The Consolidation of Authoritarianism in Egypt: A Systematic Erosion of the Rule of Law

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Introduction

In 2020, the World Justice Project ranked Egypt 125th among 128 countries in their Rule of Law Index (World Justice Project, 2020). Egypt’s alarmingly low ranking is likely a consequence of President Abdel Fattah el-Sisi’s efforts to gradually entrench authoritarianism in Egypt’s legislation, systematically eroding the rule of law. In 2019, the Egyptian constitution was amended and, inter alia, authorises the President to appoint prosecutors and judges without transparency in his selection. As a result, the Egyptian government has been persecuting political dissidents by violating fundamental human rights, undermining judicial independence and passing legislation that allows for arbitrary charges and the denial of fair trial guarantees. During the COVID-19 pandemic, President el-Sisi has extended the state of emergency, engendering mass trials and illegally prolonged pre-trial detentions (Human Rights Watch, 2019a).

In light of Egypt’s legal and political reality, this report seeks to analyse the specific factors causing the rule of law to deteriorate. The analysis will apply the eight principles outlined in Tom Bingham’s seminal work...
The Rule of Law, subsequently analysing the international community’s response and the implications of Egypt’s allies continuing to provide military and economic support. It ultimately finds that meaningfully challenging the regime and encouraging democratic reform requires the international community to sanction high-ranking officials, as well as making their military and economic support more conditional on the regime’s conduct. If Egypt does not ameliorate the current judicial situation, there could be drastic ramifications. In the short-term, el-Sisi’s regime is denying civilians fair trial guarantees and subjecting inmates to prison conditions marred by overcrowding and an increased risk to COVID-19. In the long-term, this situation could become part of a larger trend of an increasingly politicised judiciary and widespread deterioration of human rights.

The Rule of Law: An Elusive Concept?

Although the rule of law is a cornerstone of modern democracy, it is often regarded as an elusive concept. The House of Lords has described it as a “complex and in some respects uncertain concept” (UK Parliament, 2007). This uncertainty is likely a result of its contested nature. The rule of law is broadly either viewed as a procedural standard (“what the law is”) or as an ideal of political morality (“what the law should be”). The former notion, known as a “thin” conception, is rooted in legal positivism and stresses formal aspects, such as the need for clear laws. Conversely, the latter is referred to as a “thick” conception, and as a product of natural law theory, it advocates for an added substantive dimension, including a human rights component (Bingham, 2011).

Legal philosopher Joseph Raz, a famous proponent of the formal approach, defines the rule of law as a negative value to be distinguished from human rights and social justice:
[a] non-democratic legal system, based on the denial of human rights, or extensive poverty, on racial segregation, sexual inequalities, and religious persecution may, in principle, conform to the requirements of the rule of law better than any of the legal systems of the more enlightened Western democracies (Raz, 1979, p. 211).

In his book The Authority of Law, Raz argues that “the rule of law is meant to enable the law to promote social good” (Raz, 1979, p. 228). However, the framework he sets out allows conditions that are inauspicious for his cause and abhorrent to liberal democracies: the oppression of minorities, practice of slavery and strengthening of inequalities. Can we, in good conscience, regard a state that suppresses its citizens as fulfilling the duties of the rule of law? An approach that is unable – and more importantly, unwilling – to protect our presumed inalienable rights renders the rule of law virtually meaningless. Bingham expands upon this point in his advocacy of a substantive approach:

I would roundly reject [Raz’s contention] in favour of a ‘thick’ definition, embracing the protection of human rights within its scope. A state which savagely represses or persecutes sections of its people cannot in my view be regarded as observing the rule of law, even if the transport of the persecuted minority to the concentration camp (...) is the subject of detailed laws duly enacted and scrupulously observed (Bingham, 2011, p. 67).

This report will be adopting a “thick” conception in its evaluation of the rule of law in Egypt. The structure will follow the rule of law’s eight sub-rules Bingham amalgamated in The Rule of Law:
1. The law must be accessible and so far as possible intelligible, clear and predictable
2. Questions of legal right and liability should ordinarily be resolved by application of the law and not the exercise of discretion
3. The laws of the land should apply equally to all, save to the extent that objective differences justify differentiation
4. Ministers and public officers at all levels must exercise the powers conferred on them in good faith, fairly, for the purpose for which the powers were conferred, without exceeding the limits of such powers and not unreasonably
5. The law must afford adequate protection of fundamental human rights
6. Means must be provided for resolving, without prohibitive cost or inordinate delay, bona fide civil disputes which the parties themselves are unable to resolve
7. Adjudicative procedures provided by the state should be fair
8. The rule of law requires compliance by the state with its obligations in international law as in national law

**Critique of Egypt’s Legislative Quality**

Bingham’s first principle states that the law should be accessible, clear and predictable (Bingham, 2011, p. 79). These requirements allow citizens to easily discover the expected civil conduct and their rights and freedoms. Interestingly, Bingham points out that this also fosters trade and investment, as people are more likely to conduct economic activity in places with clear rules (Bingham, 2011, p. 81).

Legislative quality is crucial to the rule of law; it influences legislation’s effectiveness and provides legal certainty to citizens. Egypt follows a civil law system, meaning it adheres to a well-established system of codified
laws. Both the parliament and the executive can propose new legislation and amendments to Egypt’s written constitution, which is the supreme law (Hauser Global Law School Program, 2019). The current legislative process allows for changes to be accessible to citizens, which is a key requirement of Bingham’s principle. However, enacted laws often fail to meet the requirements of clarity and predictability.

With regard to clarity, the Organisation for Economic Cooperation and Development (OECD) found that Egypt’s lack of a systematic review of legislation “results in an accumulation of outdated legislation and demonstrates that the development of legislation does not adequately assess the necessity of the adoption of new legislation or considers alternatives” (OECD, 2019). Without a comprehensive registry of all regulation, legislators drafting legislation may not be fully aware of all provisions in force. The OECD’s analysis found that legislators may be forced to resort to the practice of implicit repeal in drafting, which involves adding an article “at the end of the regulation stating that any provisions contradicting the provisions are hereby repealed” (OECD, 2019). The accumulation of legislation results in a pernicious degradation of legal certainty, with the law being unable to fulfil its primary duty: accurately identifying citizens’ rights and obligations.

Furthermore, Egypt faces difficulty in constructing predictable legislation. For example, Egypt’s Penal Code dictates that the maximum time to be held in pre-trial detention is two years (Human Rights Watch, 2020b). However, this requirement has been largely ignored in its execution, with many commentators arguing that the regime circumvents formally adjudicating a case by using pre-trial detention as punishment. By regularly exceeding the codified capacity for pre-trial detention, the law in el-Sisi’s regime becomes unpredictable. As the Centre for International Private Enterprise points out, exceptions to the
law should be clearly and explicitly mentioned (Centre for International Private Enterprise, 2009). Otherwise, the rule of law is diminished and codified law is no longer a trustworthy source of expected civil conduct. Egypt’s unpredictable law gives rise to an unbalanced power dynamic. While the government expects its citizens to follow the law, penalising a failure to do so, the government itself can subvert their legal responsibilities, leaving them unrestrained and prone to arbitrariness.

**Arbitrary Power Through Emergency Law**

According to Bingham’s second principle, legal issues should ordinarily be resolved through legal processes rather than through the exercise of discretion (Bingham, 2011, p. 101). However, this principle does not reject judicial discretion entirely; a degree of flexibility can be allowed so long as discretions in rulings are adequately promulgated and subject to appeal. These requirements aim to combat unrestrained discretion, which can become a source of injustice if influenced by judicial prejudice or predilection.

The Egyptian Emergency Law (162/1958) extends police power and suspends constitutional rights. It also authorises emergency state-security courts, whose judges and military officers are appointed by the president, to try citizens without appeal (The Arabic Network for Human Rights Information, 2020). President el-Sisi has exploited this law to his benefit, making the state of emergency a norm, rather than an exception. Since 2017, the Egyptian regime has extended the state of emergency twelve times (Al Jazeera, 2020). The state of emergency authorises military prosecutors to interpret whether a particular crime falls within the military’s jurisdiction, conferring a substantial amount of discretion. In 2019, the Constitutional Article 204 was amended to state that military tribunals will have jurisdiction over crimes committed by civilians “that
represent an assault” against military facilities, equipment, weapons, documents, and public funds, among many other things, removing the pre-amendment requirement that such assaults be “direct” (Human Rights Watch, 2019a). Since 2014, over 15,500 civilians, including children, have been referred for military prosecution (The Tahir Institute for Middle East Policy, 2019). Military courts trying citizens curtail fundamental human rights under the guise of public security. Even more alarming is that military courts’ verdicts cannot be appealed (The Arabic Network for Human Rights Information, 2020). The military’s increased power in Egypt’s state of emergency, coupled with an unprecedented expansion of military tribunals’ jurisdiction, gives the military judiciary an obscenely broad scope that obstructs any consideration of the relationship between state security and respecting people’s fundamental rights.

It seems that el-Sisi is actively trying to subvert the judicial system’s integrity and the constitutional limits on his powers. As the Human Rights Watch observed, “President el-Sisi’s government is using the pandemic to expand, not reform, Egypt’s abusive Emergency Law” (Human Rights Watch, 2020a). Although the dangers of the COVID-19 pandemic should not be ignored, they cannot justify the complete erosion of fair trial rights.

**Judiciary as a Political Tool**

In his third principle, Bingham argues that everyone should be equal before the law unless objective differences justify differentiation (Bingham, 2011, p. 115). For example, legislation generally regards children as having a lower level of mental capacity for understanding the crime they committed, warranting a differentiation in sentencing. This principle has two critical implications: (i) no one, including powerful
actors, should be above the law and (2) no citizen should experience discrimination based on subjective factors.

Unfortunately, the Human Rights Watch has observed that the Interior Ministry’s National Security Agency (NSA) continues to operate with “near–absolute impunity” (Human Rights Watch, 2019c). Judicial authorities have investigated very few officers and prosecuted even fewer for human rights abuses, including enforced disappearances and torture. Prosecutors continued to use detainee confessions despite credible allegations police officer coerced them through torture (Federal Foreign Office, 2020). In 2013, Egyptian security forces methodically opened fire at large crowds protesting el-Sisi’s regime. The incident, widely known as the Rab’a Massacre, resulted in at least 904 deaths and over 3,000 injured (Amnesty International, 2017). In a 2014 report, the Human Rights Watch said that the killings likely amount to crimes against humanity (Human Rights Watch, 2014). Despite international outcry, Egyptian authorities had not investigated a single official or member of the security forces more than five years after the mass killing (Human Rights Watch, 2018). The Rab’a Massacre is a gross testament to the overpowering of justice in light of an increasingly authoritarian regime.

Furthermore, legal discrimination based on political beliefs is a concerning characteristic of el-Sisi’s regime. The regime utilises the law to foster a widespread crackdown on political dissidents, such as human rights lawyers, journalists, activists and political figures. The NSA harasses and intimidates political dissidents by routinely tapping phone calls and launching smear campaigns and hate speech from government–controlled media. Countless Egyptian lawyers have been arbitrarily detained and subjected to prolonged periods of pretrial detention. While the exact figures are not made public, it is estimated
that between 2013 and 2014, at least 41,000 people have been detained, charged or sentenced because of their association with the Muslim Brotherhood (Foreign Affairs, 2018). In 2016, Amnesty International estimated that there had been three to four victims of enforced disappearance in Egypt per day since the beginning of 2015 (Amnesty International, 2016). The ICJ made a statement condemning these actions and observed that targeting activists was having a “profound chilling effect on an already weakened (...) civil society” (Lofty, 2018). In the past years, legislation is increasingly infringing on citizens’ rights. The Demonstration Law (107/2013) restricts civilians’ ability to mobilise and allows for the use of excessive force by security officials to disperse protests; the NGO Law (149/2019) restricts registration, activities, and funding of NGOs, subjecting them to extensive oversight and monitoring; the Media Law (180/2018) restricts “press entities” and gives wide discretion to authorities to block content, essentially codifying media censorship; the Counter–Terrorism Law (94/2015) includes a broadly-worded definition of terrorism, creates special terrorism circuits in criminal courts, and establishes expansive surveillance powers (The Arabic Network for Human Rights Information, 2020).

**Abuses of Power and Eroding Independence**

Bingham’s fourth principle sets forth that ministers and public officers should exercise the powers conferred on them reasonably and in good faith (Bingham, 2011, p. 124). To do so, they have to act in line with the purpose of their powers fairly and without exceeding the limits of their powers. According to Bingham, the rules of natural justice demand that the mind of the decision-maker should not be tainted by bias or personal interest (Bingham, 2011, p. 129).
The 2019 constitutional amendments are facilitating an increasingly politicised judiciary by allowing el-Sisi to appoint the public prosecutor, president of the Supreme Constitutional Court, chief justice of the Court of Cassation, the heads of the Supreme Judicial Council, the State Council, the Administrative Prosecution Authority and the State Lawsuits Authority. The amendments also allow the president to chair the Supreme Council for Judicial Bodies and Entities (The Tahir Institute for Middle East Policy, 2019). Moreover, there is no required transparency in the president’s selection of judges, allowing for rampant corruption that threatens the integrity of the judicial system. In fact, Judge Moshen Fadli argued that the “judiciary in Egypt is being used as a tool by the regime for revenge” (Reuters, 2016).

Due to the increasing erasure of the separation of powers, Egypt’s judiciary is in a perilous state. Public perception of judges’ independence is at an all-time low: “one in five Egyptians believe most or all judges and magistrates are corrupt and more than half of those who came into contact with the courts in the preceding twelve months indicate they paid a bribe” (Risk and Compliance Portal, 2020). As previously discussed, el-Sisi’s regime is using military courts for political ends. There is a clear abuse of power, seeing as judges’ and government officials’ private interests override public good.

Moreover, the remaining judges who resist political influence are being punished and removed from the judicial branch. After the military takeover in 2013, 75 judges, including some of the most senior in Egypt, signed a statement condemning the takeover and calling for the return of a democratic government. Consequently, most were forced into retirement after it was ruled that they broke a law that prohibits judges from practising politics. However, Judge Ahmed al-Khatib suspects that this was a deliberate attack on political opposition: “Anyone who is a
reformist or has critical opinions gets filtered out. [The state is] targeting those calling for judicial reform or judicial independence” (Reuters, 2016). Various punishments have included travel bans or denial of their pension funds (Reuters, 2016). The frightening reality is that the government’s increasing control of the judiciary is an attack on one of the last institutions that can check the state’s power and protect Egyptians’ basic freedoms.

Violations of Basic Human Rights

Perhaps the most egregious infringement of the rule of law is the violation of fundamental human rights. The consideration of human rights was the point of contention between the formal and substantive approach in defining the rule of law. Bingham’s fifth principle stipulates that the law must afford adequate protection of fundamental human rights (Bingham, 2011, p. 136).

President el-Sisi’s regime exhibits a clear and flagrant disregard for fundamental human rights. The previously mentioned Media Law, NGO Law, Demonstration Law, and Counter-Terrorism Law are used to violate speech, assembly, and press freedoms. Article Five of the Universal Declaration of Human Rights (UDHR) declares: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment” (United Nations, 1948). Nevertheless, detainees in Egypt are often subjected to inhumane prison conditions. According to the Human Rights Watch, hundreds of children as young as twelve have been tortured in Egypt’s prisons since the military took power in 2013. Horrific accounts of what happened to them include “being suspended from ceilings until their shoulders dislocate, beaten repeatedly, tortured with electric shocks, and forced into stress positions” (Human Rights Watch, 2019).
Although Article Two of the UDHR prohibits any form of discrimination based on subjective factors (United Nations, 1948), Egyptian law targets religious minorities and political dissidents. A clear form of legal discrimination is the expansion of Sharia law’s application to non-Muslims in the case of personal status. As per Law 462/1955, Christians need to belong to the same denomination to have their own legal codes implemented in cases of their personal status. If they belong to different denominations, Sharia law is automatically implemented. This hierarchy of religions bans Christians from practising their religious codes and denies the rights granted under Article Three of the Egyptian Constitution, which stipulates that the “canon principles of Egyptian Christians and Jews are the main source of legislation for their personal status laws” (Special Rapporteur, 2017).

The Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules) were first adopted in 1957 and revised in 2015. States often regard the Standard Minimum Rules as the primary – if not only – source of standards relating to treatment in detention and are the key framework used by monitoring and inspection mechanisms to assess prisoners’ treatment. Amnesty International has observed that Egyptian prison systems fall short of the standards due to the use of torture, overcrowding and lack of hygiene, which the COVID-19 pandemic has exacerbated (The Guardian, 2018). There have been concerns with the overcrowded prisons in Egypt and the risk of the rapid spread of COVID-19; Egypt has over 114,000 inmates and prison capacities exceed by at least 300% (Carnegie Endowment for International Peace, 2020). The cells of prisoners are often over capacitated and marred by insect and rodent infestations. An anonymous source told Human Rights Watch:

_In the cell, we were 70 people in a tiny room. We were taking turns sitting down on the floor, not even sleeping. The rest of us had to_
stand but we couldn’t move. Walking was a luxury. (Human Rights Watch, 2020b)

These horrifying accounts only give us a glimpse into the inhumane conditions prisoners are held in. As this report will cover in later sections, there are politicians who maintain that human rights can be used as trade-offs for other political agendas. However, as Shami Chakrabarti eloquently argued in her book On Liberty, human rights are

far from being trivial luxuries to be sacrificed in times of strife, our small bundle of non-negotiable freedoms upheld by the rule of law is essential to everything that makes our lives worth living. (Chakrabarti, 2015, p. 9)

Human rights are not bartering chips to be used for political gain; they are the inalienable guarantees that every human being will be treated with dignity and respect.

Pre-Trial Detention as Punishment

In his sixth principle, Bingham argues that the two main obstacles to fair court procedures are prohibitive cost and inordinate delay (Bingham, 2011, p. 175). Although this principle was intended for civil cases, it is also pertinent to Egyptian criminal cases, where inordinate delay is a tactic to punish without prosecution.

Egyptian authorities have been routinely using prolonged and indefinite pre-trial detention to punish those perceived as political opponents, activists or human rights defenders (Amnesty International, 2020a). Although reports of extended pre-trial detentions are not made official, the Egyptian Initiative for Personal Rights has found that by May 2017,
over 1,400 detainees had been detained for over two years without a sentence (Lofty, 2018). One of the most gruelling examples of pre-trial detention as a form of punishment has been the investigation of Hesham Gaafar, who was the director of the Mada Foundation for Media Development. Before his arrest, he was an advocate of democratic transformation of Egypt. In 2015, Gaafar was accused of receiving foreign funding and belonging to a banned group, and consequently detained in Al-Aqrah prison. He was held for 42 months, well beyond the two-year limit under Egypt’s Penal Code. For the entire duration, he was held in solitary confinement and not allowed visitors. Moreover, prison authorities refused him medical care, despite the fact that he nearly lost his eyesight and developed a malignant tumour in his prostate (Emaira, 2019). The harsh circumstances of Gaafar’s case prompted the Arab Network for Human Rights to file a complaint accusing the State Security Prosecution’s attorney general of unlawful detention and attempted murder (The Arabic Network for Human Rights Information, 2019). Although Gaafar was eventually released, his story is just one among countless in Egypt. The salient point is that Gaafar was imprisoned and subjected to human rights abuses for three and a half years without ever being convicted of a crime. In pre-trial detention, the defendant is presumed innocent and should be treated as such.

In addition to the pre-trial detention abuses, the prosecutorial practice of creating “revolving door cases” has become increasingly prevalent (The Law Society of England and Wales, 2020). In such instances, even if a defendant is released or serves their term, they are immediately re-arrested in similar cases with vague charges. Mohamed Al Qassas, the deputy head of the Strong Egypt Party, was subject to this process. He served twenty-two months of pre-trial detention for spreading false news. Upon release in 2019, Qassas was not allowed to leave his prison cell, as he was immediately added to a new case with very similar
charges, essentially extending his detention for another two years without trial (Carnegie Endowment for International Peace, 2020). These instances expose the dire conditions of pre-trial detention, as well as the government’s assault on human rights and due process rights. For political dissidents, justice is not only delayed, but denied.

**Obstacles to a Fair Trial**

According to Article Ten of the UDHR, “Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him” (United Nations, 1948). Bingham dedicates his seventh principle solely to the right to a fair trial because of how indispensable it is to the rule of law (Bingham, 2011, p. 186). Without a fair trial, a citizen cannot seek redress and protect themselves from an arbitrary and authoritarian government.

As previously discussed, the military courts enacted under Egypt’s Emergency Law curtail fair trial guarantees for political gain. Defendants cannot appeal the verdicts of military courts, and the proceedings are generally hidden from the public, undermining the accountability of the state and impartiality of judges. These conditions alone violate Bingham’s principle, deny Egyptian citizens their basic human right to a fair trial, and pose an alarming encroachment on the judiciary’s independence.

Furthermore, mass trials deprive the defendant of their right to a fair trial because they cannot defend themselves adequately. In the past years, hundreds of accused have been tried together in mass trials, resulting in judges sentencing dozens to hundreds to death (Human Rights Watch, 2016). In 2018, an Egyptian court sentenced 75 prominent
members of the Muslim Brotherhood to death as part of a mass trial that included 739 people charged after the violent dispersal of a protest camp in support of former Egyptian president Mohamed Morsi in 2013. Amnesty International branded this trial a “grotesque parody of justice” (The Guardian, 2018).

Many of the accused have not been given adequate time and facilities to prepare a defence. The evidence against them is largely not shared with the accused or their lawyers, and the latter are systematically denied access to case files. Lawyers are further denied the ability to consult with their clients before and during the interrogation privately. For example, in Alaa Abdel Fattah’s case, the accused was restricted to meeting his lawyers once every 30 days and was denied any confidential access to them (EuroMed Rights, 2018). In the case of Yara Sallam, when defence counsel arrived at the Misdemeanour Court building, they were told that the hearing would be held in the Institute of the Guardians of the Police in Tora. The Ministerial decision transferring this court’s location was signed three days before the first hearing but not made public until over a week after the first trial hearing (Atlantic Council, 2018). Although these are individual cases, they represent a much larger, insidious problem.

The COVID-19 pandemic has catalysed the degradation of fair trial guarantees. Since March 2020, Egyptian authorities have not allowed individuals held in politically-motivated cases to communicate with their lawyers or families (Amnesty International, 2020b). In April 2020, the Cairo Appeals Court stipulated that courts could decide on the release or extension of the detention of defendants without the presence of defendants in court. Once again, the codified maximum time for pre-trial detention is ignored. According to lawyers, one judge refused to hear concerns over the illegality of the decisions in light of Egyptian law
or even note these concerns in court documents. During one of the hearings, he asked lawyers to nominate five among themselves to represent hundreds of defendants. In May 2020, the Cairo Criminal Court announced its intention of extending pre-trial detentions of over 1600 detainees (Amnesty International, 2020a). Due process is a fundamental cornerstone of any democratic society; el-Sisi’s regime has exemplified a disproportionate response to COVID-19 to undermine fair trial guarantees.

**Non-Compliance with International Law**

Bingham’s eighth principle dictates that a state must act in accordance with international law standards (Bingham, 2011, p. 227). Egypt’s constitution agrees, with Article 93 stating: “The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and shall have the force of law after publication in accordance with the prescribed conditions.”

Peremptory norms, also known as *jus cogens*, refer to certain fundamental, overriding international law principles. In line with this idea, in 1986 the Supreme Constitutional Court of Egypt ruled that generally recognised principles of human rights, including the UDHR, must be considered constitutional norms within the domestic legal framework (Human Rights Watch, 2018). However, as demonstrated in this report, el-Sisi’s regime has deliberately subverted basic human rights. Najia Bounaim, a spokesperson for the Human Rights Watch, argued that “Now more than ever, it is crucial for the world to publicly denounce the degradation of human rights in Egypt” (Amnesty International, 2019).

International pressure is essential to creating diplomatic pressure and catalysing democratic reform. In October 2020, 56 U.S. Congress
members wrote a letter detailing unjust imprisonment cases and raised concerns of COVID-19 spreading in Egypt’s jails. They consequently urged el-Sisi to release those “unjustly detained for exercising their fundamental human rights (...) These are people who should never have been imprisoned in the first place” (The Washington Post, 2020). In the same month, 222 European lawmakers published a letter calling on el-Sisi to release activists, journalists, lawyers and other prisoners of conscience held unjustly in unsafe conditions. Political observers have described this push as “unprecedented mobilization” that “demonstrates the swelling frustration of the international community with rights abuses in Egypt” (Deutsche Welle, 2020). While public statements condemning Egypt’s increasingly authoritarian regime signal solidarity with victims, more action needs to be taken to challenge the regime in a meaningful way.

**Recommendations and Conclusions**

Despite rhetorical commitments to advance human rights, many powerful countries continue to aid Egypt through financial and military means. The United States is Egypt’s biggest ally, with the past decades of grant assistance accounting for approximately 20% of Egypt’s annual defence budget (Project On Middle East Democracy, 2020). The U.S. not only helps fund Egypt’s military but also helps train its personnel. Between 2009 and 2018, the U.S. has trained 7,108 Egyptian military personnel. Furthermore, although the European Union has extended sanctions on Egypt until 22 March 2021, Germany and France continue to be key allies for el-Sisi’s regime (Lester, 2021). In 2020, Germany agreed to export weapons and military equipment worth €752 million to Egypt (Deutsche Welle, 2021). From 2013 to 2017, France was Egypt’s main arms supplier. In 2017 alone, it delivered more than €1.4 billion worth of military and security equipment (Human Rights Watch, 2019b). As this
report has outlined, military forces and tribunals are indispensable to el-Sisi’s ruthless repression of political dissidents and infringement of human rights. Despite this, countries that have publicly denounced el-Sisi’s regime in the past continue to heavily facilitate his crackdown on political dissidents and human rights violations. By funding the military that enables the incitement of political terror, Egypt’s allies are rendering their public calls for reform futile.

International leaders rationalise military funding because Egypt is perceived as a bulwark against terrorism. When criticised for continuing to support el-Sisi, Macron said that he “will not condition matters of defence and economic cooperation on these disagreements [over human rights]” (Reuters, 2020). Many countries have chosen to prioritise counter-terrorism over human rights, viewing basic liberties and freedoms as justified trade-offs. However, a report by the Project on Middle East Democracy found that Egyptian counter-terrorism measures are “ineffective”, stating that the “immense human toll of the Egyptian military’s approach to counter-terrorism in the Sinai has alienated local communities and radicalised significant numbers of individuals who have subsequently been recruited by one of the nearly twelve terrorist groups operating there” (Project on Middle East Democracy, 2020). Violence begets violence; it is becoming increasingly clear that funding a repressive regime will not achieve sustainable peace and security. A larger implication is that funding Egypt legitimises a state that represses its citizens and has been accused of committing crimes against humanity. A report by Safer World has found that while the terrorist threat is undoubtedly real, it has also resulted in President el-Sisi:

*blurring the lines between fundamentalist militants and his broader political opponents. This blurring has been actively*
encouraged by Sisi to legitimate his rule while justifying his crackdown on dissent. This polarisation has sometimes surfaced in violent confrontation, but remains for the most part latent – submerged beneath a tide of fear and repression. (Safer World, 2020)

There is a vast chasm between verbal commitments and concrete political action, which needs to be addressed and revised. Considering Egypt’s reliance on external funds, Egypt’s allies have the leverage to challenge the behaviour of corrupt, abusive actors effectively. A report by the Project on Middle East Democracy recommended cutting the $1.3 billion annual aid package to Egypt by $300 million and then repurposing the funds for humanitarian assistance to help international efforts against the spread of COVID-19. The report also argued that states’ “willingness to put energy interests and profits from arms sales ahead of human rights and justice risks undermining both human and international security – and therefore represents a clear failure of judgment and leadership” (Project on Middle East Democracy, 2020).

Egypt’s allies need to take collective action and begin providing fewer arms and less military assistance. It is inconceivable that liberal democracies would sacrifice human rights and the improvement of national and regional stability for short-term profits. By making their support conditional on Egypt’s legal and political landscape, states can create diplomatic pressure and incentive for democratic reform.

In terms of economic sanctions, they can often hurt rather than help the cause. Oftentimes, the citizens of a repressive regime – rather than the regime itself – suffer the consequences of economic sanctions. Gutmann et al. found that “sanctions that aim specifically at improving the human rights situation are found to have a strong negative effect on basic
human rights and on political rights (Gutmann et al., 2018). However, targeted sanctions imposed on senior government officials responsible for the consolidation of authoritarianism could prove effective. Many countries already have mechanisms in place to facilitate targeted sanctions. In December 2020, the E.U. adopted a global human rights sanctions regime (EUGHRSR) that targets “individuals, entities and bodies – including state and non-state actors – responsible for, involved in or associated with serious human rights violations and abuses worldwide, no matter where they occurred” (European Council, 2020). These individuals would be banned from entering the E.U. and unable to access any funds. In the U.S., the Magnitsky Act can be used to target high-ranking officials in the form of visa bans or frozen assets (Forbes, 2020). Targeted sanctions could play a role in punishing perpetrators and deterring others from committing further atrocities.

Change needs to happen gradually and with as much cooperation as possible. It would be quixotic to proclaim that decreasing military funding will transform Egypt into a democracy overnight. However, it could help moderate the worst elements of el-Sisi’s regime and foster greater respect for the rule of law and human rights. Egyptian allies’ unconditional and uncritical support has allowed a lack of accountability that needs to be reinstated. President el-Sisi should not be able to commit atrocities with virtual impunity and have the private backing of states. The international community needs to take collective and meaningful action that ensures the protection of Egyptian citizens while maintaining stability in the region.

Rather than illustrate an isolated aspect of the rule of law that needs strengthening, this report has attempted to showcase a systematic and deliberate erosion of the rule of law for power. President el-Sisi has constricted the public sphere, deteriorated the rule of law and erased
the separation of powers. There are severe long-term implications for the nature of the Egyptian state and its foundational stability, both domestically and regionally. Citizens and human rights defenders are suffering at the hands of a government taking steps to eradicate any trace of liberty and freedom. The international community needs to challenge el-Sisi’s insidious consolidation of authoritarian rule through scaling back military and economic assistance, as well as implementing sanctions that target high-ranking officials responsible for human rights abuses. We need to consider what is at stake: the safety and well-being of Egyptian citizens; the battle against terrorist organisations; the stability of the Middle East; and the rights, freedoms and values we deem worth defending even in the darkest of times.

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