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DEMOCRACY AND CITIZENSHIP IN NORTH
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CHALLENGES FOR EU AND US FOREIGN POLICY
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EGYPT

The Return to Authoritarianism and the Crisis of Citizenship Rights

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INTRODUCTION

Political and civil rights have deteriorated since the election of Field Marshal Abd El Fattah El Sisi as president of Egypt. And there is no prospect for significant political changes any time soon in Egypt. The public space is currently more restricted than any time after the 25th of January Revolution, with increasing reprisals against pro-democracy activists and civil society. Despite an intractable socio-economic crisis, the military-backed regime led by El Sisi has gained the support of growing numbers of Egyptians by pursuing politics of exclusion since the military removal of President Mohammed Morsi on 3 July 2013 and the unprecedented crackdown on the Muslim Brotherhood. The spread of disorder and civil conflicts in many countries in the Middle East and North Africa (MENA) region as well as the rise of militant Islamists has pushed Egyptians to support this regime as a means to ensure security and stability. In this political climate, revolutionary and democratic political parties and movements have lost popularity. The military's involvement in the political process and the crackdown on the Muslim Brotherhood have deepened divisions within the democratic opposition. Regional and international geopolitical shifts have also significantly weakened the West's leverage over domestic politics in Egypt.

SHRINKING SPACE FOR CIVIL SOCIETY AND DISSENT

The state under El Sisi has steadily expanded the scope of repression. Security measures and legal actions aim not only to stifle the Muslim Brotherhood and supporters of former President Mohammed Morsi, but also to prevent any potential mobilisation against the new regime and its policies. For this purpose, restrictive laws inherited from the Mubarak regime have been applied as well as new laws such as the Law Regulating Right of Assembly, Procession and Peaceful Protests decreed in November 2013 by former interim President Adly Mansour. The Muslim Brotherhood and its Freedom and Justice Party were curtailed by tough security measures and legal actions.¹ Most of their leaders are either on trial or convicted for terrorism related offenses, or in exile. This campaign aims to break the organisation of the Muslim Brotherhood as a strong political rival for the military. To thwart the use of religious institutions for political mobilisation against the state,

¹ Brown, J. N. and Dunne, M. (2014) 'Egypt's Judges Join In: The Crackdown on the Muslim Brotherhood Enters a New Phase'. *Foreign Affairs*, 1 April. Available at: <http://www.foreignaffairs.com/articles/141088/nathan-j-brown-and-michele-dunne/egypts-judges-join-in>.

the government enforced tough measures to control religious institutions and places of worship.² It has also continued to use religious rhetoric and apply conservative policies to legitimise itself and counter balance different religious forces. In this atmosphere, the improvement of rights such as religious freedom, gender equality and rights of religious minorities has not been possible.

Thousands are currently in detention pending investigation or trial or after being convicted under the assembly law, including prominent human rights defenders and political activists who played leading roles in the 25th of January Revolution. The government recently declared its plans to amend this law after prominent young political activists, human rights defenders and journalists began a hunger strike to protest this law and urge the government to free political detainees. This declaration also came a few days before the first trip made by El Sisi to the US to take part in the United Nations General Assembly and while Egypt's human rights record was under review by the United Nations Universal Periodic Review in early October. However, there are serious indicators that this move does not mean that the state will temper its crackdown on political and human rights activism.

On 18 July 2014, Egypt's Ministry of Social Solidarity announced an ultimatum to human rights NGOs: register under Association Law No.84/2002 in a maximum period of 45 days or be prosecuted. This deadline was extended to November 10 after pressure from international actors.³ Local and international NGOs and UN bodies have repeatedly denounced this law for its draconian restrictions on NGOs. But even this law is seen insufficient for the government to control civil society, as a new, yet more restrictive association law is reportedly being prepared to control NGO activities and access to domestic and foreign funding. This new law would ban human rights defenders from forming any legal entities such as non-profit companies or law firms outside of the association law. In the same direction, President El Sisi decreed an amendment to the Penal Code on 21 September which stipulates that 'an individual requesting or receiving transferred or liquid money or arms or equipment from a foreign country or a foreign or local private organisation, with the aim of pursuing acts harmful to national interests or destabilising to general peace or the country's independence and its unity, shall be penalised with a life sentence and a fine of no less than LE500,000 and up to the amount he or she is promised'.

2 See Fahmi, G. (2014) 'The Egyptian State and the Religious Sphere', *Carnegie Endowment for International Peace*, 18 September. Available at: <http://carnegie-mec.org/2014/09/18/egyptian-state-and-religious-sphere/hpac>.

3 Mada Masr. (2014) 'Ministry Won't Extend Nov 10 Deadline for NGO', 2 October. Available at: <http://www.madamasr.com/content/ministry-wont-extend-nov-10-deadline-ngo-registration>.

The ambiguous and broad language used in this provision as well as the political timing of its promulgation means it is likely to be used against human rights defenders and NGOs.⁴

The stigmatising of human rights defenders has been routine in both public and private media, where they are accused of being traitors and spies. For the first time in Egypt, senior staff of Human Rights Watch (HRW), including its Executive Director, were denied entry to Egypt on 11 August and deported to prevent them from launching HRW's report on the mass killing of Muslim Brotherhood protesters during the dispersal of the Rab'a sit-in in August 2013. Over the past year, most international NGOs have closed their offices in Cairo, due to concern for the safety of their staff. Furthermore, new regulations were adopted in public universities which strictly limit students' political activities in campuses. The government also announced its intentions to establish a new media regulatory body entrusted with overseeing printed and broadcasted media. According to news reports, this body would enjoy broad powers yet the independence of its membership is questioned. The performance of the police and National Security Service have come under scrutiny with increasing reported cases of torture and ill-treatment of political detainees and citizens.

Egypt's judiciary has increasingly become an instrument for state repression. Egypt's law does not guarantee the independence of the judiciary.⁵ For decades, the executive has been able to influence judges through the powers of the ministry of justice. The appointment mechanisms of judges and prosecutors are not transparent and do not ensure equal opportunities. Egyptian rulers have attempted to impose their control over the judiciary. This pattern has not changed since the 2011 Revolution.

One of the major challenges that the judicial system in Egypt faces is the politicised and inefficient performance of the Office of the General Prosecutor who has been long susceptible to heavy political influence from the executive. The politicised and insufficient performance of the general prosecution stands behind the failure of Egypt's judiciary to provide justice for victims of grave human rights crimes committed during and after the 2011 Revolution. The President was entrusted with appointing the General Prosecutor but the Supreme Judicial Council now selects them. However, the politicised and non-transparent performance of the newly appointed General

4 Mada Masr. (2014) 'President Amends Law to Include Life Sentence for Receiving Funds, Arms', 23 September. Available at: <http://www.madamasr.com/content/president-amends-law-include-life-sentence-receiving-funds-arms>.

5 See International Bar Association (2014) *Separating Law and Politics: Challenges to the Independence of Judges and Prosecutors in Egypt*. Available at: <http://www.ibanet.org/Article/Detail.aspx?ArticleUid=b30a63ae-8066-4b49-8758-c1684be5e9b9> ; See also El Chazli, F and El Chazli K. (2011) *Egypt: The Independence of the Judiciary*. Copenhagen: EMHRN. Available at: <http://www1.umn.edu/humanrts/research/Egypt/The%20independence%20of%20Judiciary.pdf>

Prosecutor suggests that this new appointment mechanism does not necessarily ensure their independence and that there are structural limitations in the institution of the judiciary that weaken the independence of judges and prosecutors and make them vulnerable to political influence. The Office of the General Prosecutor enjoys extensive powers in the Criminal Procedures Law, being mandated to collect evidence, conduct interrogation and indictment and refer accused persons to the courts. The law is lenient in allowing for pretrial detention, as prosecutors and judges have systematically ordered pretrial detention for prolonged periods in most freedom of expression and assembly related cases.

The executive created another avenue to influence high profile political trials by establishing special circuits in January 2014 within ordinary criminal courts to examine terrorism and national security related cases. Judges in these circuits are selected by Chief Appellate judges. These special circuits tried leaders and members of the Muslim Brotherhood as well as prominent non-Islamist young political activists like Ahmed Doma and Alaa Abd El Fattah. Moreover, some prominent judges who opposed state policies since the ousting of the Muslim Brotherhood were excluded from the judiciary or subjected to disciplinary measures.⁶

POLITICAL POWER IN THE POST-MUSLIM BROTHERHOOD ERA

Power shifts among political forces over the past year explain a grim reality of political and civil rights. Political actors who are disappointed with the political trajectory taken by Egypt after the ousting of the Muslim Brotherhood are stuck with very limited political options. Street action is not viable given the popularity of Egypt's new president, and risks increasing state repression and public concerns over disorder and instability. Some political groups still use protests and strikes as a means to pressure the state but citizens' participation in these activities has become largely symbolic and is not likely to lead to massive popular movements of the type seen until the ousting of the Muslim Brotherhood. Parliamentary elections, scheduled to be held by the end of this year, seem to be one option to allow political parties to achieve some influence over state institutions, given that parliamentary legislative prerogatives and oversight roles over the executive are consolidated under 2014 Constitution. Most importantly, the party or the coalition that holds the parliamentary majority will select the prime-minister and the cabinet.

⁶ Aziz, S. (2014) 'Egypt's Judiciary, Coopted', *Carnegie Endowment for International Peace*, 20 August. Available at: <http://carnegieendowment.org/sada/2014/08/20/egypt-s-judiciary-coopted/hljn>

However, under current political dynamics there is very little prospect that the new parliament would improve the conditions of citizenship rights in Egypt. Liberal and leftist forces that are deemed closer to the revolutionary agenda have no chance to be properly represented in this parliament. The electoral law passed in June 2014 by former interim President Adly Mansour establishes an electoral system where candidates elected on an individual basis will take up 420 of the 540 parliamentary seats, while 120 will be elected from closed party lists. This law privileges those politicians and parties who were traditionally winning parliamentary seats thanks to their financial capacity, family or tribal ties, and is likely to produce a fragmented parliament.⁷ Moreover, the increasing restrictions on freedom of expression, association and assembly hinder the mobilisation capacity of these forces. The same restrictive environment was seen during the Presidential election, which according to the EU's observation mission was not competitive and fair, even though the technical aspects of the electoral process were positive.⁸

The current political landscape limits the likely political impact of this election. In the absence of a coherent alliance by revolutionary liberal and leftist parties, the political space left by the fall of the Muslim Brotherhood was occupied by other forces that are not sympathetic with the demands of the 2011 Revolution. The constituency of the Muslim Brotherhood has been heavily undermined by far reaching repressive measures taken by the state since July 2013. This policy of political exclusion hampers the integration of peaceful and revisionist voices from Muslim Brotherhood into the political process. Other dissenting Islamist parties with historical ties to the Muslim Brotherhood are still allowed to exist but they face the same oppressive political environment met by liberal and leftist opposition parties and it is not yet clear if they will succeed in attracting young members of the Muslim Brotherhood into their ranks. The Salafist al-Nour Party is the only Islamist party that openly endorses the military. Drawing on the absence of the Muslim Brotherhood, this party is now preparing itself for an influential place in the new parliament. Prominent members of Mubarak regime have used the polarised political climate since the ousting of the Muslim Brotherhood to re-emerge in the political scene. They gather under the umbrella of the Egyptian Front Coalition which includes the Congress Party headed by Amr Moussa, the Egyptian Nationalist Movement, led by Ahmed Shafiq, the former president candidate and Mubarak's last Prime-Minister. This coalition

7 Rabou, A. A. (2014) 'What Future Awaits Egypt's Political Parties: Analysing New Legislation for the House of Representatives', *Arab Reform Initiative*. Available at: <http://www.arab-reform.net/what-future-awaits-egypt%E2%80%99s-political-parties-analyzing-new-legislation-house-representatives>

8 European Union Election Observation Mission. (2014) *Final Report: Presidential Elections May 2014*. Available at: http://eeas.europa.eu/eucom/missions/2014/egypt/pdf/eucom-egypt2014-final-report_en.pdf

also includes the left-leaning al-Tajamu' Party and its mouthpiece is Mostafa Bakry, a media figure known of his strong support of El Sisi.

Today, remnants of the Mubarak regime and the Salafist al-Nour Party are the most powerful political actors that dominate parliamentary elections in the short run. They manage the strong electoral machinery and have financial means to support their political work, not to mention the recently fragmented political scene which has increased their political chances. But despite both camps now being closer to El Sisi, their interests diverge on some matters. The state under El Sisi attempts to monopolise religious institutions and incorporate all religious groups into the official state's policy. This orientation does not satisfy Salafists who want to propagate their ideology through their preaching activities and religious association. The economic interests of remnants of Mubarak regime would not be in full harmony with the economic policies of El Sisi under which military benefits have increased over business privileges; businessmen are requested to pay some costs for the economic recovery.

The other political parties and groups which were part of the revolutionary momentum of 2011 currently suffer from internal divisions and lack of coherent strategy. These parties supported the ousting of the Muslim Brotherhood by the military but the restrictive political reality that emerged in the post-Morsi era went against their wishes. The Democratic Coalition is made up of a group of liberal and leftist parties that joined the protests of 30 June and supported the Muslim Brotherhood ousting. It includes the Popular Current led former presidential candidates Hamdeen Sabbahi, the Constitution (*Al-Dustur*) Party, the Popular Socialist Alliance Party, the liberal Egypt Freedom (*Misr al-Hurriyya*) Party and the Justice (*Al-Adl*) Party. This coalition is critical of the ongoing crackdown of the opposition and civil society and sympathetic to the aspirations of revolutionary young activists. However, its popular support is limited.

The Egyptian Wafd Coalition is another coalition composed of two key liberal parties, Al-Wafd Party and the Egyptian Social Democratic Party as well as other small parties such as the Reform and Development Party and the Conservative Party. The liberal Free Egyptians Party, founded by the businessmen Naguib Sawiris decided to run for the parliamentary elections independently. Positions taken by the two blocks are less confrontational with El Sisi and the military and less vocal about ongoing human rights abuses. Based on their performance in previous parliamentary elections, the two blocks can increase the political and electoral weight for the coalition. Leaders of the Democratic Coalition try to unite with the Egyptian Wafd Coalition and the Free Egyptians

Party but it is not clear yet if these efforts would succeed given the different political and ideological interests.

CONCLUSIONS

The current crisis of citizenship rights in Egypt is profound. Any prospects for an expansion of rights are very low in the near future and major political change is not foreseen. Political opposition has limited options to challenge the current regime given its deep political and ideological fragmentation and the withdrawal of public sympathy towards revolutionary and democratic forces. Despite deep economic and social hardships, the popular support for El Sisi and the military is remarkable. Drawing on public fears from disorder, state collapse and threats of violent Islamist groups, the current ruling elite has been able to hold its grip on power and oppress their competitors. These fears have been maximised by states' failures in neighboring Arab states and the rise of militant Jihadists in Syria, Iraq and Libya.

However, the continuation of this status quo in the long run might not be ensured without real improvement in socio-economic conditions as well as the inclusion of other Islamist and non-Islamist forces which are alienated under this regime. State repression, lack of accountability and political exclusion risk fueling endless cycles of radicalisation and political violence in the Egyptian society by 'push[ing] alienated Egyptians into the arms of extremist groups, as well as creat[ing] a broader swath of society unwilling to help the army or police defeat them'.⁹

Egypt is keen to regain its political, economic and security ties with the US and EU but since the ousting of the Muslim Brotherhood, El Sisi has been maneuvering regionally and internationally to reduce the ability of Western actors to influence domestic politics in Egypt. He has established a strong political, economic and military alliance with Saudi Arabia, Kuwait and Emirates and furthered trade and military ties with Russia. The US and EU still sees Egypt as a key strategic partner in the MENA and they look ready to deepen their engagement with its new leader despite their concerns over Egypt's political scene since the ousting of Morsi. President Obama was keen to meet El Sisi for the first time on the sidelines of UN General Assembly meetings in September,

⁹ See Dunne, M. and Williamson, S. (2014) Egypt, Counterterrorism, and the Politics of Alienation, 20 August. Available at: <http://carnegieendowment.org/2014/08/20/egypt-counterterrorism-and-politics-of-alienation/hlk4>

describing US ties with Egypt as 'a cornerstone of American security policy in the Middle East'. US decided to resume its economic and military aid to Egypt. In return, Egypt also announced its political support for US-led military campaign against the Islamic State in Iraq and Levant. Neither the US nor EU currently have enough leverage to achieve breakthrough in the respect for human rights and political pluralism in Egypt but certain specific human rights objectives can be gradually achieved through diplomacy, economic motives and military cooperation. Amongst these objectives is to urge Egypt to provide an enabling and safe environment for civil society, human rights defenders and the media. Any future technical cooperation with the government of Egypt should be directly linked with the improvement in freedom of association and freedom of expression. Both areas are key to help Egypt's political and civil society survive and mobilise.

