

Egypt's Transition to Democracy One Year On: Recommendations for U.S. Policy

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Human Rights First's International Policy Advisor, Neil Hicks, traveled to Egypt between January 7 - 15 and these observations and recommendations are based on that visit.

Summary

Life for most Egyptians has deteriorated one year after the overthrow of President Mubarak following mass popular protests in January and February. The economy is approaching a crisis, and lawlessness and insecurity have spread throughout the country. Yet Egyptians remain optimistic about their revolution and hopeful that a new civilian government will begin to deliver on promises of change. The U.S. government's role in Egypt's uncertain transition is controversial; it is often mischaracterized in public discourse, not least by Egyptian officials. The U.S. government needs to focus more on delivering a clear message about its policies and goals in Egypt and in ensuring that it is received by the newly empowered Egyptian public.

Introduction

As Egyptians celebrate the first anniversary of the popular uprising that ended the thirty-year rule of President Mubarak on February 11, 2011, U.S. policy makers are faced with a confusing situation. Egypt's democratic transition has seen free parliamentary elections in which tens of millions of voters participated peacefully, but the outcome has fueled concerns over the role of the parliament as a guarantor of the rights and freedoms of all Egyptians. Specifically, activists are addressing new developments, such as the majority of seats in parliament that will be held by political parties rooted in political Islam; the very poor showing of secular, liberal parties associated with organizing the popular protests of a year ago; the emergence of the extreme anti-democratic Salafi movement as an electoral force with almost 25 % of the parliamentary seats; and the low representation in parliament of women and religious minorities.

These concerns are compounded by the fact that one of the major tasks of the new parliament is to appoint a 100 member committee to prepare a new constitution that will be adopted by referendum in a few months' time.

Concerns over the composition of the new parliament are just one among many pressing human rights issues in Egypt. The ruling military junta, the Supreme Council of the Armed Forces (SCAF), has had a calamitous year in charge, vacillating between accommodating the demands of protesters to protecting the interests and privileges the military has accumulated in the course of 60 years of military-backed dictatorial rule. At times, such as in November when it sought to impose so called "supra-constitutional principles" that would have ensured a continuing preeminent role for the military over Egypt's political system, it has appeared to be backing away from its pledge to step away from politics after the election of a civilian government. In power, the military has exacerbated sectarian tensions between the majority Muslim community and the Christian minority, even using state television to incite members of the public to attack Christian protesters in October; it has tried thousands of civilians in military courts that do not provide a fair trial; it has tortured detainees, including subjecting women to sexual assaults through so-called virginity tests; and it has killed scores of protesters, a death toll that escalated in the last quarter of 2011.

Independent civil society, especially human rights nongovernmental organizations (NGOs), have come under unprecedented attack from the authorities in recent weeks. On December 29 and 30, public prosecutors backed by the security forces raided the offices of twelve NGOs in the Cairo area, including three American organizations, two German and seven Egyptian groups, seizing computers and files and placing wax seals on their doors. The government accused the groups of destabilizing the country by receiving foreign funding to foment protests, playing into popular suspicions that foreign forces were conspiring to harm the interests of the country. Some groups were accused of operating without required permits.

In addition, dozens of other groups were ordered to respond to questioning by prosecutors and to submit their bank account details for official inspection. Over 400 groups and individuals, comprising most of the leading figures in Egypt's human rights and democracy movement, are said to be targets in a wide-ranging, continuing investigation. These attacks, accompanied by hostile, defamatory statements from government officials and in the government-controlled media, have created a hostile environment for NGO activity. This is interfering with the ability of some targeted NGOs to carry out their usual work, because they have to respond to investigators, provide information, attend interrogations, and prepare legal defenses for their activities. The attacks are having a chilling effect on human rights and democracy promotion in general.

The attacks on independent civil society organizations recall the tactics of the Mubarak regime, by seeking to distract public attention from national problems and government failings by scapegoating civil society organizations backed by international financial support as agents of hostile foreign forces.

This is not the only way in which the SCAF's rule has come to resemble the old regime, causing some Egyptians to question whether the uprising brought about any real changes. The SCAF has portrayed itself as a force for order and social peace, meanwhile, perhaps in order to underline the threats against which it purports to be a guardian, it has presided over a deterioration in public security that has added an unpleasant new edge of insecurity to Egyptian life. For decades President Mubarak assured his people and Egypt's western allies that he stood as a bulwark against extremism and disorder, while stifling the development of independent democratic institutions that are the only lasting guarantees for such stability. The SCAF has shown little inclination to progress from this destructive manner of rule, closing down media outlets that criticized it, targeting independent critics, including bloggers, maintaining sweeping powers to detain without charge or trial, and resisting accountability for its actions.

Under the 2012 appropriations law that passed Congress at the end of 2011, the State Department is required to certify that the Egyptian government is meeting certain human rights conditions: "supporting the transition to civilian government including holding free and fair elections; implementing policies to protect freedom of expression, association and religion; and due process of law," before \$1.3 billion of foreign assistance can be released to the Egyptian government.

Any honest assessment of the events of the last year in Egypt would necessarily find that the Egyptian authorities have fallen short of meeting these conditions in several areas. It remains far from clear that the ruling military council is fully committed to a transfer of power to civilian rule; freedom of expression, association, and religion have all come under attack at different times, and more importantly, measures to better protect these rights in the future have not been implemented; and due process of law has been undermined by unfair trial of thousands of civilians by military courts.

The framework of conditionality provides broad guidelines for the Egyptian authorities, and for U.S. policy makers in discussing and seeking to advance Egypt's transition to democracy. Better protection for basic rights and freedoms, such as those stipulated in the law, are key indicators of whether political change in Egypt is producing democratic progress or not.

The Views of Human Rights and Democracy Activists

It is impossible to generalize the range of views expressed by activists from diverse backgrounds, engaged in different types of activism. However, there are some common concerns:

- There is a broadly shared realization that after a year of post-revolutionary drift, Egypt's new political landscape will crystalize in the next few months. This has brought forth two competing emotions: optimism and uncertainty. Optimism, because one of the main goals of the uprising – the handover of power to an elected civilian government – is close at hand; uncertainty because the outcome of the election was not predicted, especially the very poor showing for secular liberal forces who were prominent in the protest movement.
- Most human rights and democracy activists are supportive of the SCAF getting out of power as quickly as possible, despite misgivings about what an Islamist-dominated parliament might mean for civil liberties and personal freedoms. As one activist explained, "The Brotherhood may limit basic rights and freedoms, but the SCAF threaten our very existence." In practice, the debate over whether to compress the timetable for a handover to civilian rule is probably redundant. There is not much time between now and the beginning of July when the formal handover of power to a new civilian president is scheduled to take place, especially given the many intermediate steps that will take place, including the adoption of a new constitution, before the presidential election in June.
- What will be important is the degree of the residual powers of the military under the new system. While it is expected, and even conceded by some, that the military will retain control over issues relating to foreign policy, including regional security issues like Israeli-Palestinian peace, there are demands for greater transparency in the military budget, including provision for parliamentary oversight, and especially for accountability for recent incidents where members of the armed forces are implicated in the killing of protesters. Several activists mentioned that former President Mubarak and former Minister of the Interior Habib al-Adly face a possible death sentence for their alleged involvement in ordering the killing of protesters at the time of the uprising last year. It is, therefore, hardly consistent to let the SCAF evade accountability for their actions. These demands for greater accountability and transparency, taken up by some of the youth protest movements, are likely to find some support in the parliament and will be a source of tension with the military leadership as it shifts its position within the political system at the end of June.
- No democracy or human rights activists see the SCAF as any kind of guardian of secular or liberal values. Since the SCAF has been in power, they have killed Christian protesters and incited the people against Christians; directed the timetable and format of the transition process in ways that have favored the Islamists and the Muslim Brotherhood, in particular; done nothing to strengthen democratic institutions, and have undermined freedom of the press, attacked civil society, and used the judiciary for political ends. A common perception among activists is that the SCAF and the Muslim Brotherhood, the backer of the largest parliamentary party, the Freedom and Justice Party, have formed or are working towards an accommodation to protect their particular interests and priorities, and this relationship will work to the detriment of human rights and democracy.

- The U.S. government is widely seen as an unconditional supporter of the military and its continuing role in politics. Activists do not understand why there has not been more criticism of the SCAF. For example, one activist says the SCAF's involvement in large-scale killing of protesters in the past few months is "much worse than anything that happened under Mubarak." Many activists remain skeptical that the United States will tolerate the emergence of a democratic government in Egypt that may be more critical of U.S. policies in the region.
- While human rights activists generally welcome U.S. support and pressure from U.S. policy makers when violations occur – indeed, many activists are highly sensitive to the tone, frequency, and level of statements from U.S. officials relating to human rights concerns, and highly critical when they deem them to be insufficient – they are skeptical of the value of public threats to condition or suspend U.S. aid, even military assistance. Rather than conditioning aid, activists would rather see the U.S. government being much more transparent about its aid relationship with Egypt, explaining which institutions receive it and the purposes for which it is sent. This would make clear that civil society receives a very small proportion of the \$1.3 billion annual aid sent by the United States and, thereby, help to lessen the disproportionate public concern, stoked by official misinformation.

Observations

Egypt is the cornerstone of the Arab Spring; a successful democratic transition there, even if it is lengthy and circuitous, would provide the United States with a democratic partner in the heart of the Arab world with the potential to transform the United States' troubled relationships in the region as a whole.

The U.S. government must choose between backing the democratic transition, with all its uncertainties, or else seeing Egypt drift into instability under a more brutal, less competent form of authoritarianism. One positive outcome of the SCAF's troubled year in office is that any illusion that the military could provide a guiding hand for Egypt's democratic transition has been stripped away. The only

way to advance democracy is by implementing the democratic process and building safeguards for democratic rights and freedoms as the process moves forward. There is no option but to back the democratic transition.

Support for Egypt's economy must be a top priority, and the prospects for a strong trade relationship between the United States and Egypt are good. There is pent-up demand and growth potential in Egypt that would be unleashed by an end to political uncertainty and paralysis – by bringing tourism close to normality, for example. The economy is in a deep crisis, but improvements would be quickly felt by the people, and would aid the transition.

Voters in the just-completed parliamentary elections made their choices based on symbols and untested promises. It would be a mistake to see the results of this first experience of a contested election as a stable indicator of the political aspirations and views of the Egyptian people in the longer term. Egypt's new government will have to make tough policy choices, especially on the economy. Future elections will be based on the actual record in government of the ruling parties and will likely see a realignment of parties on issues other than religion. Egyptians are scheduled to go to the polls at least three times in the next few months, to elect the upper house of the parliament, the *Maglis al-Shurra*, to vote on proposed constitutional amendments in a referendum, and to elect a president in June. The presidential vote is likely to have the highest participation rate ever for an Egyptian election. Each of these elections represents an opportunity for the authorities to improve the process and to stamp out irregularities, such as partisan campaigning close to polling stations that is forbidden by law, but was widespread in the parliamentary elections.

The SCAF and the dominant Freedom and Justice Party are moving towards a *modus vivendi* that will see an effective division of labor with the military, which continues to defend its own privileges and interests and maintains control over security and foreign policy. The potential for future conflicts between the SCAF and the Brotherhood is apparent, though both sides have an interest in avoiding them. There is a danger that this de facto accommodation between Islamists and the military could proceed at the expense of democracy and human rights.

One activist observed that Egypt was still going through its revolution. In her view, the transition would only begin after the presidential election in June and the appointment of a new government. This realistic assessment points to the need for patience and sustained attention to supporting Egypt's transition from authoritarianism. The transition will take years and there will be mistakes and setbacks along the way. Nonetheless, the goal of a democratic Egypt is worth the investment of time.

Recommendations

Recommendations for U.S. Policy

The role of the United States government in Egypt's transition is highly controversial, often misunderstood, and manipulated for political gain by the government and other factions. In this context, it is hard for the U.S. government to communicate a clear message about its policies in Egypt and even harder to have it understood by the Egyptian public. Nonetheless, it is vital that the U.S. government continue to engage proactively and creatively in the information battle in Egypt, and to do so effectively in Egypt's expanded and more open media environment. What Egyptians think about the United States colors their support for values with which the United States is publicly identified, including human rights and democracy. Further, how the U.S. government's actions in Egypt are perceived will shape public attitudes throughout the region on whether the United States supports authoritarianism or democracy.

1. The U.S. government must continue: to make clear its support for civilian, democratic rule in Egypt; to urge the ruling military council to vacate the political scene as soon as possible; and for the Egyptian military to take its place in a democratic system, subject to accountability, transparency, and civilian oversight.
2. Maintain pressure on Field Marshall Tantawi and the SCAF to repeal the Emergency Law. Partial steps or cosmetic reforms are inadequate, and should not be disproportionately appreciated. For example, Field Marshall Tantawi's statement that the SCAF would lift the State of Emergency to mark the anniversary of the beginning of the uprising on January 25 was

undermined by the caveat that it would continue to be used "against thugs." "Thugs" is a broad term, and retaining the law means that the authorities retain the power to search and detain anyone indefinitely on suspicion. The repeal of the Emergency Law, which has been almost continually in force since 1958, will take more than just a statement from the ruler, and should be carefully followed by U.S. policy makers.

3. The NGO raids are a direct challenge to human rights and democracy promotion policies. The U.S. government must use this moment to:
 - a) negotiate a durable arrangement with the Egyptian authorities that will ensure the long-term stability and integrity of U.S. assistance to independent human rights and democracy organizations in Egypt;
 - b) press for reform in laws governing the functioning of NGOs; and
 - c) continue to deliver a strong response at the highest levels to Egyptian officials – as President Obama recently did in a call to Field Marshall Tantawi, and through other high-level contacts by U.S. officials -- to ensure that the Egyptian authorities make progress towards meeting the conditions set forth in the 2012 appropriations law.

Official harassment of civil society, and especially of human rights organizations, is the norm in Egypt, and has been since at least 1995. The Egyptian authorities know that Egyptian human rights organizations have little popular support in Egypt and that they, in fact, serve a useful propaganda purpose for the government by providing clear evidence of the existence of the nefarious "hidden hand" of foreign interference that is conveniently blamed in government statements and the official media for many of Egypt's problems.

There is a clear divide between the U.S. and Egyptian government positions on foreign funding of Egyptian NGOs and it suits the Egyptian government for this divide to remain unbridged, since it enables the Egyptians to portray the United States as interfering and disrespectful of Egyptian

sovereignty – a line of argument that is widely believed and plays into the foreign interference narrative noted above.

A Durable Agreement on U.S. Democracy and Human Rights Assistance

The U.S. government should use the opportunity of the transition to a new civilian government and the escalation of tension caused by the recent raids and attacks on NGOs to move the bilateral conversation beyond the stalemate that is serving the interests of antidemocratic elements within the Egyptian government. To do that:

- a) U.S. policy makers should stress as often and as positively as possible the readiness of the U.S. government to work with the Egyptian government to continue to provide support to independent civil society organizations working to promote universal values in Egypt in ways that will be acceptable to both sides, and that comply with international standards.
- b) The U.S. government should propose consultations involving the new parliament and, eventually, the government appointed by the new president, and other governments involved in funding human rights and democracy organizations in Egypt. These consultations would be aimed at protecting the independence of civil society organizations and ensuring their right to receive necessary financial support for their work from domestic and international sources.
- c) In such consultations, U.S. policy makers could propose the creation of a voluntary standards body for civil society organizations in Egypt. This would be a counterproposal to efforts by Egyptian officials to create a General Union for Civil Associations that would be government-controlled and that NGOs would be obliged to belong to. Such centralized control and compulsion is alien to the idea of independent civil society

There would be some benefits for civil society in the creation of an independent Egyptian institution that could play a role in promoting best practices for Egyptian NGOs, enhancing NGO transparency and accountability, and could even assist international

(and domestic) donors in identifying grant recipients – as long as such a body would never exercise monopoly control over NGO support in Egypt. Such a body may be similar in composition to a more independent version of Egypt’s National Human Rights Council, or may be conceived of like a domestic-focused Egyptian version of the U.S. National Endowment for Democracy, that could take funds from public and private sources and direct them to independent NGOs under the supervision of an independent board of directors.

Such an idea will require extensive input from Egyptian civil society groups. One of its prime benefits is that it would provide a way for the U.S. government to indicate that it is not opposed to Egyptian involvement in the oversight of foreign funds going to Egyptian NGOs, thereby responding to one of the Egyptian government’s main objections. The U.S. government could, nevertheless, maintain a principled opposition to government control over the work of NGOs that strips them of independence, and to the Egyptian government exercising a veto over U.S. foreign assistance in the fields of democracy and human rights. It could also provide vulnerable Egyptian NGOs with much-needed local legitimacy and official validation that would make it more difficult for the authorities to defame and demonize them.

Legal Reform

- d) U.S. officials should call for the revision of the Law on Associations and Foundations (Law 84 of 2002), to free independent NGOs from stifling government interference and burdensome registration requirements. Recently proposed amendments to the law do not meet these requirements. They recycle a repressive law announced by former Prime Minister Abdelaziz Hegazy in March 2010, and are inappropriate in the context of a new democratizing Egypt.
4. The U.S. government should take advantage of the new political conditions in Egypt to stimulate domestic support for civil society human rights and democracy-promotion activities. The U.S. government can play a role in encouraging Egyptian civil society organizations to seek domestic financial support and

can offer training and capacity-building in this area; it can encourage the Egyptian government to facilitate the support of human rights and democracy-promotion groups by local donors, and it can encourage wealthy Egyptians and private Egyptian companies to extend their philanthropy to independent human rights and democracy-promotion groups that are a vital part of any democratic society.

Human rights and democracy-promotion groups in Egypt are damaged by the public perception that they are influenced by foreign interests, fueled by the fact that they receive almost all their funding from foreign donors. Under the Mubarak regime it was impossible for private individuals or business interests to support human rights and democracy-promotion organizations without running a substantial risk of becoming the victims of government reprisals. A healthy Egyptian civil society should be rooted in Egyptian society and should meet increasing amounts of its needs from local donors.

5. The United States should respond to widespread demands in Egyptian society for greater transparency in U.S. foreign assistance to Egypt.

As one NGO leader explained, “I don’t know why the U.S. ambassador doesn’t give a press conference to explain all the foreign aid the U.S. gives in Egypt in all sectors, explain the benefits to the U.S. and to Egypt.”

Greater transparency can be achieved in many ways:

- The embassy website should provide more information in Arabic about U.S. foreign assistance, its primary recipients by sector, its purposes, and its benefits, in terms of Egyptian and U.S. national interests.
- The embassy should provide information about the very large sums of foreign assistance, amounting to tens of billions of dollars, provided to Egypt over the last 30 years.

- The ambassador and visiting U.S. officials should be much more visible in the Egyptian media, describing the foreign assistance program in all its aspects, and should be proactive in correcting distortions and misrepresentations that may appear in the local media from time to time.

Many sectors of Egyptian society, including the military and many government agencies, as well as religious and charitable institutions of different kinds, receive extensive financial support from international sources. These sources include governmental aid from Europe, North America, and other parts of the developed world, but also large sums of donations to religious institutions from private sources in the Arabian Gulf. That U.S. foreign assistance to Egypt is part of a much greater whole of foreign assistance from many sources, and that assistance directed to human rights and democracy organizations is a small fraction of total U.S. assistance to Egypt, are not well understood by many Egyptians. Greater transparency and clear messaging can help to push back the weight of disinformation and thereby support the development of independent civil society groups.

6. The U.S. embassy in Cairo should mark this moment of transition by embarking on a new approach of closer engagement with independent human rights and democracy-promotion organizations in Egypt. Embassy staff should be in regular contact with human rights activists in Cairo and throughout the country. Where activists and organizations face harassment and threats, clear public support from the United States sends an important message of support for the vital work of civil society activists in building a democratic society in Egypt.



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