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Human Rights in Egypt: The Gap between Policy and Practice

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A. Introduction

1. Summary

A study of Egypt's record on human rights reveals inconsistencies and contradictions. The country has officially demonstrated a commitment to human rights as far back as 1948, when Egypt strongly supported the U.N. General Assembly's adoption of the Universal Declaration of Human Rights.¹ Egypt has acceded to major international human rights conventions² and has articles in its constitution³ that, on their surface, support human rights. Egypt also has laws, national institutions, parliamentary committees, ministry offices, an undersecretary of state for protection of human rights and international humanitarian social issues, and more than 40 nongovernmental organizations (NGOs)⁴ that address human rights. As a result, in some areas, Egypt's human rights record has improved over the past decades. Yet, in day-to-day life, freedom of expression, assembly, association, and religion, as well as the rights of women, children, detainees, and homosexuals are limited. Most notably, since 1981, President Hosni Mubarak has restricted rights through emergency law, much of which was incorporated into the country's constitution by referendum in March 2007. As a result,

restrictions on human rights are entrenched, and there are no signs of reprieve in the foreseeable future.

2. Historical Context Since 1952

The domestic policies of President Gamal Nasser, who came into power in 1952, were considered by many to be oppressive. A U.S. Department of State (U.S. State Department) report concluded, “All opposition was stamped out, and opponents of the regime frequently were imprisoned without trial.” Nasser’s successor, Anwar Sadat, who took office in 1971, liberalized some aspects of the Egyptian legal regime as he negotiated a peace treaty with Israel. Among other measures, he reinstated due process and banned torture. He attempted political reform but changed course due to extreme sectarian tension. After Sadat’s assassination in 1981, Hosni Mubarak became president.⁵

Under Mubarak, Egypt’s human rights record has consistently fallen short. According to the State Department’s first annual country report on human rights, published in 1993, “The government’s human rights record remained poor and many serious problems remain.”⁶ Following reports found similar problems. The most recent report, 2006, stated, “The government’s respect for human rights remained poor, and serious abuses continued in many areas.”⁷

B. State of Emergency and Subsequent March 2007 Referendum

From October 1981 until March 2007, the Egyptian government imposed a state of emergency. Mubarak claimed that the emergency measures were necessary because the country needed “a firm and decisive law that eliminates terrorism and uproots its threats.”⁸ Human rights advocates argue that the emergency law stripped citizens of certain human rights.⁹ The Egyptian Organization for Human Rights (EOHR), an NGO founded in 1985, advocated against the emergency law. EOHR argues that the emergency law broadened powers of arrest, search, and seizure without a warrant, restricted personal freedom of assembly and expression, interfered with the work of the judiciary, and

allowed civilians to be tried in military court.¹⁰ According to the U.S. State Department, Egypt's military courts fail to ensure civilian defendants due process before an independent tribunal. Military judges are neither as independent nor as qualified as civilian judges in applying the civilian Penal Code. Moreover, military courts offer no appellate process; instead, verdicts are subject to a review by other military judges and confirmation by the president, who in practice usually delegates the review function to a senior military officer.¹¹ The Egyptian government defends the use of military courts as necessary in terrorism cases. It claims that civilian defendants receive fair trials in military courts and enjoy the same rights as defendants in civilian courts. Trials in civilian courts are protracted, the government says, and leave civilian judges and their families vulnerable to terrorist threats.¹²

The controversy over military courts and other emergency measures has come to an end. The government's constitutional referendum on March 26, 2007, abolished them. The issues did not become moot, however, because the referendum incorporated many of the emergency measures into Egypt's Constitution.¹³ Officials say the constitutional changes are needed to substitute the state of emergency with antiterrorism provisions that provide the necessary checks and safeguards on executive power and to redress the imbalance of power between the executive and legislative branches.¹⁴ Human rights advocates, however, argue that the constitutional reforms, like emergency law, restrict basic human rights.¹⁵ The reforms give the state broad powers, as it enjoyed under emergency law, to detain suspects without charge for lengthy periods, suspend civil protections in cases the president deems associated with terrorism, try civilians in military courts, prevent public gatherings, monitor private communications, and limit the role of judges in monitoring elections.¹⁶

Responding to the two opposing viewpoints of the constitutional amendments, Amr Hamzawy, an Egyptian political scientist and a Senior Associate with the Carnegie Endowment for International Peace, explained:

[The constitutional amendments] do give the parliament more authorities in discussing the budget, in voting on...the prime minister and his policies, withdrawing confidence from the prime minister, but these

amendments also give the president for the first time the right to dissolve the parliament without going back to the Egyptian voters in a referendum. So it's quite a mixed picture. They do give parliament a few more authorities, but they put the president in such a powerful place that he can basically control the government.¹⁷

In addition, the Egyptian public and other organizations have also expressed concerns with the referendum. First, regarding the process, voters were given an uncharacteristically short notice—a week.¹⁸ Second, although the government claimed a 27 percent voter turnout, human rights groups reported that only 5 percent of voters went to the polls.¹⁹ Egypt's National Council for Human Rights, a state-appointed body headed by former U.N. Secretary-General Boutros Boutros Ghali, reported inaccurate voter lists, monitors' inability to observe some polls, and the busing of state workers to polls to stack the polls in the government's favor.²⁰ Amateur, unconfirmed videos posted on the Internet show people stuffing poll boxes.²¹

The Muslim Brotherhood, the Kefaya (“it is enough”) movement, the Council on American-Islamic Relations, and many human rights groups and judges opposed the referendum's substance because it limits human rights. As a result, the Muslim Brotherhood and other opposition parties called for a boycott of the election. According to Hamzawy, an election under an authoritarian regime, with a pre-ordained outcome, only lends legitimacy to an undemocratic step.²² In addition to the boycott, protesting citizens were met with police violence and detention. According to reports, “Plainclothes officers kicked and punched activists, assaulted a number of female protesters, and confiscated memory cards from three foreign photojournalists' digital cameras.”²³ Neither boycotts nor protests appeared to have had an impact on the process or outcome of the vote. The government claimed a victory, and the referendum is in place. The restrictions embodied in the referendum bode poorly for human rights. The following sections analyze the gap between Egyptian law and actual practice in the areas of freedom of expression, assembly, association, and religion, and the rights of women, children, detainees, and homosexuals.

C. Current Conditions: Progress and Problems

1. Freedom of Expression

*Constitution, Article 47: Freedom of opinion is guaranteed.*²⁴

*Constitution, Article 48: Freedom of the...media shall be guaranteed.*²⁵

To a certain extent, the media in Egypt operates freely. Eight daily newspapers reach more than 2 million people, and the country has a number of monthly newspapers, magazines, and journals. Egyptian broadcast television is controlled by the government; however, people with satellites can access international public and private stations. Even though the majority of radio broadcasts in Egypt are controlled by the government, radio enjoys more freedom than television.²⁶ Within this context, the government admits that freedom of expression is limited. “Freedom of speech,” wrote the press attaché for the Egyptian Embassy in Washington, DC, “is safeguarded in Egypt’s Constitution and its legal framework. However, it is not an absolute right. It is superseded by values that Egyptian society holds sacred, including the sanctity of religion—not just Islam but all religions.”²⁷

One well-publicized example illustrates these limits. On February 21, 2004, the president of the Union of Egyptian Journalists announced that “President Hosni Mubarak had just phoned him and pledged to abolish prison sentences for journalists in connection with their work.”²⁸ On February 22, 2007, a court sentenced Abdel Karim Suleiman (also known as Kareem Amer), a 22-year-old law student, to four years in prison: Three for inciting hatred of Islam and one for insulting the president.²⁹ In his blog, Suleiman had said that his school, Al-Azhar University, was a “university of terrorism” and promoted extreme ideas. He had also accused Muslims of savage clashes with Christians in 2005, described some of the companions of the Muslim prophet Mohammad as “terrorists,” and likened Mubarak to “dictatorial pharaohs.”³⁰ Suleiman was the first blogger to be

convicted under the so-called “insult law,” but the EOHR documented 85 cases against journalists, from February 2004 to July 2006, for criticizing the president or foreign leaders, or publishing news “liable...to cause harm or damage to the national interest.”³¹ Newspapers have been banned.³² The judge handling Suleiman’s appeal is considering a case to shut down 21 human rights and news websites and blogs, claiming they “tarnished Egypt’s reputation and insulted the President.”³³

Egypt lists 35 offenses concerning expression, including defamation and insulting the president, that are punishable by imprisonment.³⁴ Under a new law, the ceiling for certain fines for journalists has been doubled.³⁵ In response to these types of charges and detentions, Egyptian groups launched a campaign in March 2007 for freedom of expression.³⁶ However, no tangible advances have been made. Despite constitutional guarantees of freedom of opinion, in practice, the restrictions are so onerous that they deny Egyptian citizens as well as the media any true freedom of expression.

2. Freedom of Assembly

*Constitution, Article 54: Citizens shall have the right to peaceable and unarmed private assembly, without the need for prior notice.*³⁷

Not unlike the United States, government approval must be obtained before holding public rallies and protest marches. Egypt has witnessed numerous peaceful assemblies, including an assembly to protest the well-publicized cartoons depicting Muhammad that appeared in the Danish newspaper *Jyllands-Posten*.³⁸ Other assemblies are denied or tightly controlled. For example, demonstrators in support of judges who criticized irregularities in the 2005 elections were arrested and met with police violence. According to news reports, two judges had noted irregularities, including violence toward voters and judges supervising the polls, vote rigging, and intimidation. In response, a larger group of Egyptian judges urged a reform to guarantee independence of the judiciary from executive power.³⁹ Public support through demonstrations and sit-ins followed. The EOHR reported that security forces used “excessive levels of violence to

end the protests.”⁴⁰ Police and plainclothes officers beat protesters on the street and detained hundreds, some of whom suffered torture and ill treatment while in detention. More than 300 protesters are believed to remain in detention.⁴¹ (Under the March 2007 referendum, judges are no longer permitted to oversee the election process; they will be replaced by a new supervisory committee.⁴²)

Observers have noted an increasing incidence of sexual harassment and assaults of female demonstrators by uniformed and plainclothes security forces. “Police turn a blind eye” to these incidents, says Farida Deif, a researcher with Human Rights Watch (HRW).⁴³ They often occurred in the streets of Cairo during the Eid Al Fitr holiday. Egypt’s *Daily Star* reported that, “According to witnesses, the mob [hundreds of men] attacked women regardless of their dress, ripping off their veils and clothes. Eyewitnesses said that even women who were accompanied by their husbands weren’t spared after their husbands were beaten and pushed aside.”⁴⁴ In conclusion, while Egypt’s Constitution appears to establish freedom of assembly, the tight control of gatherings serves all too often to negate that right.

3. Freedom of Association

*Constitution, Article 55: Citizens shall have the right to form societies as defined in the law. It is prohibited to establish societies whose activities are hostile to the social system, clandestine, or have a military character is prohibited.*⁴⁵

*Constitution, Article 56: The law shall regulate the participation of syndicates and unions in carrying out the social programs and plans, raising the standard of efficiency among their members, and safeguarding their funds.*⁴⁶

Egypt boasts more than 16,660 NGOs and numerous governmental organizations.⁴⁷ Egypt’s first NGO was the Greek Association of Alexandria, established in 1821. Since then, many organizations have been formed, including everything from medical charities and environmental groups to women’s and human rights groups.⁴⁸ NGOs now employ about 3 million employees.⁴⁹ In the specific area of human rights,

groups like the National Council for Women (established by presidential decree and led by Suzanne Mubarak, the president's wife), the National Council for Human Rights (a subsidiary of the Shura Council), and the EOHR work to help people of diverse socioeconomic levels.

Some critics charge that Egyptian NGOs often are controlled or co-opted by the government,⁵⁰ and are designed not to promote human rights but to boost Egypt's reform image at home and abroad.⁵¹ The mandate for the National Council for Human Rights, for example, only permits consultation through non-binding recommendations.⁵² More significant in the area of human rights, Egypt has long imposed restrictions on NGOs. After the 1952 revolution, laws, created to restrain the Muslim Brotherhood from coming to power, severely limited associations. After publishing a study on government torture, the secretary general of the EOHR was arrested in 1998 for allegedly accepting funds from a foreign donor without prior authorization.⁵³ A law instituted in 2002 gave the government even more control over NGO governance and operations. According to Joe Stork, Deputy Director of the Middle East and North Africa division of HRW,

The state has a legitimate interest in registering civil societies, but in a way that allows citizens to exercise their basic political rights. Neither the letter of this law nor its implementation so far demonstrate good faith on the part of the government. If the past is any guide, the authorities will use this legislation to pounce on any group whose activities cross the very low threshold for dissent in Egypt today.⁵⁴

Now under a mandate to register, numerous NGOs have been rejected without a legal justification.⁵⁵ The law also provides criminal sanctions for certain activities, including "engaging in political or union activities."⁵⁶ Other provisions call for a year's imprisonment and a substantial fine for people who form clandestine organizations.⁵⁷ Most recently, in March 2007 the Egyptian government shut down the Center for Trade Union and Worker Services,⁵⁸ one of the few independent labor organizations, which, unlike the government-sponsored labor unions, helps its members bargain.⁵⁹ As these examples show, the freedom of association established in the Constitution, similar to the

freedoms of expression and assembly, is tightly controlled and restricted, thereby denying Egyptian citizens and associations the benefits of the rule of law

4. Freedom of Religion

*Constitution, Article 40: All citizens are equal before the law. They have equal public rights and duties without discrimination between them due to race, ethnic origin, language, religion or creed.*⁶⁰

*Constitution, Article 46: The State shall guarantee the freedom of belief and the freedom of practice of religious rites.*⁶¹

Most Egyptians, about 90 percent, are Muslim; 9 percent are Christians, who primarily belong to the Coptic Orthodox Church.⁶² Egypt has fewer than 200 Jews (mostly senior citizens), 2,000 Baha'is, and a small but undocumented number of Jehovah's Witnesses and Mormons.⁶³ The government supports this diversity of religions in a number of ways. The Coptic Christmas is a national holiday. The Citizenship Committee focuses on religious freedom issues. Al-Azhar University has held interfaith discussions inside the country and abroad. The Grand Imam of Al-Azhar, a government appointee, and the Coptic Orthodox Pope have participated in joint public events. The government urges journalists and cartoonist to refrain from anti-Semitic commentary.⁶⁴ Yet, discrimination exists, subtly and legally. According to the 2007 report of the U.S. Commission on International Religious Freedom, "Serious problems of discrimination, intolerance, and other human rights violations against members of religious minorities, as well as non-conforming Muslims, remain widespread in Egypt."⁶⁵ Indeed, no governors, police commissioners, city mayors, public university presidents, or deans are Christian.⁶⁶ Ten conditions restrict the construction of churches, including a minimum distance between churches and between a church and the nearest mosque and the absence of objection on the part of Muslim neighbors. Permits for construction of new churches require a presidential decree.⁶⁷ Also, Coptic men cannot marry Muslim women.⁶⁸ Moreover, there are reports of forced conversions, mostly where a Coptic woman or girl converted to Islam when she married a Muslim man.⁶⁹

Baha'is face even more severe discrimination. Egypt does not legally recognize Baha'is and bans their activities and institutions.⁷⁰ Egypt requires that all citizens carry a national identity card, which lists religious affiliation and permits only three choices: Judaism, Christianity, or Islam.⁷¹ Unable to obtain identity cards, Baha'is are barred from obtaining birth certificates, passports, marriage licenses, death certificates, and more.⁷² In sum, Felice Gaer, chair of the U.S. Commission on International Religious Freedom, writes that

The state has a legitimate interest in registering civil societies, but in a way that allows citizens to exercise their basic political rights. Neither the letter of this law nor its implementation so far demonstrate good faith on the part of the government. If the past is any guide, the authorities will use this legislation to pounce on any group whose activities cross the very low threshold for dissent in Egypt today.⁷³

Although Judaism is legal, anti-Semitic and anti-Israeli articles, opinion pieces, and cartoons have appeared in government-owned and opposition press.⁷⁴ In 2004 the Supreme Administrative Court upheld a lower court's 2001 decision to ban the annual festival at the tomb of Rabbi Abu Hasira in a village in the Nile Delta and rejected the Ministry of Culture's designation of the site as a protected antiquity.⁷⁵

Even within Islam, the government maintains control. Muslims cannot convert to other religions.⁷⁶ In addition, the government confiscates or bans books, publications, movies, and works of art it deems detrimental to religion. In 2006, for example, the government confiscated Mohamed Fattoh's *Modern Sheikhs and the Making of Religious Extremism*, which criticized Al-Azhar University and its censorship of art and literature.⁷⁷ In February 2007, under security police surveillance, the publisher of *God Resigns in the Summit Meeting*, written by Nawal Al Saadawi, destroyed all copies of the book because it "offended readers' religious sensitivities."⁷⁸ Saadawi spoke out to the press, claiming that the book "contains nothing offensive to religion," although it did, she admits, examine the socioeconomic and religious issues in Egypt.⁷⁹ In sum, the Constitution states that all people are equal before the law and can practice their faith. In reality,

Christians, Baha'is, and Jews do not have the same rights as Muslims. Even Muslim practice is tightly controlled.

5. Women's Rights

*Constitution, Article 11: The State shall guarantee harmonization between the duties of woman towards the family and her work in the society, ensuring her equality status with man in fields of political, social, cultural and economic life without violation of the rules of Islamic jurisprudence.*⁸⁰

Egyptian society is family-centered. Within the family unit, women play a key role, and there is special significance given to mothers of sons. Yet women have long pushed to expand their role, as witnessed by the long history of the Egyptian women's movement, which started with the founding of the Egyptian Feminist Union in 1923.⁸¹ Women were granted suffrage in 1956.⁸² Since then the status of Egypt's women, who make up 49 percent of the population, has greatly improved.⁸³ Gone are the days when the majority of women were forced to be secluded, veiled, married to polygamists, ostracized if they did not bear boys, subjugated at home by demanding mother-in-laws, and their possessions controlled by their fathers or husbands. Egypt was the first Arab country to adopt a national population control policy, in 1962.⁸⁴

Nevertheless, inequities remain. In a 2006 World Economic Forum study on women's empowerment—examining educational attainment, political empowerment, economic participation and opportunity, and health and survival—Egypt came in 109 of 115 countries, including Muslim-dominant countries such as the United Arab Emirates, Kuwait, and Iran and underdeveloped countries such as Bangladesh and Mali.⁸⁵

Employment:

According to the Egyptian government, in 1978 the country had 500,000 female workers, compared to nearly 5 million in 2004.⁸⁶ Today, women make up 22 percent of the labor force and they play key roles, including professional and technical workers, administrators and managers, and government officials.⁸⁷ In the legislature, women make up 3 percent of the People's Assembly and 7 percent of the Shura Council;⁸⁸ in the diplomatic and consular corps, they make-up 20 percent of ambassadors and 26 percent of diplomatic attaches;⁸⁹ and women hold two cabinet positions.⁹⁰ The first female judge was appointed in 2003, with 31 more appointed in March 2007.⁹¹ The government has policies and programs to encourage women in small businesses and, under its National Council for Women, trains women for political careers. In education, women constitute 49 percent of students in higher education, which can lead to better jobs.⁹² Despite this progress, inequities persist. The miniscule percentages of women in high-level positions mean that women have little hope for putting forth an agenda or effecting change. Most women, in part because of higher illiteracy rates than men, are clustered in lower-level and service and agriculture positions. On average, women earn 76 percent of men's wages in the private sector and 86 percent in the public sector.⁹³

Finally, while the constitution explicitly refers to women's equality in the "political, social, cultural, and economic spheres," Article 11 leaves room for the denial of these rights if they are interpreted to be at odds with Islamic jurisprudence.⁹⁴ At least one such instance has recently occurred. The Council of State is challenging the assignment of the 31 women judges, asking Egypt's Al-Azhar religious institution for a definitive ruling from the perspective of Islamic jurisprudence.⁹⁵

Domestic Life:

Egyptian courts have struck down statutes that prohibited a woman from traveling or obtaining a passport without permission from her father or husband, or his legal representative.⁹⁶ In addition, under a 2000 law, women can obtain a "no-fault" divorce (khula), without proving mistreatment.⁹⁷ More progress was made in 2004 when new family courts were established providing psychological, social, and legal services. Even under the law allowing women to travel and obtain passports, an unmarried 21-year-old

woman must obtain her father's permission. According to HRW reports, police still require married women to obtain permission to travel or register for a passport.⁹⁸ Despite the 2000 law allowing women to obtain no-fault divorces, marriage and divorce, laws and practice favor men.

Egyptian marriage contracts, for instance, can contain conditions providing for certain rights and a woman's equal access to divorce, but many women are not informed of their right to negotiate such conditions and are often not even present during the contract negotiation process.⁹⁹ In fact, many women and young girls in Egypt are married without their consent. In addition, the civil code limits a woman's ability to enter freely into marriage by requiring that she have the permission of a male guardian.¹⁰⁰ Finally, early marriage and childbearing are fairly common. Up to 20 percent of 20- to 24-year-old women were married by age 18¹⁰¹; up to 9 percent of 15- to 19-year-olds had already given birth to at least one child.¹⁰²

Divorce laws favor men by giving husbands a unilateral and unconditional right to divorce without legal proceedings. Men simply must state three times "you are divorced" and go before a religious notary.¹⁰³ Women, on the other hand, must submit to lengthy court proceedings to prove harm in order to maintain their dowry and receive alimony. Under the new no-fault divorce law, even though women need not prove harm, they must still go through a court process that can take six months. In exchange for the no-fault divorce, the wife must return her dowry and relinquish all rights to alimony. Clarisa Bencomo, a researcher with HRW in Cairo, writes, "Khula actually strips women of all assets. Women who go this route literally leave the marriage with only the clothes on their backs."¹⁰⁴ Upon divorce, custody of adolescent children is transferred to the father.¹⁰⁵

According to experts, domestic violence is also a problem for women in Egypt. "Violence against women is systemic," said Farida Deif of HRW, "especially given the limited infrastructure to help women, and it is often condoned by police and government officials."¹⁰⁶ In a 1995 study (the latest available), 34 percent of Egyptian women who had been married had been beaten, 16 percent of which had been beaten in the year of the

study.¹⁰⁷ The penal code does not effectively deter or punish domestic violence, and police are routinely unsympathetic to the concerns of battered women and girls.¹⁰⁸

Indeed, violent acts committed “in good faith” are not punished, said Bencomo, and judges often rule that violence against wives is an acceptable form of discipline.¹⁰⁹ The government says it has opened 150 family counseling bureaus to help victims of household abuse, but Deif says very few genuine refuges exist for victims of violence, and those that do exist refuse to accept unmarried women or girls, are for short-term stays only, are not widely known, not even by social workers assigned to work with women in police stations, and generally focus on reconciliation, despite potential danger to the woman.

At the extreme end of domestic violence stands honor killings, which are male relatives murdering a woman. Women have been burned, strangled, forced to take poison, or thrown from windows for a perceived violation of the social norms of sexuality, including being raped. A 2002 study found that 47 percent of all homicides with female victims were honor killings.¹¹⁰ A Congressional Research Service report explains how families justify honor killings:

A bad reputation for one woman meant a bad reputation for the whole lineage. Honor was essential to social life; without it even a minimal social standing in the community was impossible. Men were especially interested in maintaining honor. Women were always on their best behavior around men from other families because they were afraid of getting a bad reputation. A bad reputation could disgrace the men of her family. A disgraced husband could restore his status, however, through divorce. Most disgraced fathers and brothers in rural and lower-class urban families, however, believed that honor could only be restored by killing the daughter or sister suspected of sexual misconduct. Family members who murdered the women were prepared to accept legal penalties for their actions.¹¹¹

Finally, female genital mutilation continues to pose a grave threat to women’s physical and mental health. Ninety-seven percent of married Egyptian women have

undergone genital mutilation.¹¹² To combat this problem, Egypt has launched a grassroots campaign that focuses on 120 villages and combines education with incentives to discourage the practice,¹¹³ which is a good but small start.

For women, the constitution states the parameters accurately: Equal rights at home, at work, and in school, but only within the confines allowed by the state. On their face, governmental steps appear to advance women's rights; in reality, men continue to dominate Egyptian society; a domination that is detrimental to women's equality, financial security, and health.

6. Children's Rights

*Constitution, Article 10: The State shall guarantee the protection of motherhood and childhood, take care of children and youth and provide the suitable conditions for the development of their talents.*¹¹⁴

*Constitution, Article 18: Education is a right guaranteed by the State. It is obligatory in the primary stage and the State shall work to extend obligation to other stages.*¹¹⁵

*Constitution, Article 20: Education in the State educational institutions shall be free of charge in its various stages.*¹¹⁶

Egypt takes proactive steps to provide education for both girls and boys and reduce child labor. Still, statistics indicate that efforts need to continue. Initiatives are particularly needed to increase the status of girls. The Egyptian government restricts groups working to advance children's rights despite the guarantees under the constitution for the rights of children.¹¹⁷ Therefore, children's rights, especially in regards to education and labor, are limited.

Education:

The government provides free public education, which is compulsory for the first nine academic years (typically to age 15). A majority of children attend school—83 percent according to external sources, with rates generally lowest in rural areas.¹¹⁸ About a third of children attend postsecondary institutions.¹¹⁹ Egyptian officials say the

government is committed to increasing literacy among females and males. The illiteracy rate among females was 44 percent in 2005, according to the Egyptian government, down from 47 percent in 2003; in contrast, the illiteracy rate among males in 2005 was 18 percent, down from 22 percent of 2003.¹²⁰ Educational gender gaps persist but are closing at the primary and secondary levels. Parents in rural areas are especially likely to pull their girls from school, since additional labor is needed to help with domestic and agricultural work.¹²¹ Yet experience around the world has proven that when girls' education levels improve, other important development indicators also improve: Babies are healthier, rates of infant mortality decline, income rises, and quality of life increases across the board for women and their families.¹²²

Child Labor and Marriage:

Several laws protect against child labor, and the government has taken steps to increase awareness of child labor-related issues and enforcement,¹²³ but problems persist. In addition to the trafficking of children for domestic and agricultural work, child labor continues. Child workers number 1.5 to 2 million,¹²⁴ with more than 1 million children working each year to manually remove pests from cotton plants, Egypt's major cash crop.¹²⁵ Although reliable data is lacking, several NGOs report that child marriages, including temporary marriages intended to mask prostitution, are a significant problem.¹²⁶

Street Children:

The government periodically conducts arrest campaigns of homeless or truant street children, of whom there are about 500,000, who have committed no crime.¹²⁷ According to HRW, many of the children in custody are subject to beatings, sexual abuse, obscene and degrading language, and extortion by police and adult suspects. The children are denied access to food, bedding, and medical care.¹²⁸ Moreover, conditions in prisons are unsanitary.¹²⁹ The authorities do not routinely monitor conditions of detention for children, investigate cases of arbitrary arrest or abuse in custody, or discipline those responsible.¹³⁰ In many cases, the police detain children illegally for days before taking them to the public prosecutor on charges of being "vulnerable to delinquency."¹³¹

7. Human Trafficking

In 2006, Suzanne Mubarak, wife of the president and head of the Suzanne Mubarak's Women's International Peace Movement, announced the "End Human Trafficking Now" campaign to raise awareness of human trafficking. The key component of the campaign is the adoption of the Ethical Principles against Human Trafficking by a projected 1,000 corporations. As part of the campaign, she urges journalists to expose the issue, she advocates the government to strengthen applicable laws, she encourages lawyers to defend victims, and she advocates for the criminal justice system to take a victim-friendly approach.¹³² According to Egyptian security officials, the government has increased prosecutions against travel agencies complicit in human trafficking. In a case in 2005, for instance, a criminal court convicted an Egyptian man of attempting to smuggle five Russian and Moldovan women to Israel. He was sentenced to three and a half years in prison.¹³³

Despite these laudable attempts, Egypt is on the Tier 2 Watch List of the U.S. State Department's annual human trafficking report, which means that the country requires special scrutiny because it failed to make progress in preventing and prosecuting trafficking and protecting victims.¹³⁴ According to the report, Egypt is a transit country for women trafficked from Uzbekistan, Moldova, Ukraine, Russia, and other Eastern European countries to Israel for the purpose of sexual exploitation, and may be a source for children trafficked internally for commercial sexual exploitation and domestic servitude.¹³⁵ Some of Cairo's estimated 1 million street children are exploited in prostitution. In addition, Gulf men reportedly travel to Egypt for temporary marriages with Egyptian women, including in some cases girls under age 18, often apparently as a front for commercial sexual exploitation facilitated by the females' parents and marriage brokers. Some Egyptian cities may also be destinations for sex tourism.¹³⁶

8. Detainees' Rights

*Constitution, Article 42: Any person arrested, detained or his freedom restricted shall be treated in such a manner that preserves his dignity. No physical or moral harm is to be inflicted upon him.*¹³⁷

“Accessibility to justice is an indispensable principle of the Egyptian legal system,” writes Mohamed Abdel Wahab, Assistant Director of the Human Rights Centre at Cairo University.¹³⁸ Yet, the EOHR, HRW, Amnesty International, and the U.S. State Department report that citizens have been detained without charge, denied counsel, tortured, forced to make confessions, and held in prolonged detention incommunicado.¹³⁹

Emad al-Kabir, a 21-year-old taxi driver, was arrested for resisting the authorities after trying to stop an argument between police officers and his cousin.¹⁴⁰ Although the public prosecutor ordered his release on bail, the police took him back to the station, tied his hands and feet, and forced him to sit on the floor. The officers whipped him and ordered him to call himself degrading names. Then they removed his pants and sodomized him with a broomstick. They used a cell phone camera to document the event, and then posted the recording on the Internet.¹⁴¹

In another case, after bombings in a Sinai resort town killed 34 people in October 2004, state security officers detained without charge Muhammad Jayiz. Despite repeated requests, the government refused to grant him access to a lawyer until the first day of his trial in July 2005. At Jayiz’s first court hearing, he testified that security officers had blindfolded him, hung him by his arms and legs, and used electrical currents on him before he confessed. In his testimony to the court, Jayiz said that he confessed only because he feared further torture. While he had told the prosecutor about his torture and requested medical attention and a lawyer, the prosecutor denied his requests.¹⁴²

According to Lawrence Wright, author of *The Looming Tower: Al-Qaeda and the Road to 9/11*, torture is rampant in Egypt’s jails. The EOHR documented 34 cases of torture in prison in 2005 and estimates that up to 10,000 people remain in prolonged detention without charge.¹⁴³ Clarisa Bencomo of HRW writes,

Impunity for widespread torture by state security forces dating back to the early 1990s has had a trickle-down effect of making torture an everyday occurrence in police stations. Until [2007] no state security official had been prosecuted for torture since 1986, despite numerous deaths in state security custody.¹⁴⁴

Yet, Bencomo maintains that the courts do recognize that torture takes place in police custody because they sometimes rule for compensation to victims of torture (or their survivors) in civil cases where the state has refused to conduct criminal prosecutions.¹⁴⁵ Thanks to the Internet, in November 2007, Emad al-Kabir's torturers were sentenced to three years in jail.

Still, despite small victories and the constitution, it is clear that detainees' rights are limited. The U.N. Special Rapporteur on torture asked to visit the country in 1996, but Egypt has not yet responded.¹⁴⁶

9. Homosexuals' Rights

According to the Egyptian government, homosexuality is not banned. The government, however, refuses to recognize same-sex marriages. In 2002, along with the Organization of the Islamic Conference, the Vatican, and other African Muslim nations, the Egyptian government condemned Kofi Annan's blessing of same-sex partnerships.¹⁴⁷ Egypt also outlaws "fujur," a broad term encompassing a concept of sexual excess that is sometimes translated as "debauchery."¹⁴⁸ The courts, however, interpret "fujur" as homosexual acts.¹⁴⁹

In one of the most widely publicized cases, more than 50 gay men on the Queen Boat discotheque were arrested in 2001. Several of the men stated that they were subjected to torture or ill treatment.¹⁵⁰

Brian Whittaker, *The Guardian's* Middle East Bureau Chief and author of *Unspeakable Love: Gay and Lesbian Life in the Middle East*, a book inspired by the Queen Boat arrests, writes that "the dearth of coverage about Arab homosexuality encourages the idea that it is almost entirely a foreign phenomenon,"¹⁵¹ but it is not. Human Rights Watch writes that while some camaraderie among homosexuals existed before 2001, the Queen Boat incident instilled a sense of fear and shut down any sense of community.¹⁵² According to an HRW report on homosexuality, since the incident, a growing number of men have been arrested, prosecuted, and convicted for having sexual relations with other men.¹⁵³ The organization claims that at least 179 men (and that is

probably “a minuscule percentage of the true total,” it says) have been brought under Egypt’s “debauchery” law.¹⁵⁴ Hundreds of others have been harassed, arrested, often tortured, but not charged. According to the report, “Men have told Human Rights Watch how they were whipped, beaten, bound and suspended in painful positions, splashed with ice-cold water, and burned with lit cigarettes.”¹⁵⁵ “Men taken during mass roundups may be tortured with electroshock on the limbs, genitals, or tongue.”¹⁵⁶

For gays and lesbians, the fact that the Egyptian government claims it does not outlaw homosexuality should offer no consolation. Although Egypt has no laws that openly discriminate against homosexuals, in practice, homosexuals are discriminated against, detained, and tortured.

D. Conclusion: Summary and Possible Paths for Evolution

Despite Egyptian Constitutional language and official assurances guaranteeing otherwise, freedom of expression, assembly, association, and religion as well as the rights of women, children, detainees, and homosexuals are severely limited. Freedom of expression is clearly out of reach when bloggers like Abdel Karim Suleiman are thrown in jail for voicing their personal opinions. Likewise, when demonstrators criticizing irregular elections are detained, or labor unions are shut down, Egyptians can hardly say they have freedom of assembly or association. Religious intolerance, not religious freedom, is the rule for non-conforming Muslims as well as Christians, who cannot, for example, freely build churches, and Baha’is, who cannot even open a bank account or obtain a driver’s license.

Women have equal rights only on paper. They often, for instance, must still obtain permission to travel and to marry. Children are too often forced to work or, especially girls, are pulled out of school. Detainees have been denied counsel, sodomized, and electrocuted. With no law specifically outlawing homosexuality, human rights groups have collected extensive evidence of gay men being discriminated against, detained, and tortured. Finally, the Egyptian government is not, as it claims, prioritizing “scoring integration;”¹⁵⁷ rather, it is severely limiting the rights of refugees.

Given trends since the 1952 revolution as well as the current state of human rights as outlined above, especially in light of the March 2007 referendum, any broadening of Egypt's human rights protections seems unlikely.

First, external pressures will probably not alter that situation; the European Union, United Nations, and United States (see below) have failed and probably will continue to fail to apply any pressure of any consequence. Second, internal pressures by organizations and individuals in Egypt have also failed to improve human rights. Many groups and people have demonstrated or spoken out against the constraints on human rights: Trade unions, workers (textile, poultry, cement, and hospital workers; engineers; miners; train drivers, and truckers),¹⁵⁸ journalists, judges, feminists, refugees, and human rights advocates. Rallies have drawn police reaction: Violence, arrests, detention, and even torture. Clearly, tensions are rising, but apparently not enough to boil over or influence the regime, which raises the question: Why do internal responses to restraint fail to have an impact on the regime? The answer is apparently that the responses are too weak and the government is too strong. Magda Kandil, a senior economist who works with the International Monetary Fund and is Egyptian, attributes the lack of internal impact in part on a weaker movement for reform. Kandil states that Egyptians generally do not care about politics and are more concerned about food on the table.¹⁵⁹

American University School of Public Affairs Professor Diane Singerman, coeditor of *Cairo Cosmopolitan: Politics, Culture, and Urban Space in the New Globalized Middle East*, further explains this tense dynamic between a people seeking stability, activists seeking rights, and the government seeking control:

“The Egyptian government ... keeps its stranglehold on power in part by force and intimidation. While many groups are dedicated to regime change, even eliminating the Mubarak government is not as cut-and-dried a position among the populace as one might imagine. It's complicated because some of the people you would expect to be upset about the situation fear the Islamists [the main opposition]....So they might support the regime for economic reasons, or just for stability.”¹⁶⁰

Therefore, there is every reason to assume that President Mubarak will continue to be able to limit human rights and maintain tight control.

A second question arises, then: What will happen in the area of human rights after him? He is aging, 79, and already showing signs of slowing down. He has not publicly chosen his successor, and the position on human rights for one possible successor, his son, Gamal (who denies any interest in the post¹⁶¹), is not evident. An investment banker, he worked in London and has been more exposed to Western ideas and culture than his father's generation, but that hardly guarantees he would be more in favor of human rights. Thus whether President Mubarak's successor will continue on the current path of restricting human rights is unclear.

If the Muslim Brotherhood, the main opposition group, gains power, the evolution of the status of human rights is clear: Rule under the Brotherhood could result in restrictive Sharia law¹⁶² and limit the rights of minority groups such as women, homosexuals, and Jews. The Brotherhood does not support Israeli-Palestinian peace talks,¹⁶³ so Egypt's role as a peacekeeper would likely discontinue. That could have troubling repercussions on the stability of the region and, in turn, the state of human rights.

E. U.S. Involvement and Interest

The United States has expressed concern with Egypt's human rights record. But human rights protection is just one of many priorities the United States weighs in developing foreign policy. The two countries remain strong economic, military, and political partners.

Economic ties benefit both partners. For example—

Since 1979, Egypt has been the second biggest recipient of U.S. foreign aid, after Israel, making the United States the largest source of Egypt's economic and foreign military assistance. Aid exceeds \$2 billion a year—\$1 billion for economic support, administered by USAID, and \$1.3 billion in military financing. Assistance helps to, among other activities, train Iraqi and

Palestinian security forces, patrol the Egyptian-Gaza border, and provide access and facilities to U.S. forces in the Middle East.

The United States is Egypt's largest bilateral trading partner.

Egypt supplies the largest market for U.S. wheat.

The United States is the second largest foreign investor in Egypt, primarily in oil and gas industries.

Egypt controls the Suez Canal and, because of its relationship with the United States, grants the United States special privileges in passage and fees—and thus access for world trade.

For military purposes, the Pentagon is perhaps the most invested in maintaining the status quo with Egypt, which has the third largest in the world. The alliance gives the United States a base, opportunities for military cooperation, and air rights. It also sends a signal to the region that Egypt and the United States stand strong, side by side, to protect oil supplies and to fight attacks, including terrorism and weapons of mass destruction. Finally, the United States relies on Egypt for intelligence cooperation, especially since 9/11. Egypt provided valuable support during Operation Enduring Freedom in Afghanistan.¹⁶⁴

Politically, the United States values Egypt's role as a strategic, stabilizing influence in the Middle East. Egypt's role derives from its military as well as its position as the most populous Arab nation, with a population of 80 million,¹⁶⁵ and its historical influence in the region. The United States depends on this political partnership. Beginning with the Camp David peace accord in 1978, Egypt has played a key role in the Israeli-Palestinian negotiations. U.S. Secretary of State Condoleezza Rice believes Egypt can help push Hamas toward the center.¹⁶⁶ Most recently, in April 2007 the Arab League charged Egypt, along with Jordan, with leading Israeli-Palestinian talks. Egypt's sphere of influence extends beyond the Israeli-Palestinian conflict. Egypt has influence over the Syria and Iran, and in early May 2007, Egypt hosted international talks aimed at stabilizing Iraq.

Because of these interdependencies, U.S. Secretary of Defense Robert Gates called Egypt "one of America's most important, even indispensable, partners." Security

problems in the Middle East are significant, Gates said in an April 2007 speech, but can be conquered by Egypt and the United States working closely together in the region. “To overcome these daunting challenges—defeating the terrorist networks, securing Iraq, holding Iran accountable, bringing peace to the Holy Land—geography and history have thrust an important and unique burden on Egypt.”¹⁶⁷ That sounds like high and unequivocal praise—and trust. But the alliance between the United States and Egypt also takes into account, to some extent, Egypt’s human rights record.

The United States has expressed disappointment in Egypt’s human rights record, as indicated in the annual reports of the U.S. Department of State on human rights, trafficking, and religious freedom as well as the U.S. Commission on International Religious Freedom—and a commitment to continue monitoring the situation through these reports.

On the diplomatic front, in 2005 U.S. Secretary of State Condoleezza Rice spoke forcefully about the importance of human rights reform in Egypt, but no consequences ensued, and her stance seemed to soften in 2006 and 2007, when she expressed an opinion but clearly refrained from appearing to meddle in internal issues:

“The process of democracy has its ups and its downs, and any state going through it will. But the United States will continue to speak about the importance of democracy, about the importance of a great nation like Egypt leading this move to democracy in the region. We do so in a spirit of friendship and respect. ... [But] the United States as a friend of Egypt and as a party with a great stake in the future of the Middle East believes very strongly that it is important to stand with those who are looking to greater freedom for their people, who are looking to what [President Bush] has called the non-negotiable demands of human dignity, which means the right to choose those who will govern you, the right to worship as you please, the right to educate your girls and your boys, the right to be free from the arbitrary power of the state. These are universal human values, not American values.”¹⁶⁸

Rice called the results of the 2007 Egyptian Constitutional Referendum, which imposed restrictions on human rights, “disappointing.” U.S. State Department spokesman Sean McCormack was more equivocal. He said that there is “always a balance” in democracy between “an environment in which people can freely express themselves” and the need to maintain civil order, and that balance “is going to be struck differently here [in the United States], for instance, than in the U.K. or Egypt or anyplace else around the globe.”¹⁶⁹ Other official U.S. statements voiced concerns but added that the United States did not want to be in the middle of what should be a domestic political event in Egypt.

Not surprisingly, the United States has issued no stronger reprimands or placed sanctions or conditions on Egypt despite its poor human rights record. A 2007 U.S. Library of Congress Congressional Research Service report encapsulates the tightrope the U.S. executive and legislative branches have historically walked in their desire to maintain a strategic alliance with Egypt while promoting human rights:

“U.S. policy on Egypt appears to be aimed at maintaining regional stability, improving bilateral relations, continuing military cooperation, and sustaining the March 1979 Egyptian-Israeli peace treaty. Successive Administrations have long viewed Egypt as a leader and moderating influence in the Middle East, though in recent years, there have been increasing calls for Egypt to democratize. Congressional views of U.S.-Egyptian relations vary. Some lawmakers view Egypt as stabilizing the region and helping to extend U.S. influence in the most populous Arab country. Others would like the United States to pressure Egypt to implement political reforms, improve its human rights record, and take a more active role in reducing Arab-Israeli tensions.”¹⁷⁰

This tightrope has meant more emphasis on maintaining a strategic alliance, less emphasis on pushing human rights—an imbalance that is problematic for human rights advocates. Some opposition groups in Egypt worry about what they see as U.S. distancing. “American policy has decided stability is more important than democracy. This is the end for democracy in Egypt,”¹⁷¹ said a leader of the Kefaya movement, according to news reports, concerning the March 2007 referendum. Bencomo of Human

Rights Watch states that the United States has “very little credibility as a force for positive change because it is seen as supporting the government and as supporting Israel’s abuses of Palestinians. It does not help that the United States rarely speaks out about human rights abuses, and when it does the statements are weak and have few if any consequences.”¹⁷² Bencomo continues that for the United States, it may be safer to support President Mubarak than the alternative: The Muslim Brotherhood, whose rule, as mentioned above, could result in restrictive Sharia law.¹⁷³

The issues are complex, and the stakes are high. Clearly the United States is carefully balancing its need to appease Egypt in order to protect U.S. interests in the region on the one hand against its desires to promote democracy and human rights on the other. By maintaining a tentative position on human rights, the United States is unlikely to encourage Egypt to increase human rights protections but also unlikely to alienate the Mubarak government. This appeasement could, in turn, result in an increase of tensions already building in the country, which could affect the country’s stability and its stabilizing position in the region. Yet, as mentioned above, there is no history of tensions erupting to the detriment of the authoritarian regime, which holds tight enough control to quell protests.

In addition, the repercussions are unclear for the U.S. “distancing” as Kefaya calls it—or failing to take a stronger stand against human rights violations. If the United States stands by while people are tortured in Egypt’s prisons, for instance, will the U.S. reputation as a protector of human rights diminish, as it has, it could be argued, as a result of the treatment of prisoners at Abu Ghraib and Guantánamo Bay? Would that change in the U.S. reputation, in turn, diminish U.S. credibility and power in Middle East? Will other regimes flout (or continue to flout) human rights protections, knowing they can do so with some impunity? And what does taking this stance say for the U.S. position as a leader in human rights in the world? If the United States lets its “indispensable” economic, military, and political partner violate the rights of women and children, restrain freedom of the press and freedom of assembly, torture detainees, ostracize people of certain faiths, and more, how can the United States maintain its leadership position and moral high ground in the universal struggle for human rights?

On the other hand, if the United States strengthens its position on human rights, will it lose its Suez Canal benefits, shared information on the global war on terrorism, joint operations with the Egyptian military, partnership with a moderate voice in the Arab world, a key Israeli-Palestinian negotiator, and the lynchpin for Middle East stability? And would that freedom result in rule by the Muslim Brotherhood, which could lead to fundamentalist Islamic law?

It's a difficult tightrope to walk, but what is the U.S. responsibility? Gary Bass, associate professor of politics and international affairs at Princeton University, sums up the question in a review of *Inventing Human Rights: A History* by Lynn Hunt: "Should the liberal republics be merely exemplars of human rights, passively inspiring other societies to follow, or should they more actively seek to spread liberty and defend human rights?" He assumes, "If rights are universal, there will presumably be a strong temptation to protect them even in other countries."¹⁷⁴ While that may be the *right* assumption in a less complex world, it may not be the one the United States can pursue—not, at any rate, with conviction or muscle—if it wants to maintain its interests.

F. Questions to Consider, Policy Recommendations and Possible Reactions

1. Questions to Consider

Whether conditioning, benchmarking, or rescinding aid or pursuing a free trade agreement (which the United States stalled apparently in response to the irregularities of the 2005 elections and subsequent arrest of Ayman Nour) based on human rights progress could undermine the U.S.-Egypt partnership, the Middle East peace process, or Egypt's progress toward economic reform.

Whether increasing pressure to extend human rights could result in an Egyptian response that could have negative consequences for the United States and the region.

Whether expansion of human rights in Egypt is preferable, given the Muslim Brotherhood could be a key benefactor.

Whether to cultivate relations with the Muslim Brotherhood in case it comes to power, following the lead of House Majority Leader Steny Hoyer, who met with the Brotherhood in April 2007.

2. Recommendations to Consider & Some Possible Reactions

Through speeches and public statements by high-level officials such as Secretary of State Condoleezza Rice, encourage Egypt to expand human rights and democracy. (Egypt will probably continue to resist what it considers U.S. morality speeches.)

Press for the release of Ayman Nour. (Egypt will probably continue to tell the U.S. not to meddle in internal affairs.)

Continue the annual reports on human rights, religious freedom, democracy, and trafficking.

In conjunction with the trafficking reports, continue to have the U.S. Department of State Office to Monitor and Combat Trafficking in Persons work with Egypt to improve its rating.

Consider whether, in conjunction with each human rights report, the Department of State Bureau of Democracy, Human Rights, and Labor should outline action steps (similar to those outlined in the trafficking reports) and Congress should conduct oversight.

Encourage cross-cultural and education exchanges, which can promote understanding between the cultures and introduce future Egyptian and Mideast leaders with the benefits of democracy and human rights protections.

Continue the Middle East Partnership Initiative (MEPI), a State Department program designed to encourage reform in Arab countries by strengthening Arab civil society, encouraging micro-enterprise, expanding political participation, and promoting women's rights, which includes literacy programs for girls.

Provide foreign aid to pro-democracy organizations to assist local efforts to monitor elections and train activists.

Channel aid to the people to fund health, training and education—the key indicator of economic well-being, especially important given Egypt’s large and growing youth population. Limit direct cash transfers for economic aid to the Egyptian government so the money reaches people, organizations, and institutions in need.

If conditioning or benchmarking aid to press for expanding human rights, negotiate, don’t dictate, to ameliorate the appearance of U.S. dominance and to cultivate mutually beneficial, respectful relations.

Improve the U.S. record on human rights.

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- a) The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing; or
- b) There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; or
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