at great risk in both the medium and longer term. The smartest way forward for the United States is for President Trump and Secretary Pompeo as well as the U.S. Congress to send a clear and consistent message to Sisi that while the United States views Egypt as an important ally, the American people expect our allies to act in certain ways.

First, the United States must say that Egypt's actions targeting American citizens and LPRs must stop. For President Trump, who has spoken of "America First," this motto is empty rhetoric if he tolerates any of this behavior by the Sisi government. The President should tell Sisi, privately as a start, that if he doesn't permanently resolve the NGO cases, pardon the wrongly imprisoned Americans and LPRs, and pay appropriate compensation to April Corley – all three of which Sisi could do today, fully within his powers as president – then he will have no choice but to make cuts to Egypt's aid. It is particularly worrying that the Administration may waive the human rights conditions on and releasing the \$195 million of FY17 funds that have been held back, which will undoubtedly be taken by Sisi as a clean bill of health on human rights.

Second, the U.S. Congress needs to speak in one voice about the path that Sisi has taken as being unacceptable. While the FY19 foreign operations appropriations bill in the Senate imposes human rights conditions on 30 percent of Egypt's proposed \$1 billion in reduced military assistance, the House bill maintains \$1.3 billion in military assistance and imposes no conditions of any kind. As authorizers, you have the ability to advocate with your colleagues here in the House to ensure that regardless of the amount of money ultimately appropriated for Egypt that the final foreign ops approps conference committee bill contains the proposed human rights conditions from the Senate version. If those human rights conditions are dropped, the message sent to Sisi would be unmistakable – that the U.S. will ignore his abuse of numerous Americans, his evisceration of Egypt's democracy, and the egregious abuses that he has imposed on his own population.

Finally, we need greater transparency and visibility here in Washington not only about the U.S.-Egypt relationship but also the way in which Sisi's government treats its own people. This hearing is an important start. Nonetheless, I can't remember the last time I saw any Administration official – from the Trump Administration or Obama

Administration before it – testify before the U.S. Congress about the realities of the U.S.-Egypt relationship. And it is also important for the Congress to hear directly from victims of the Sisi government, both American and Egyptian.

Thank you for the opportunity to testify before you today. I look forward to answering your questions.