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MORE EFFICIENT EU APPROACH
TO HUMAN RIGHTS:
CIVIL SOCIETY AND EU STRATEGIES
IN EGYPT

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ABSTRACT

This report aims to provide an in-depth analysis of the EU's strategy to promote human rights and democracy in Egypt. Largely based on instruments devised within the framework of the EMP and ENP, the EU wishfully counted on a spill-over effect from trade to political reform as well as onto actors' socialization. This strategy fell prey to Mubarak's "carrot-and-stick" approach to the nascent NGO sector and its adjusted policy discourse that resonated with Brussels. Drawing upon Mubarak's mistakes, the post-Revolution regime morphed into an overtly repressive apparatus designed to "kill" civil society and prevent a new 25 January. In this context, is engaging at all costs in political dialogue relevant? Did the EU foreign policy manage to follow suit with Egypt's political evolution? How can the EU draw upon its past mistakes to craft a more efficient approach to human rights? How can the EU's economic and political leverage be best used?

INTRODUCTION

Egypt's grim human rights and democracy record is deeply rooted in the regime's ability to adjust to ever-changing circumstances. Under Mubarak, it devised an NGO "carrot-and-stick" strategy aiming at the domestication thereof while polishing its policy discourse and maintaining the relevance of European-Mediterranean Partnership (EMP) *political dialogue* within European policy circles. Eventually, the strategy was not a match for workers' and genuine civil society initiatives, and prompted Mubarak's fall on 25 January 2011. Beheading the regime's public figure did not equate to political reform; hence, the short-lived revolutionary movement fell prey to the regime's ability to draw on its own mistakes. In the immediate aftermath of 25 January, the civil society found itself under attack through smear campaigns and a new legal apparatus best embodied by Law 70/2017 (more on this later).

In parallel, the EU's adoption of the one-size-fits-all European Neighbourhood Policy (ENP) and its rather naïve win-win strategy did not allow for substantial change in the pre-Revolution context, but merely helped Mubarak maintain his Western credentials. Although taken by surprise, the EU came forward with its "more for more" policy and managed to devise a set of promising human rights instruments in the Revolution's immediate aftermath, showing its ability to adapt to the new situation within the framework of its ongoing policies. This new policy was, however, largely abandoned in 2013. The challenge in the post-Revolution era is to maintain this innovative stance while circumventing Egypt's harsh restrictions on civil society. The EU will not be able to do so without confronting its biggest challenge: taking on a tougher position towards its partner state, using its growing political and economic leverage towards

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Egypt to bring about a substantial change.

Due to the specific context of Egypt, no fieldwork could be conducted in line with MEDRESET's Data Management Plan and Ethics Charter. The report is mainly based on local, regional, and international academic publications, grey literature (online sources from Egyptian organizations), blogs, online media and so on (see reference list). Furthermore, the report also uses the elite survey conducted in Egypt in MEDRESET Work Package 3 (WP3), as well as two in-depth interviews via Skype with human rights organizations outside of Egypt.

The report illustrates in the specific case of Egypt the general backlash against human rights issues in the internal agenda and foreign policy of the EU, as is already documented in the literature (Gómez Isa 2018). This is mainly due to the decreasing credibility of the democratic rhetoric after the military intervention in Iraq (Huber 2013) and the new suspicions on the part of regional and international powers towards what they consider as the instrumentalization of human rights by the West. One of the added values of this report is the description of the consequences of this international shift for a particular country, in this case Egypt.

This report addresses the aforementioned issues through a holistic review of Egypt's political economy and human rights context (Section 1), a general overview and an evaluation of the EU policies and policy instruments to promote human rights and democracy (Section 2), as well as an analysis of grassroots actors' views on EU foreign policies and subsequent recommendations (Section 3).

1. EGYPT'S POLITICAL ECONOMY IN A HUMAN RIGHTS CONTEXT

In 2016, Egypt scored 27 (out of 100), sadly joining the lowest tier of the Freedom House (2016: 21) index.² This trend towards a more authoritarian regime seems unbending and largely backed up by the regional/international context.³ Egypt's new regime is keeping up with the unravelling of the 2011 uprising, reviving and even stiffening the legacy of Mubarak – and of his predecessors.

The report's first part details the evolution of the political context since Mubarak, and its implications for human rights (Section 1.1), as well as the legal framework in which grassroots organizations have evolved since the 1990s (Section 1.2).

1.1 FROM MUBARAK TO SISI: AN OVERVIEW OF THE POLITICAL CONTEXT AND ITS HUMAN RIGHTS IMPLICATIONS

The particular context that shaped Mubarak's presidency still reverberates today. The 1990s were the decade of political Islam and of the emergence of an internationally structured civil society (i.e., NGOs). As detailed below, Mubarak's regime as well as subsequent ones constantly

² Egypt's ranking equates to those of Iraq and Qatar.

³ Sisi's widespread portrayal as terrorism's shield gained momentum in Europe at a time when "fighting ISIS" has become first on the foreign policy agenda. Seemingly, Sisi's Egypt benefited from heavy support on the part of Saudi Arabia and its allies in order to seal Sunni alliances, avoid Iran's taking over the region and react against the "sunshine policy" towards Iran launched by Morsi.

adjusted to these elements.

1.1.1 MUBARAK'S EGYPT: THE CARROT-AND-STICK STRATEGY

After Sadat's assassination in October 1981, President Mubarak took over power and declared a state of emergency, only 18 months after the previous one had ended.⁴ Sadat's assassination marks the reference point for political violence⁵ that would ensue a decade later and trigger heavy repression from the regime. The state of emergency allowed for the 1992 Anti-Terror Law and the referral of civilians to military courts or exceptional state security courts under direct governmental control. These civilians were often tried on the basis of their alleged adherence to the *Jihad*, *al-Jama'a al-Islamiyya* and the Muslim Brotherhood. Regular crackdowns began to emerge in the mid-1990s. In 1999, the regime scaled up and arrested dozens of high-profile Muslim Brothers in an obvious attempt to prevent them from running for public office (HRW 2001); the pattern was then to become the regime's signature. Having crushed most of the Brotherhood's political ambitions, the system expanded to human rights advocates. Hence, in 2000, Saad Eddin Ibrahim, democracy advocate and head of the Ibn Khaldun Center for Development Studies, was prosecuted for using EU funding to monitor Egyptian elections and discredit Egypt (HRW 2001). The regime's clampdown was not limited to preeminent targets. In the 1990s, Mubarak devised an encompassing system aiming at confining civil expression through limiting freedom of the press and freedom of association.

Mubarak's win-win approach: limiting freedom of press while pleasing Islamists. The Law 96/1996 (Press Law), repealing Law 93/1995, allows for the jailing and fining of journalists.⁶ The law came to fruition after the newspaper *al-Sha'ab* exposed a corruption scandal involving high-ranked officials (Freedom House 2006: 94). Mubarak's Egypt, however, did not limit censorship to the political realm. In an effort to compensate for Islamist groups' exclusion from the political sphere, the regime gradually gave in to their censorship demands for works deemed to offend Islam (e.g., sexually explicit content, religious critics). Hence, the regime allowed "the conservative religious establishment, such as the leading figures in Al-Azhar University, to exercise a high degree of control over cultural expression and social mores" (HRW 2001) and honed its Islamic credentials in the eyes of a conservative-growing Egyptian society. A striking example thereof is the trying of 52 men in July 2001, before the Emergency State Security Court, for their alleged homosexuality⁷ and their sentencing for up to 5 years (CNN 2001).⁸ Mubarak's constraint of civil expression was not limited to restricting freedom of the press or to the regime's carrot-and-stick policy towards Islamist groups. The regime was indeed particularly wary of people's associations, especially student and trade unions.

4 Since the free officers' takeover in 1952, an almost unbroken state of emergency has prevailed.

5 And notably the 1997 Luxor massacre perpetrated by al-Gama'a al-Islamiyya.

6 Law 96/1996 repeals freedom-limiting Law 93/1995 in an attempt to advertise regime change. In reality, the 1996 law does not differ much from its precursor. See Cook (2007: 71).

7 Homosexuality is not a criminal offence per se. Homosexuals, however, face legal prosecution for "debauchery" and "contempt of religion".

8 "Egypt Gay Trial: 23 Jailed", in CNN News, 14 November 2001, <http://edition.cnn.com/2001/WORLD/meast/11/14/egypt.gay/index.html>.

Labour unions: the paragon of civil action. Officially, from the free officers' access to power to the downfall of Mubarak, the Egyptian Trade Union Federation (ETUF) was the only entity to legally represent workers (Law 35/1976). The Union was largely dominated by public sector workers and aimed at controlling workers' dissent. It proved largely inefficient in controlling workers' movements from the late 1990s up to Mubarak's overthrow. All in all, 2 to 4 million Egyptian workers participated in 3,400 to 4,000 strikes and collective action over the period (Beinin 2012: 3). This large movement that participated in "delegitimizing the regime in the eyes of many Egyptians" was prompted by Sadat's *infitah* policy continued under Mubarak and the loan-induced restructuring of the Egyptian economy (Beinin 2012: 3-4).⁹ Although the ETUF's regime-sponsored leadership showed little resistance to the 2003 Unified Labour Law under which workers were to be indefinitely renewed on a "temporary" basis, rank-and-file employees displayed fierce opposition. From 2004 onwards, collective actions spread to virtually all sectors and were joined by clerical workers. In 2007, the Real Estate Tax Authority workers staged an eleven-day occupation in downtown Cairo and managed to secure a 325 per cent salary increase, prompting the Ministry of Manpower and Migration to recognize¹⁰ the Independent General Union of Real Estate Tax Authority Workers (IGURETA) in April 2009, and several trade unions before the end of 2010 (Beinin 2012: 4). Applied to the labour union context, the regime's carrot-and-stick policy was not sufficient to tame Egypt's discontent, which translated a few months later into the uprising. However, the policy proved sufficient to control the newly fledged NGO sector.

NGOs: the impossible emancipation. As worded by Albrecht (2005: 384): "If the 1980s saw the advent of an electoral system and of opposition parties, then the 1990s were the decade of NGOs and civil society." This formula translates the international development world's growing defiance of state institutions and its shift towards a bottom-up approach. This theoretical approach prompted the sector to directly finance grassroots organizations and caused the regime to adjust its carrot-and-stick policy.

Under Mubarak the NGO sector gained momentum, doubling from an estimate of 14,000 registered NGOs and foundations in 1993 to more than 30,000 at the end of Mubarak's reign. However, very few showed political leanings, the overwhelming majority serving only welfare purposes (Herrold 2016: 195). The latter is the rationale behind the regime's efforts to promote the sector: the country's economic privatization efforts were to be offset by a more self-reliant civil society.¹¹ In order to achieve this, Mubarak used a divide-and-rule approach encouraging development work that would benefit the state's disengagement, and controlling or repressing, when need be, organizations that might turn into opposition groups (Albrecht 2005: 384). In order to ensure its rule over the sector, the regime made sure to jeopardize the sector's reputation by depicting them as "foreign agents" aiming at imperilling "national unity". Although not threatening to the regime under Mubarak, they came to be regarded as a potential menace after 2011. Hence, subsequent leaders intensified the NGO delegitimization campaign and crackdowns.

⁹ Under Mubarak and the advent of the "Washington Consensus" promoted by the IMF, World Bank and US government, the regime privatized 314 public enterprises. See Beinin (2012: 4).

¹⁰ In contravention of Egyptian law.

¹¹ "In order to mitigate the effects of this economic privatization on the poor, Egypt's government increasingly looked to the NGO sector to fill in gaps left as a result of welfare state retrenchment". Herrold (2016: 195).

1.1.2 Post-MUBARAK EGYPT: A COPERNICAN REVOLUTION

Within a three-year span, four governments ran Egypt. This period of unrest witnessed the rule of the Supreme Council of the Armed Forces (SCAF), led by Field Marshal Mohamed Hussein Tantawi. Although transient (February 2011 to June 2012), the 20-member Council passed and enforced provisions impeding the newly freed NGO sector. Year-long President Morsi followed suit until he was deposed by a military coup on 3 July 2013 and temporarily replaced by Adly Mansour (4 July 2013 to 8 June 2014). General Abdel Fattah el-Sisi, formally accessing power on 8 June 2014, drew conclusions from the pre-revolution context and the transitory period and shaped his policy accordingly.

SCAF runs Egypt: harnessing Mubarak's legacy. Mubarak was deposed on 11 February 2011, and the SCAF, a 20-member military council, swiftly took over. They announced the Constitution's suspension, their administration of the People's Assembly (Lower Chamber), the Shura Council (Upper Chamber) and of the Presidential elections along with the dissolution thereof. The SCAF granted itself authority for the issuance of laws and the modification of Egypt's Constitution.¹² Under the SCAF, following hard after the revolutionary momentum, the human rights and political situation spiralled downward. The emergency law was further expanded (hitherto limited to terrorism and drug trafficking). The military violently quashed demonstrations as sadly illustrated by the 2011 Maspero Massacre.

SCAF rule: the deep state fighting back. In 2011, 12,000 civilians were tried before military courts while freedom of the press was largely undermined (e.g., TV stations and newspapers were raided and closed) (HRW 2011b). Although originally showing eagerness to allow freer labour organizations, the SCAF passed a law criminalizing any form of protest (Law 34/2011) even though it did not succeed in stopping strikes and protests. The SCAF even moved backwards as regards gender equality, removing Mubarak's provisions to reserve seats for women in the Parliament. Violence against minorities rose, pointing to SCAF's unwillingness to address it. Torture and arbitrary arrests never ceased under SCAF rule, and women protesters were even subjected to "virginity tests". The SCAF was also responsible for mass slum evictions (Amnesty International 2011).

Civil society: a new threat for the old regime. The SCAF rapidly took on limiting workers' "street" presence. It also took on the new threat the NGO sector may constitute in legitimizing uprising and anchoring political reform. Hence, the SCAF adopted a stick-only approach to curtail the rise of a politicized civil society through "discourse and policy" (Herrold 2016: 202).

Playing out Egypt's heightening patriotic sentiments, the SCAF launched a smear campaign against NGOs. To prove the assertion of "foreign hands" over Egyptian politics, the SCAF ordered through the Central Bank the release of the names of unregistered NGOs that benefited from foreign funding.¹³ The campaign even prompted then US Ambassador to Egypt, Anne W. Patterson, to disclose USAID-funded unregistered NGOs. Kareem Elbayar, legal adviser for the Middle East and North Africa region at the International Center for Non-Profit Law at

12 "Egypt's Supreme Council of the Armed Forces: Statements and Key Leaders", in *The New York Times*, 14 February 2011, <http://www.nytimes.com/interactive/2011/02/10/world/middleeast/20110210-egypt-supreme-council.html>.

13 "Egyptian Banks to Inform Government of NGO Banking Transfers", in *Ahram Online*, 4 August 2011, <http://english.ahram.org.eg/News/18113.aspx>.

the time, described the campaign as "unbroken since the revolution" (Delshad 2011). Maged Adeeb, then chairman of the National Center for Human Rights, added that the government had created "an unbridgeable gap between us [NGOs] and ordinary citizens".¹⁴

A general crackdown was devised against NGOs through the fact-finding committee prompted by the Minister of Planning and International Co-Operation. With the complicity of the *El-Fagr* newspaper the names of 39 organizations were "identified" as recipients of foreign funds and lawsuits were brought against them (Delshad 2011, HRW 2011a).

1.1.3 *Morsi's Egypt: PERPETUATING THE LEGACY*

Hitherto illegal, the Muslim Brotherhood gained recognition in the aftermath of Mubarak's downfall. It formed its own party (Freedom and Justice Party) and proved the most organized opposition force in the country. In the 2011 November/December Parliamentary elections, the Democratic Alliance for Egypt led by the Freedom and Justice Party (first) and the Islamist Bloc led by the Salafi Al-Nour Party (second) won a majority of seats. On 14 June 2012, however, Egypt's Supreme Constitutional Court declared the Parliament's electoral law illegal; hence calling for dissolution of the Shura Council (the Upper Chamber of Parliament). Mohammed Morsi won Egypt's first free presidential elections and reinstalled the Shura Council by presidential decree on 8 July 2012. The Muslim Brotherhood's access to power did not however translate into political and human rights progress.

Morsi's Egypt: A grim human rights record. Two month into Morsi's presidency, the regime installed Shura-appointed editors-in-chief of state-run dailies. Reports of censorship quickly emerged and critics of the regime were prosecuted (CPJ 2012). In a similar vein, Revolution satirist Bassem Youssef was prosecuted for "insulting" Egypt's president and "undermining his standing".¹⁵ President Morsi even declared at the UN General Assembly on 26 September 2012 that, although "Egypt respect[ed] freedom of expression", this was limited to a sort of expression "that is not used to incite hatred against anyone. One that is not directed towards one specific religion or culture" (Morsi 2012: 12). Following this line of delimited freedom of expression, demonstrations were contained (HRW 2012). However, Morsi's rule was not a dramatic worsening of the situation.

Morsi's Egypt: burying the civil society strategy. Morsi took over the SCAF's strategy to delegitimize NGOs. The Brotherhood resorted to a smear campaign depicting NGO workers as foreign agents and spies (Cofman Wittes 2013). The campaign did not stop there and was coupled with the launch of several lawsuits, culminating in the conviction of 43 NGO workers (Loveluck 2013). In parallel, one day after the ruling Morsi issued a draft law that constituted a serious regression since Law 84/2002 and was described by Cofman Wittes (2013) as "far more draconian than the law under which these workers were convicted".

14 "Tough Post-Revolution Reality for NGOs in Egypt", in *IRIN News*, 25 October 2011, <http://www.irinnews.org/node/251330>

15 "Egyptian Satirist Accused of Undermining Mohammed Morsi", in *The Telegraph*, 1 January 2013, <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/egypt/9774456/Egyptian-satirist-accused-of-undermining-Mohammed-Morsi.html>. Youssef had to flee the country after the coup.

Morsi's fall: back to square one. The repeated assaults on the "25 January Revolution" hastened Morsi's downfall. The civil-rooted movement that prompted the army to step in was embodied in the *Tamarod* (rebellion) movement. A grassroots movement, led by five activists, Maged Adeeb rallied around itself several civil society movements (i.e., *Shayfeencom*, *Kefaya*, the National Salvation Front, the April 6 Youth Movement). A week from Morsi's one-year anniversary, Egypt suffered severe fuel and oil shortages – a sector wherein the State is the main supplier (Chulov and Kingsley 2013). In this conducive atmosphere, *Tamarod* organized on 30 June 2013 a mass demonstration in Tahrir Square backed by a heavily signed petition calling for Morsi's step-down. The army gave Morsi a one-week ultimatum to solve the crisis. Faced with the impossibility to deliver, Morsi was deposed on 3 July 2013 and replaced by Adly Mansour, hitherto head of the Supreme Constitutional Court. Following Morsi's downfall, the Muslim Brotherhood organized an open-ended sit-in in Raba'a square. On 14 August 2013 and after over a month and a half of occupation, the police moved to quash it. The "operation", initially deemed a "gradual dispersal", resulted in a systematic killing, the troops running over protestors with bulldozers and firing live ammunition (Roth 2014). The death toll ranges from 377 according to Egyptian authorities to over a thousand (HRW 2013). Following Egypt's "worst mass unlawful killings in [the] country's modern history" (HRW 2013), clashes broke out all over the country, and banks and train service were shut down. Police stations were attacked, killing more than 40 police officers, and at least seven churches were burnt down in Upper Egypt (Kirkpatrick 2013) but the interim government remained steady and managed to secure popular support. On 18 January 2014, the acting President introduced through referendum an overwhelmingly approved new constitution. Between 26 and 28 May 2014, new presidential elections were held confirming Sisi's ascent over post-Mubarak Egypt.

1.2 GRASSROOTS ORGANIZATIONS: FROM TOKEN FRIEND TO FOE

Since Sisi's takeover, the crackdown on the Brotherhood has been unbroken. The Justice and Freedom party has been dissolved and the Muslim Brotherhood is now regarded as a terrorist organization.¹⁶ An estimated 60,000 political prisoners are detained in Egyptian prisons (against 5,000 to 10,000 under Mubarak) and 16 new facilities have been constructed to manage the overflow of prisoners (Hammer 2017). The crackdown is not limited to Morsi's supporters; 25 January Revolution activists are also preeminent regime targets. Five months into Morsi's deposition, Ahmed Maher, a founder of the April 6 Youth Movement, was found guilty of "illegal demonstration, rioting and thuggery" and was sentenced to three years in jail (Hammer 2017). According to Maher, the regime fears the influence of grassroots organisations because "tweets can lead to demonstrations, and demonstrations can lead to revolution, and that will bring down the regime and create martyrs" (Hammer 2017). Hence, in order to diminish their standing, the new regime reinforced the legal framework for civil society organizations.

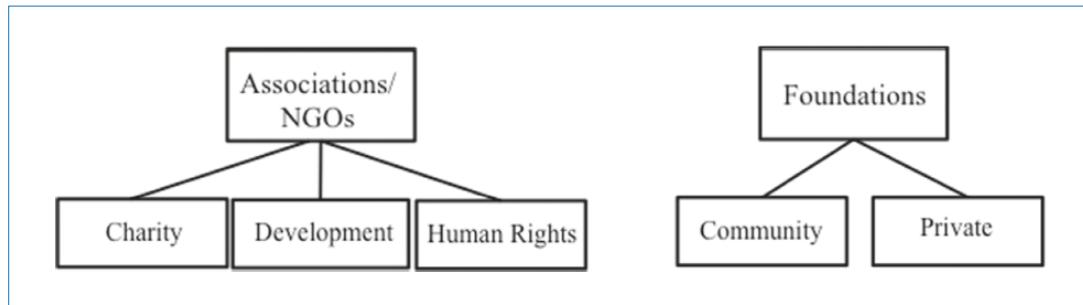
1.2.1 A GENERAL OVERVIEW OF THE GRASSROOTS SECTOR

The grassroots sector in Egypt is legally divided between associations (*gamayat*) and foundations (*mu'assasat*) as per Law 84/2002. Based on qualitative research, Herrold (2016: 194) sub-categorized them as follows: charitable, development and human rights for the "association"

¹⁶ "Egypt's Muslim Brotherhood Declared 'Terrorist Group'", in BBC News, 25 December 2013, <http://www.bbc.com/news/world-middle-east-25515932>.

sector; and community and private for the "foundation" sector. Charity and development are overwhelmingly dominant. In 2011, an estimated 30,000 NGOs were registered, whereas only 60 of them were focused on human rights (Herrold 2016: 194-5).

Figure 1 | Egypt's NGO sector



Source: Herrold (2016: 194).

The pre-Revolution legal framework and Mubarak's policy of carrot-and-stick largely explain this disparity. However, a small fraction of human rights-oriented organizations managed to survive by registering as law firms or civil companies. However, escaping Law 84/2002 did not shelter them from "the watchful eye of the State" or from "donor influence" (Herrold 2016: 196). In the words of human rights NGO workers, "Egypt's human rights organizations held Cairo-based conferences and produced reports that were lauded by Western benefactors but remained largely unnoticed by, or out of touch with, ordinary Egyptians" (Herrold 2016: 196-7).

An Overview of Grassroots Organizations' Legal Framing

Law 49 of 1945: First law to establish a framework for non-governmental organizations.

Law 356 of 1952: The "Free Officers" cease power and replace the existing legal framework to "promote better practices rather than to establish controls over agency activity". For the revolutionary government, community development is key to the "establishment of social justice" (Istiphan 1956: iv).

Law 32 of 1965: The revolutionary government grows suspicious of foreign interference. Civil society initiatives are also seen as implementing partners of Nasser's reforms (especially farming reforms). The law places non-governmental organizations under the patronage of the Ministry of Social Affairs (MOSA). These organizations receive grants from the Ministry, which often appoints staff.

Law 84 of 2002: The law introduces restrictive provisions. In order to register with MOSA, NGOs have to specify their field of activity. Article 11 prohibits engaging in activities that may threaten "national unity" or "public order or morals". Disregarding these provisions leads to consequences ranging from the dissolution of the organization to the fining and jailing of its staff (Article 76). The result of the tightening legal framework is an "ingrained avoidance of all things political" (Herrold 2016: 196).

1st draft submitted by the Muslim Brotherhood to the Shura Council under SCAF rule: The bill proposes to replace the system of authorization introduced by Law 84/2002 with a system requiring notification of the Ministry of Social Solidarity (MOSS). The draft however retains MOSS control and the "national unity" and "public order and morals" wording (Lesch 2017: 162).

2nd draft submitted by the Muslim Brotherhood to the Shura Council under Morsi's rule: While retaining the "notification" provision, the proposed bill introduces a set of extremely restrictive measures: security entities approve international cooperation, the government approves the funding, funding of non-Egyptian organizations by their home state is banned and homeland security "officially" overlooks the organizations' activities. Faced with civil society uproar, a slightly mollified wording is introduced a month prior to Morsi's deposition. The law never comes into force (Lesch 2017: 162).

1.2.2 THE NEW "NGO LAW": THE REVOLUTION'S LEGACY

On 29 May 2017, President Sisi signed into law the controversial new "NGO law". The law adopted six months earlier by Egypt's parliament was approved without public debate (Gomaa 2017). The law retains the Morsi bill's main provisions. Hence, it is extremely restrictive for both national and international NGOs and makes human rights work virtually impossible. The following details the key provisions of the law.

Key provisions of the law. Law 70/2017 introduces the national authority for regulation of foreign NGOs (Egypt 2017). This newly set government body – the National Regulatory Agency for the Work of Foreign Non-Governmental Organizations – strictly oversees international entities operating in Egypt and chaperones relations between them and Egyptian organizations. Hence, in order to conduct "any agreements of any form with any foreign entity inside or outside the country", the organization must receive the formal approval of the Agency; the same applies to agreement amendments (Article 14(h)). The law allows for a stern control over NGOs' assets, hence setting out that "an association may receive funds, donations and grants from Egyptian or foreign natural or legal persons outside the country, or from foreign natural or legal persons inside the country" provided they notify the Agency within 30 days. In the absence of answer from the Agency within a 60-day period, the transfer must be considered rejected (Article 24). Non-compliance by the association (Article 24(f)) or non-approved cooperation, joining, subscribing or affiliation with a foreign entity (Article 43) are grounds for dissolution; additionally, all staff members are exposed to up to a 5-year jail sentence and a million-pound fine (48,762 euro) (Article 87(d)). The Agency is chaired by, among others, a Representative of the Defence Ministry, of the Ministry of Interior, of the Central Bank and of the General Intelligence Agency (Article 72). Foreign entities' activities must be aligned "with the needs and priorities of the Egyptian society based on the development plans" and remain out of "the work of political parties, vocational or labor syndicates, any work of political nature, or any work that may cause harm to the national security, public order, public morals or public health" (Article 62). Harsh restrictions are not limited to foreign organizations since the law prohibits "conducting opinion polls and publishing or making available their results" and "conducting field researches or disclosing their results before presenting them to the Agency to make sure of their integrity and neutrality" (Article 14(g)). "Whoever conducts or participates in field surveys or opinion polls in the field of civil action" without prior authorization is exposed to a one-year sentence

in jail and to a 500,000 pound fine (24,381 euro) (Article 88(f)). On top of all the above, Egyptian organizations are now subject to a 10,000 pound (488 euro) fee for registration and the process is extremely time-consuming.

Repercussions of the law. Law 70/2017 echoes a bill never adopted by Morsi, which legally enacts for the first time the intelligence services' supervision over civil society. Human rights organizations are particularly targeted with a two-fold procedure regarding surveys: one prior to the survey and another prior to publishing the results. This provision reduces to the ground the likelihood of taking on such a venture. Nevertheless, this legal crackdown is not limited to human rights organizations. Sisi's regime seems to draw on Mubarak's "mistakes" of allowing the Muslim Brotherhood to take over large swaths of social welfare, hence constituting a solid political opposition force when the time came. In theory, European aid is conditioned on the respect of fundamental liberties. However, since the 1990s and the shaping of an EU foreign policy, priority has always been given to dialogue, as recalled by the EU spokesperson on the new NGO law: "Egypt is an important partner for the EU, and we stay committed to strengthening our bilateral cooperation and pursuing a constructive dialogue in all fields of our cooperation" (EEAS 2017).

2. GENERAL OVERVIEW AND EVALUATION OF THE EU POLICIES TOWARDS HUMAN RIGHTS

In the 1980s, the germinal Renovated Mediterranean Policy inaugurated human rights as a growing element in the EU's trading relations and foreign policy. While the policy aimed at strengthening commercial ties with states outside the EEC, it also enshrined a provision that allowed the Parliament to freeze a financial protocol in case of blatant human rights abuses. With the carving of a more comprehensive EU foreign policy (i.e., the EMP and ENP), the Union moved towards a more "positive approach" opting for an incentive-based strategy.

2.1 THE EMP: A WIN-WIN DRIVEN APPROACH

The European-Mediterranean Partnership (EMP) born out of the 1995 Barcelona Process provides the comprehensive framework for the signing of "association agreements" between a partner state and the EU. Nine years after the Lisbon conference, the EU-Egypt Association Agreement entered into force, complemented in 2007 by the non-legally-binding Action Plan.¹⁷

2.1.1 THE EMP: POLITICAL DIALOGUE OVER HUMAN RIGHTS

Contrary to the Renovated Mediterranean Policy approach, the Agreement aims at developing an encompassing political dialogue which "cover[s] all subjects of common interest, and, in particular peace, security, democracy and regional development" (Article 4) (European Community and Egypt 2004). The political dialogue is initiated at two levels: ministerial (i.e., Association Council) and legislative (i.e., European Parliament and the Egyptian People's

¹⁷ The technical sub-committees assessing the Action Plan's implementation stopped operating between 2011 and 2015.

Assembly). Despite the European Parliament's involvement in the "political dialogue", human rights are evoked in a rather loose way ("relations between the Parties [...] shall be based on respect of democratic principles and fundamental human rights as set out in the Universal Declaration on Human Rights, which guides their internal and international policy and constitutes an essential element of this Agreement" [Article 2]). The EU's jilting of the Parliament's prerogative to freeze a financial protocol was deemed to encourage the state partner to undertake in-depth political reform with EU support. This shift of approach elicited three main consequences: (1) the Agreement focused on "areas of improvement" that are of interest to both the EU and Egypt (i.e., education, environment, fight against drugs, fight against terrorism, migration and culture/media); (2) the major human rights instrument (the MEDA Democracy Programme or "MDP") was separately devised; and (3) no suspension mechanism was enshrined in the Agreement.

The Agreement's circumscription of the "political dialogue" strengthened Mubarak's tightening grip on human rights NGOs. The MEDA Democracy Programme's evaluation report indicates that Egypt's share only accounted for 4 per cent of the total budget. According to the evaluators, this situation did not "seem to reflect a chosen strategy but is rather a result of the small number of applications received from Egyptian NGOs". The evaluation also reflected on the programme's strategy "deficiencies" and inadequacy vis-à-vis Egypt and notably "severe problems in the field of human rights [and] democracy" which were not "sufficiently addressed by the MDP" (Karkutli and Bützler 1999).

On the EU side, the MEDA Democracy Programme, which covered democratic and legal reform, civil society enhancement and peace building in the MENA region (Carapico 2002), offered mixed results. As emphasized by Haddadi (2004: 153), allocated funds have remained steadily "thin" throughout the programme's implementation.

2.1.2 POLITICAL DIALOGUE PRIORITY: AN EFFICIENT STRATEGY?

As the EU-Egypt Association Agreement's trade component deepened with the signing of the 2013 Convention on pan-Euro-Mediterranean preferential rules of origin, the political efforts carried out under the EMP proved difficult to articulate. As expressed by Przybylska-Maszner (2015: 27), the political dialogue "raised considerable resistance from Egypt, which was reluctant to accept the necessity of interfering with its domestic affairs. Egypt solely approved the economic benefits of mutual relations".

This *a minima* EU approach showed several weaknesses: a lack of state accountability for not undertaking necessary social/political reforms and a political dialogue limited to areas considered non-controversial (Youngs 2006: 4). Given the current context, this trend is only reinforced by the regime's smear campaign against "foreign interference" and the "fight against terrorism" narrative that embodies Sisi as an effective force in the region (EEAS and Egypt 2017).

2.2 THE ENP: BUILDING UPON THE EMP

The European Neighbourhood Policy (ENP) was launched in 2004 to answer the EU's security concerns stemming from the Union's largest enlargement. The new policy embraced the EMP's "positive-sum" philosophy, as outlined in the 2004 ENP strategy paper setting out that

the "EU wants to promote 'stability, security and well-being for all' by the use of incentives ('carrots') in lieu of sanctions ('sticks') and to foster cooperation in areas of mutual consent and interest" (Barbé and Johansson-Nogués 2008: 81). This new policy was embodied in the European Neighbourhood Policy Instrument (ENPI) that came into force in 2007 and replaced the TACIS technical assistance (Eastern Europe) and the MEDA programmes with a 32 per cent funding increase (Barbé and Johansson-Nogués 2008: 87). Fostering a state-to-state win-win approach, the EU's consultation of civil actors in the drawing of action plans has been limited and "[has] rarely [gone] against the wishes of the partner government" (Barbé and Johansson-Nogués 2008: 91). Critics soon pointed out the ENP's lack of enforcement mechanisms in case of selective reformism, and a general incoherence that leads to rewarding unwilling states (Barbé and Johansson-Nogués 2008).

2.2.1 ENI AND SSF

In 2014, the renovated European Neighbourhood Policy introduced the European Neighbourhood Instrument (replacing the ENPI). Drawing upon the *naïveté* of the win-win approach, the ENI puts in place an "umbrella fund" mechanism that conditions the allocation of additional funds to an Egyptian human rights performance review based on Foreign Affairs Council conclusions and the Court of Auditors' recommendations.

In the post-2013 context, the main EU financial instrument to promote human rights and political reform is the ENI for 2014–20 managed by the Directorate General for Neighbourhood and Enlargement Negotiations.

The successive Single Support Frameworks (SSFs) appeared quite ambiguous regarding democracy and human rights.¹⁸ The SSF 2014–16 insists on both democracy and human rights in the general response of the EU facing the Egyptian context (SSF 2015: 4). In fact, human rights and support for civil society have disappeared in the factual objectives and instruments and the reference to it appears to be mainly cosmetic. The budget of the SSF was planned to reach 311 to 380 million euros for 2014–16 (SSF 2015: 10). It funds the three following sectors with the corresponding portion of the budget: poverty alleviation, local socio-economic development and social protection (40 per cent), governance, transparency and business environment (20 per cent) and quality of life and environment (40 per cent).

In contrast to the SSF 2014–16, the SSF 2017–20 seemed to relinquish the human rights and democracy rhetoric. The EU response adopted another tone, without mention of democracy.

The stabilisation and resilience building of neighbouring countries, particularly by boosting economic development are the EU's main political priorities outlined in the European Neighbourhood Policy (ENP) review of 2015 and in the Global Strategy for the European Union's Foreign and Security policy (Global Strategy) of 2016. (SSF 2017: 3).

One could not be more explicit on the EU's direction changes: Security takes precedence over democracy. Stability takes priority over human rights. But at the same time, mention of democracy reappeared in the support for a "democratic state" under two sectors, the

¹⁸ See SSF (2015) for the period 2014–16 and SSF (2017) for the period 2017–20.

third and the fourth, each of them accounting for 10 per cent of the total projects. The third sector, entitled "Governance, enhancing stability and modern democratic state", revives the democracy narrative leaning on the 2014 Egyptian Constitution, taking Egypt at its word. The second specific objective is "to promote and protect the values of democracy, the rule of law, human rights, fundamental freedoms and gender equality" (SSF 2017: 12).

2.2.2 OTHER COMPLEMENTARY INSTRUMENTS

As for the EMP, human rights instruments were developed and multiplied alongside the ENI (formerly ENPI) with a much lesser financial magnitude. However, the 2011 uprisings provided the EU with room for innovative action embodied in the European Endowment for Democracy. The European Instrument for Democracy and Human Rights (EIDHR) is a financial and policy instrument developed upon a country-based support scheme. The instrument, established in 2007, directly supports civil society organizations (CSOs). However, the instrument failed to channel much direct assistance¹⁹ and often ended up funding state-sponsored organizations (Fiedler 2015: 181).

To compensate for the EIDHR's deficiencies, the Civil Society Facility²⁰ and the European Endowment for Democracy (EED) were developed. The latter was created in the aftermath of the 2011 uprisings and aimed at supporting unregistered entities. The instrument is a Belgian-registered foundation that can act as an EU proxy for funding democracy-building activities. EU member states and private contributions mostly finance the fund. The endowment fosters an innovative approach fitting the post-2011 context. This takes the form, in Egypt, of a two-year initiative in which a 25-organization collective is producing a "shadow report" for the UN Committee on the elimination of all forms of discrimination against women; based on the report's findings, the collective is also developing tailored activity throughout Egypt.²¹ However, the provisions of Law 70/1970 criminalizing unauthorized research and funding may be a definitive blow to the EED's funding in Egypt.

Also official EU statements or resolutions contribute to make the EU's voice heard. The statement by the Spokesperson on the situation in Egypt (EEAS 2017) and more significantly the European Parliament resolution of 8 February 2018 on executions in Egypt have probably stopped the recurrent executions which occurred on a weekly basis during the previous period.

Support for human rights defenders (HRDs) is another useful tool of the European Union's external policy on human rights. The EU provides small grants to HRDs in need of urgent support. In the present context of Egypt, this allows some HRDs to be protected or to escape from harassment.

¹⁹ For the period 2014–17, 4 million euros was channelled to CSOs through the instrument. See European Commission website: *European Neighbourhood Policy and Enlargement Negotiations: Egypt*, last updated 12 June 2016, https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/countries/egypt_en.

²⁰ The Civil Society Facility aimed particularly at small initiatives lacking bigger NGOs' capacity and expertise.

²¹ See EED website: *Encouraging Women Empowerment and Activism in Egypt*, <https://www.democracyendowment.eu/r/p376rs>.

3. CONTENT ANALYSIS OF THE GRASSROOTS ACTORS' VIEWS ON EU FOREIGN POLICIES

Research ventures are made increasingly difficult in Egypt since the passing of Law 70/2017. To offset the lack of primary sources, we drew upon secondary sources (i.e., academic literature, think tank and human rights NGO literature and media). We hence gathered interviews of civil society actors describing their perception of their needs, as well as of EU instruments or procedures, conducted interviews with human rights organizations working in exile, and drew upon the elite survey conducted in MEDRESET WP3. We also consulted grey literature of local organizations working on human rights-related issues, a table of which can be found in the Annex of this report. We will discuss our findings in line with the actors, substance and instruments framework of MEDRESET (Huber and Paciello 2016).

3.1 EGYPT'S GRASSROOTS ACTORS: CONVERGING AND DIVERGING DYNAMICS

The 25 January Revolution opened way to the liberalization of the NGO sector but also to the emergence of new local forms of governance that do not fit into the EU's project-based logic and aim at independently providing and advocating for local communities' rights. Both have been targeted by Sisi's regime and while the former direction overtly converges with EU policies in Egypt, the latter seems to embrace a more self-driven path.

3.1.1 HUMAN RIGHTS NGOs: PRIORITY CONVERGENCE

The 2016 Annual Action Programme set the priority of "Advancing Women's Rights in Egypt" through two main areas of intervention: female genital mutilation, and access to justice within the Egyptian legal framework (European Commission 2016: 2). Aligned with these objectives is the Center for Egyptian Women's Legal Assistance (CEWLA), which participated in thorough debates in view of the 2014 Constitution adoption. CEWLA's campaign on women's trafficking took a cross-border approach to tackle women's exploitation prompted by poverty and conflict. CEWLA adopted an innovative approach which makes child and commercial marriages an integral part of human trafficking. CEWLA's wide-ranging approach combines research, art-oriented capacity-building and local activism. Its activism extends to governmental authorities²² and against anti-woman religious rhetoric. Al-Nadeem Center for the Rehabilitation of Victims of Violence and Torture is also a vocal advocate for women's rights, providing statistics on the extent of domestic violence.²³ Accordingly, the Centre was shut down on 9 February 2017 for allegedly violating "licensing conditions" and having "branched out into monitoring human rights abuses" (Saied 2017).

Sisi's alleged fight-against-terrorism rhetoric does not seem to translate into the promotion of liberal democracy. The regime seems to give in to Egypt's conservative bent as proven by the recent crackdown on LGBTQ+ people. On the occasion of Mashrou' Leila's concert

²² For instance, the 2015 Minister of Justice decree allowing for the marriage of young girls in exchange for 50,000 pounds (2,830 dollars).

²³ "Domestic Violence: Permissible by Religion, Custom and Law", in *Mada Masr*, 24 November 2015, <https://www.madamasr.com/en/?p=28526>.

in Cairo on 22 September 2017, several young men and women raised a rainbow flag. Fifty-seven people were then arrested on grounds of "debauchery"²⁴ and sentenced to between one and six years in prison (Aboulenein 2017). Hence, the Arabic Network for Human Rights Information, the Association of Freedom of Thought and Expression, Cairo Institute for Human Rights Studies, Al-Nadeem Center for the Rehabilitation of Victims of Violence and Torture, Hisham Mubarak Law Center, the Egyptian Commission for Rights and Freedoms, and Nazra for Feminist Studies signed a joint statement calling for the "immediate release of those arrested", the suspension of anal examination and the end of the "incitement campaign on the LGBTQ+ community" (CIHRS et al. 2017). This collaboration extended to partnering with several international human rights organizations on the occasion of Sisi's visit to France's President Macron to call upon the latter to take a strong stance on the human rights situation in Egypt (Najjar 2017) – which he eventually refused to do. Grassroots human rights actors converging with EU policies are faced with the regime's tightening grip on their activities. Although they still manage to express their voice, Law 70/2017 is curtailing their ability to conduct research and activities and to produce tangible results – and hence EU action in Egypt.

3.1.2 POPULAR COMMITTEES: SELF-DRIVEN EXPLORATION

In 2011, popular committees filled the void left by withdrawal of security. These committees were often street-born and social-media-fed and took on inhabitants' pressing issues (i.e., waste collection, energy shortages). Committees soon were able to organize and became decision-making forces in post-Mubarak Egypt. Committee members claimed to be "after empowerment and not pacification" which involved "teaching people how to claim access to public services, and building youth cadres from various ideological backgrounds". Some committees' mission extended to state monitoring and to "ensuring it delivers on social rights and provides access to services" (El-Meehy 2017: 60). These popular committees do not draw on pre-Mubarak Islamist ventures, with the exception of Kerdasa's committee. But even for the latter movement that morphed into an NGO (*Al Matemdyia Baladna*), it is worth noting the convergence of approach among committees: the rejection of a voting-based decision-making over consultations and state-free collaboration among local partners. Popular committees have also been targeted by the regime following the Kerdasa events, citing their support for ousted President Morsi (El-Meehy 2017: 61). Although Egypt's popular committees do not fit into the European Union's traditional area of intervention, their approach is worth researching.

3.2 GRASSROOTS ACTORS' PERCEPTION OF EU POLICIES AND INSTRUMENTS

The general assessment is that the EU has shifted its foreign policy from a strong insistence on human rights, fuelled by the post-2011 context, to a more "realistic" policy focusing on stability and security. One of the Egyptian respondent of the MEDRESET WP3 Elite Survey (forthcoming), a communication consultant said: "The priorities for the EU were supporting the democratic transition, and people aspiration to freedom and a better life, then those priorities were changed to security and anti-radicalization and preventing illegal migration". A researcher added: "One consequence is that Europe is seen as having made its peace with Egypt's new rulers and other authoritarian regimes, and quietly dropped democracy promotion". This shift is criticized by international human rights organizations. For one of them: "The EU still adopts a

24 Homosexuality *per se* is not considered a criminal offence in Egypt.

Eurocentric rhetoric in prioritizing the containment of migration and counterterrorism measures over human rights promotion".

In the aftermath of the 25 January Revolution, wilful collaboration was matched by an increase in EU "democracy promotion budgets" that was felt by grassroots actors. The EU's willingness to fund democracy promotion projects even prompted former development NGOs to redirect their activities towards a more human rights approach, as stated by a development NGO director (Herrold 2016: 200).

In contrast to the US or the Gulf states, the EU retains sympathy among Egyptians. However, among the negative aspects of foreign intervention is the funding-attraction logic that develops around major donors. This vision is reinforced by grassroots actors' sentiment that "– basic needs and the lack of basic rights" (Pace 2010: 11).

At the same time, the civil society sector is not immune to Egypt's contempt for foreign funding. Elagati (2013: 10) found that only one-fourth of his interviewees saw foreign funding in a positive light and about 13 per cent of them outright considered foreign funding negatively. However, EU funding beneficiaries from the most positive bias: in 2013, 80 per cent of CSO employees supported European and Japanese funding while only 10 per cent bent in favour of US and Gulf funding. Seventy-six percent of Elagati's interviewees considered that more open laws are needed²⁵ and roughly half of participants considered the regime's "monitoring and restrictions" of civil society organizations unequal (Elagati 2013: 11). The main negative aspects of foreign funding that can be linked to EU action are: the creation of "local agents" who receive the funds; the professionalization of CSOs (i.e., projects being developed in order to attract funding); "the corruption of volunteer work"; and "the risk of a long-term structural dependence of Egyptian NGOs on foreign funding". Among the positive aspects that were mentioned are the role of foreign-funded CSOs in "[raising] awareness about human rights violations"; "training and dialogue programmes"; "assistance that takes an interest in supporting issues and agendas that are not endorsed by the Egyptian government"; CSOs' internal standards adjustments to live up to international donors' expectations; and a project proposal approach that helps develop a clear vision (Elagati 2013: 11).

3.3 SUBSTANCE: GRASSROOTS ACTORS' NEEDS

To get a grip on the substance of support which grassroots actors would need, we pursued two methods. First, we reviewed the websites of Egyptian human rights organizations. The task was challenging because "the number of blocked websites in Egypt since May 2017 has reached at least 497 websites" (El-Taher 2018). Some of them were not accessible, some of them seemed closed, and many are not active. The picture, taken in June 2018, may change quickly (see OONI and AFTE 2018). We more specifically investigated statements or mentions of EU policies by searching by key words when possible or by manually screening the webpages. Second, we screened the Arabic website of the National Council for Human Rights (NCHR), focusing on a critical analysis of its annual reports, to understand how the EU could move into this narrow gate to respond to the human rights needs of Egyptians.

²⁵ The report was written covering Morsi's rule.

3.3.1 NEEDS OF EGYPTIAN HUMAN RIGHTS ORGANIZATIONS

In this research we found scant mention of EU policy regarding human rights. The Cairo Institute for Human Rights Studies (CIHRS) expressed a sound critique of Europe, considering that the drop of human rights concerns is inefficient in the long run as authoritarian regimes fuel radicalism which can also target Europe. This position is shared by another human rights organization:

The EU should have interest in the military's involvement in the economy [which the interviewee refers to as a "black hole"] and the employment in the military-run companies of conscripted people who are underpaid or not paid at all. In the end, this approach is short-sighted and counterproductive: (i) risk of radicalization stemming from indiscriminate arrests, (ii) hostile perception of the EU as being able to act, but unwilling to, and (iii) sale of weapons to an authoritarian regime known for human rights violations.²⁶

Also, the persistent crackdown on civil society and the incapacity of the regime to address the fundamental economic needs may lead to a massive violent reaction which may increase instability and migration. On the other side of the spectrum, the Egyptian Organization for Human Rights (EOHR) worries about Islamophobia in Europe and critiques the military actions of European member states in the region.

It is interesting to mention the case of the Arabic Network for Human Rights Information (ANHRI), which indicates on its website a list of amped-up means of intimidation. The authorities use a spectrum of levers that constitute a veritable arsenal of the sorts of coercion mechanism quite usual in authoritarian regimes: ban on travel, freezing assets, summons in connection with case 173/2011 (NGO "foreign funding" case), undermining revenues, website blocking, offences against the activist's family, media campaigns, false documents to fuel unfair trials, vague charges, and even tolerance for public death threats,²⁷ among others (see Lotfy 2018). Thus, all the regime's opponents may know what is at risk when criticizing the regime.

Special attention should be given here to gender issues. Some prominent NGOs defending women's rights have suffered from judicial procedures, including Nazra and CEWLA. As an economic journalist who is also involved in politics stated in the MEDRESET WP3 Elite Survey:

Programmes such as gender and sexuality, mostly funded by the EU and its member states, were really great during the revolution. Now, no one can start a workshop on these topics, civil society organizations like Nazra for Feminist Studies or others are under attack at the moment. Sexuality topics are being kept as a taboo. Gender is not a safe topic anymore.

The violence against women is likely to amplify during unstable periods. The tensions around economic and political social relations tend to spill over into gender relations. Authoritarian biopolitics manifests a tendency to control the citizens' bodies, illustrating the fact that the state

26 Interview, 25 May 2018.

27 See, for example, death threat against Bahy el-Din Hassan, the Director of CIHRS. EuroMed Rights (2018).

does not accept the boundaries between the public space and privacy. Controlling women's bodies is a way to control the population, leaning on the consent or even the active complicity of males who themselves are victims of oppression. This explains the specific harassment that women defenders have to face. Gender is one of the cornerstones of authoritarianism, therefore "the EU could be more reactive towards women's human rights violations and show more public support towards NGOs dealing with women's inclusion even it is a particularly delicate issue since it's easy to fall into cultural misunderstandings".²⁸

3.3.2 A NARROW GATE FOR THE EU: THE ANNUAL REPORTS OF THE NCHR

A visit to the NCHR website is telling. The last annual report in English dates from 2012. Most of the available information is obsolete, dating before the 2011 revolution. The latest news on the home page is more recent as it announces the "A" status accorded to the NCHR by the Global Alliance of National Human Rights Institutions, which represents a strong international recognition for an organization whose president Mohammed Fayek has stated that: "There was torture and abuses in the past, but now [2017] I assure that there is no torture in Egyptian Prisons" (Essam El-Din 2017). The NCHR issued a report in 2017, and a copy was given to President Sisi. Fayek said during the meeting that the fighting against terrorism had "positively reflected on the status of human rights in the country" (Mahmoud 2017).

The last NCHR annual report (2017) is available in Arabic on the NCHR's website. It provides interesting insight as its authors seem willing to underline that, in spite of the difficult times Egypt is going through, positive elements in the current human rights situation can be highlighted. The report is a lengthy justification for the "states of exception" – to use Hannah Arendt's vocabulary – where the fight against terrorism is used to whitewash crackdown and extra-judicial abuses. But yet, the present situation is recognized as exceptional and the report continually reasserts that respect for the law, including for the authorities, remains the standard criterion. The report enumerates and gives an undetailed overview of the different human rights aspects: the right to life, to freedom and security of the person, to a fair trial, to peaceful assembly, using international judicial norms as metric. As the NCHR registers complaints, the report points out the extent of complaints regarding kidnappings and violations of domestic privacy. The NCHR recognizes and deplores the usual practices of abduction which is said to account for the biggest part of the complaints. The report gives some indications of the number of complaints and their nature.

Table 1 | Complaints received by the NCHR (2016–17)

Received	Treated	Request for pardon	NCHR not competent	Need more information
5.599	1,859	3.057	365	318

Source: NCHR, *Twelfth Annual Report 2016/2017*, cit., p. 47.

Considering the narrow space for action the EU has at its disposal, it appears crucial to use the judicial sensitivity of the Egyptian authorities traceable in the NCHR rationales, to obtain results

28 Interview, 29 May 2018.

on human rights issues. The NCHR plays a limited "dumper" role between the authorities and the citizens. Facing the abduction of a relative, the population can at least address a complaint to the NCHR. The NCHR registers and monitors the complaints and has to comply with the legal regulations considering human rights. It also records how the administrative bodies respond to the complaints.

Naturally, the NCHR also plays a vitrine role for the authorities. Furthermore, because of the large-scale and publicized pardon granted by the President, the NCHR reinforces the government's legitimacy, portraying Sisi as a compassionate leader. Participating in that game may be daunting, but the EU's support to the NCHR has at least had a positive effect: it strengthened humanitarian norms and preserved the international principles of international laws in the functioning of the NCHR. It is valuable because it leans on the legal interest of the Egyptian authorities and it may be hoped that due to the efforts of the NCHR the culture of democracy and human rights will not be completely erased.

The SSF 2017 retraces how the EU has acclimated to the present situation of Egypt. Human rights are not spotlighted, but this does not mean that the EU has forsaken the issue. Although less visible, the EU's support of the NCHR maintains minimal cooperation on human rights culture diffusion and upholds the international norms.

The last NHCR report also mentions a visit of an EU delegation (NCHR 2017: 171-3) during which the EU representative insisted on specific cases of extrajudicial imprisonment. According to the report, the review of those cases would facilitate the deepening of cooperation on other issues. The NHCR seems to be a channel by which strong EU messages could be communicated to the Egyptian authorities.

4. INNOVATION IN EU POLICIES: HOW TO ENSURE BETTER EFFICIENCY?

The EU's spill-over philosophy has shown its limitations in Egypt. EU-Egypt trade relations did not translate into higher living standards for Egyptians, and authoritarianism is on the rise in the country. As shown in Section 1, the regime drew upon Mubarak's "mistakes" and the late regime's "vulnerability" to civil society demands. Whereas the pre-revolutionary leader adopted domestication and a targeted-repression approach, the new regime (starting under the SCAF) declared an all-out war on civil society with a new legal apparatus devised to criminalize their activities. In this context, the EU may gain in efficiency by:

RECOMMENDATION 1: RECONSIDERING THE POLITICAL DIALOGUE APPROACH

The priority given to the all-encompassing political dialogue has elicited little progress in the realm of political reform. The EU must adopt a realistic view of the new regime's unwillingness to institute democratic change, by:

- Focusing on the most salient human rights breaches in the political dialogue (death penalty, gendered abuse, forced disappearance, torture, military trials);
- Avoiding the disparity in the allocation of funds and increasing the funding for human rights instruments;

-
- Using (or threatening to do so) article 215 of the Treaty on the Functioning of the European Union (TFEU) allowing a qualified Council majority to suspend the EU-Egypt Association Agreement unless independently measurable improvements are realized in Egypt's human rights records (with an emphasis on military trials, forced disappearance, torture, women's and LGBTQ+ rights); and
 - Under the ENI, raising the share of "umbrella funds".

RECOMMENDATION 2: USING ITS INNER POLITICAL LEVERAGE

Member states

- The inner paralysis of EU foreign policy must not prevent the EU from using its internal leverage to pressure member states that reinforce Egypt's military capacity in spite of its grim human rights record by using the Council's 2008 Common Position defining common rules governing exports of military technology and equipment; and
- Increase international pressure on Egypt, for example through the United Nations Human Rights Council.

European Parliament

To intensify the EP's resolution activities through its foreign affairs and human rights (DROI) standing committees to:

- Enhance Brussels' knowledge on the human rights question in Egypt and nuance Sisi's standing in EU policy circles as the paragon of the fight against terrorism.

RECOMMENDATION 3: REINFORCING INNOVATIVE INSTRUMENTS

Reinforce the EED's instrument and cross-national initiatives allowing for Egyptians to be part of self-driven initiatives, and participate therein in the form of consultancies, thereby avoiding the EU NGO-monitored fund-transfer.

CONCLUSION

European leaders' avoidance of "lecturing" Egypt on its human rights record²⁹ should not be an excuse for EU's inaction. Sisi's crackdown on civil society indicates the unprecedented threat it represents for long-term stability in Egypt, and there with the whole Mediterranean region. The EU should hence deepen its post-25 January answer to the Egyptian street and use its political and economic leverage to pressure the current regime to guarantee human rights and to prevent member states from seeking national-driven interests (e.g., arm deals). The EU should also be wary to not too easily give in to the fight-against-terrorism and border-management narrative that portrays the new regime as a necessary shield in the region. The EU would gain in all aspects by devising a genuine human-rights-based foreign policy and by dropping the need to look, at all costs, for areas of consensus with unwilling State partners.

²⁹ Reference is made here to Macron's comments on the occasion of Sisi's recent visit to Paris. See "Macron Avoids 'Lecturing' Egypt's Rights, Sisi Defends His Record", in Reuters, 24 October 2017, <https://reut.rs/2z4IKUd>.

REFERENCES

- Aboulenein, Ahmed (2017), "Rainbow Raids: Egypt Launches Its Widest Anti-Gay Crackdown Yet", in *Reuters*, 6 October, <https://reut.rs/2xYuE3l>
- Albrecht, Holger (2005), "How Can Opposition Support Authoritarianism? Lessons from Egypt", in *Democratization*, Vol. 12, No. 3, p. 378-397
- Amnesty International (2011), *Broken Promises: Egypt's Military Rulers*, 22 November, <https://www.amnesty.org/en/documents/MDE12/053/2011/en>
- Barbé, Esther and Elisabeth Johansson-Nogués (2008), "The EU as a Modest 'Force for Good': The European Neighbourhood Policy", in *International Affairs*, Vol. 84, No. 1 (January), p. 81-96
- Beinin, Joel (2012), "The Rise of Egypt's Workers", in *The Carnegie Papers*, June, <http://ceip.org/2IUA43p>
- Carapico, Sheila (2002), "Foreign Aid for Promoting Democracy in the Arab World", in *Middle East Journal*, Vol. 56, No. 3 (Summer), p. 379-395
- Chulov, Martin and Patrick Kingsley (2013), "Mohamed Morsi's Downfall Determined by Coffee Shop Rebels Rather Than Army", in *The Guardian*, 5 July, <https://gu.com/p/3h5d6>
- CIHRS – Cairo Institute for Human Rights Studies et al. (2017), *Joint statement: Human rights organizations condemn the crackdown on individuals based on their perceived sexual orientation and gender identity...*, 9 October, <http://www.cihrs.org/?p=20342&lang=en>
- Cofman Wittes, Tamara (2013), "Egypt's NGOs Matter", in *Foreign Policy*, 5 June, <http://foreignpolicy.com/2013/06/05/egypt-s-ngos-matter>
- Cook, Steven A. (2007), *Ruling But Not Governing. The Military and Political Development in Egypt, Algeria and Turkey*, Baltimore, Johns Hopkins University Press
- CPJ – Committee to Protect Journalists (2012), *Egyptian Government Attempts to Suppress the Media*, 16 August, <https://cpj.org/x/4f32>
- Delshad, Carmel (2011), "Unwanted: NGOs in Post-Revolution Egypt", in *World Policy*, 1 November, <http://www.worldpolicy.org/blog/2011/11/01/unwanted-ngos-post-revolution-egypt>
- EEAS – European External Action Service (2017), *Statement on the New NGO Law in Egypt*, 31 May, <http://europa.eu/!fD44Pb>
- EEAS – European External Action Service and Egypt (2017), *Joint Statement Following the EU-Egypt Association Council*, 25 June, <http://www.consilium.europa.eu/en/press/press-releases/2017/07/25/eu-egypt-joint-statement>

Egypt, Law 70/2017: *The Law of Associations and Other Foundations Working in the Field of Civil Work* (Unofficial translation), Official Gazette No. 20, 24 May 2017, https://www.ecoi.net/en/file/local/1421080/1930_1515491436_5a4cbae14.pdf

Elagati, Mohamed (2013), "Foreign Funding in Egypt after the Revolution", in *FRIDE Working Papers*, <http://fride.org/publication/1117/>

El-Meehy, Asya (2017), "Islamist and Non-Islamist Local Activism: Comparative Reflections from Egypt's Popular Committees", in *Pomeps Studies*, No. 27 (September), p. 59-63, <https://pomeps.org/?p=9527>

El-Taher, Mohammad (2018), "Closing Windows. Censorship of the Internet in Egypt", in *AFTE Releases*, 19 February, https://aftegypt.org/digital_freedoms-2/2018/02/19/14655-aftegypt.html

Essam El-Din, Gamal (2017), "Public Figures Denounce HRW Report on Alleged Abuses in Egypt at Parliament Human Rights Cmte Meeting", in *Ahram Online*, 11 September, <http://english.ahram.org.eg/News/276899.aspx>

EuroMed Rights (2018), *Death Threats Against CIHRS Director, Bahey el-Din Hassan*, 18 April, <https://euromedrights.org/publication/death-threats-against-cihrs-director-bahey-el-din-hassan>

European Commission (2015), *Single Support Framework for EU support to Egypt (2014-2016)*, Annex to *Commission Implementing Decision of 17.12.2015 modifying the Decision C(2014) 7170 adopting a Single Support Framework for European Union support to Egypt for the period 2014-2015* (C/2015/9121), <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/neighbourhood/pdf/key-documents/egypt/20160304-extended-single-support-framework-egypt-2014-2016.pdf>

European Commission (2016), *Commission Implementing Decision of 13.7.2016 on the Annual Action Programme 2016 (Part I) in favour of Egypt to be financed from the general budget of the European Union* (C/2016/4633), https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/neighbourhood/pdf/key-documents/egypt/aap-2016-egypt-part_i-financing-commission-decision-20160713.pdf

European Commission (2017), *Single Support Framework for EU support to Egypt (2017-2020)*, Annex to *Commission Implementing Decision of 30.10.2017 adopting a Single Support Framework for European Union support to Egypt for the period 2017-2020* (C/2017/7175), https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/single-support-framework-2017-2020-decision_and_annex_egypt.pdf

European Community and Egypt (2004), *Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part*, OJ L 304, 30.9.2004, [https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:02004A0930\(03\)-20160201](https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:02004A0930(03)-20160201)

European Parliament (2018), *Resolution of 8 February 2018 on Executions in Egypt* (P8-TA(2018)0035), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2018-0035+0+DOC+XML+Vo//EN&language=EN>

Fahmy, Dalia D. and Daanish Faruqi, eds. (2017). *Egypt and the Contradictions of Liberalism. Illiberal Intelligentsia and the Future of Egyptian Democracy*. London, Oneworld

Fiedler, Radosław (2015). "The European Union and Civil Society in Egypt", in Anna Potyrala, Beata Przybylska-Maszner and Sebastian Wojciechowski, eds., *Relations Between the European Union and Egypt After 2011. Determinants, Areas of Cooperation and Prospects*, Berlin, Logos, p. 181-191

Freedom House (2006), "Egypt", in *Freedom of the Press 2006*, p. 94-96, <https://freedomhouse.org/node/18412>

Freedom House (2016), *Freedom in the World 2016*, <https://freedomhouse.org/node/48173>

Gomaa, Ahmed (2017), "Egypt's New NGO Law Will Further Shackle Civil Society", in *Al-Monitor*, 11 June, <http://web.archive.org/web/20180110081020/https://www.al-monitor.com/pulse/originals/2017/06/egypt-ngo-law-ratified-sisi-crippling-restrictions-freedom.html>

Gómez Isa, Felipe (2018), "Human Rights and Democracy Promotion in Times of Contraction: EU Human Rights and Democratization Policies in Egypt", in Alison Brysk and Michael Stohl (eds.), *Contracting Human Rights. Crisis, Accountability, and Opportunity*, Cheltenham/Northampton, Edward Elgar, p. 105-119

Haddadi, Said (2004), "Two Cheers for Whom? The European Union and Democratization in Morocco", in *Democratization*, Vol. 9, No. 1, p. 149-169

Hammer, Joshua (2017), "How Egypt's Activists Became 'Generation Jail'", in *The New York Times Magazine*, 14 March, <https://nyti.ms/2mEEGRt>

Herrold, Catherine E. (2016), "NGO Policy in Pre- and Post-Mubarak Egypt: Effects on NGOs' Roles in Democracy Promotion", in *Nonprofit Policy Forum*, Vol. 7, No. 2, p. 189-212, <https://doi.org/10.1515/npf-2014-0034>

Huber, Daniela (2013), "US and EU Human Rights and Democracy Promotion Since the Arab Spring. Rethinking Its Content, Targets and Instruments", in *The International Spectator*, Vol. 48, No. 3 (September), p. 98-112

Huber, Daniela and Maria Cristina Paciello (2016), "MEDRESET: A Comprehensive, Integrated, and Bottom-up Approach", in *MEDRESET Methodology and Concept Papers*, No. 1 (June), <http://www.medreset.eu/?p=13169>

HRW – Human Rights Watch (2001), "Egypt: Human Rights Background", in *HRW Backgrounder*, October, <https://www.hrw.org/legacy/backgrounder/mena/egypt-bck-1001.htm>

HRW – Human Rights Watch (2011a), *Egypt: National and International Human Rights Organizations Are Under Attack, Joint Urgent Appeal*, 29 December, <https://www.hrw.org/node/244919>

HRW – Human Rights Watch (2011b), *Egypt: Retry or Free 12,000 After Unfair Military Trials*, 10 September, <https://www.hrw.org/node/243947>

HRW – Human Rights Watch (2012), *Egypt: Investigate Brotherhood's Abuse of Protesters*, 12 December, <https://www.hrw.org/node/248255>

HRW – Human Rights Watch (2013), *Egypt: Security Forces Used Excessive Lethal Force*, 19 August, <https://www.hrw.org/node/250801>

Istiphan, Isis (1956), *Directory to Social Agencies in Cairo*, American University at Cairo Social Research Center

Karkutli, Nadim and Dirk Bützler (1999), *Evaluation of the MEDA Democracy Programme 1996-1998. Final Report*, April, http://ec.europa.eu/europeaid/how/evaluation/evaluation_reports/reports/med/951460_en.pdf

Kirkpatrick, David D. (2013), "Hundreds Die as Egyptian Forces Attack Islamist Protesters", in *The New York Times*, 14 August, <https://nyti.ms/2DYSgr8>

Lesch, Ann M. (2017), "The Authoritarian State's Power Over Civil Society", in Dalia D. Fahmy and Daanish Faruqi (eds.), *Egypt and the Contradictions of Liberalism. Illiberal Intelligentsia and the Future of Egyptian Democracy*, London, Oneworld, p. 121-174

Lotfy, Mohamed (2018), *Egypt - Finding Scapegoats. Crackdown on Human Rights Defenders and Freedoms in the Name of Counter-terrorism and Security*, Copenhagen, EuroMed Rights, February, <https://euromedrights.org/publication/egypt-finding-scapegoats>

Loveluck, Louisa (2013), "Egypt Convicts US NGO Workers", in *The Guardian*, 4 June, <https://gu.com/p/3gamm>

Mahmoud, Mervat (2017), "Sisi, Fayek Discuss Human Rights Matters", in *Egypt Today*, 2 October, <https://www.egypttoday.com/Article/1/25596/Sisi-Fayek-discuss-human-rights-matters>

Morsi, Mohamed (2012), *Statement before the 67th Session of the General Assembly of the United Nations*, New York, 26 September, https://gadebate.un.org/sites/default/files/gastatements/67/EG_en.pdf

Najjar, Farah (2017), "Rights Groups Blast Egypt's Human Rights Record", in *Al Jazeera*, 23 October, <http://aje.io/wgkcz>

NCHR – National Council for Human Rights, *Twelfth Annual Report 2016/2017* (in Arabic), October 2017, <http://www.nchregypt.org/media/ftp/AnnualReport12.pdf>

OONI – Open Observatory of Network Interference and AFTE – Association for Freedom of Thought and Expression (2018), *The State of Internet Censorship in Egypt*, 2 July, https://afteegypt.org/digital_freedoms-2/2018/07/02/15445-afteegypt.html?lang=en

Pace, Michelle (2010), *Perceptions from Egypt and Palestine on the EU's Role and Impact on Democracy*, Stockholm, International IDEA, <https://www.idea.int/sites/default/files/publications/chapters/the-role-of-the-european-union-in-democracy-building/eu-democracy-building-discussion-paper-19.pdf>

Przybylska-Maszner, Beata (2015), "The Political Dimension of European-Egypt Relations After 2012 – Between Necessity and Obligation", in Anna Potyrala, Beata Przybylska-Maszner and Sebastian Wojciechowski, eds., *Relations Between the European Union and Egypt After 2011. Determinants, Areas of Cooperation and Prospects*, Berlin, Logos, p. 25-42

Roth, Kenneth (2014), "Egypt's Tiananmen", in *Foreign Policy*, 12 August, <https://www.hrw.org/news/2014/08/12/egypts-tiananmen>

Saied, Mohamed (2017), "Why Did Egypt Really Close Al-Nadeem Victims' Center?", in *Al-Monitor*, 23 February, <http://web.archive.org/web/20170224181823/https://www.al-monitor.com/pulse/originals/2017/02/egypt-al-nadeem-center-rehab-torture-security-close.html>

Youngs, Richard (2006), "Europe's Flawed Approach to Arab Democracy", in *CER Essays*, October, <http://www.cer.eu/node/937>

ANNEX: EGYPT'S HUMAN RIGHTS NGOs AND RESEARCH CENTRES

Name	Website	Statements/Informations
Arab Program for Human Rights Activists (APHRA)	http://aphra.org.eg/en	Active till 2005
Arabic Network for Human Rights (ANHRI)	http://anhri.net	The website indicates a list of acts of reprisal against ANHRI including: – Banning ANHRI's Executive Director Gamal Eid from travelling without stating the reasons or informing him on 4 February 2016; – Freezing ANHRI's Executive Director's assets because of a memorandum based on false information from the investigating judge Hesham Abdel Meguid in September 2016; – New investigation with lawyer Rawda Ahmed in the strangling of civil society case 173; – Attempts to involve ANHRI's Executive Director's daughter and wife in the case, even after the court refused this, and blatant media campaign; – Vicious media campaigns by media outlets, to tarnish ANHRI's image; – Summons accompanied by threats to some of ANHRI's employees by National Security; – Closing public libraries in popular neighbourhoods established by lawyer Gamal Eid, ANHRI's Executive Director; – Blocking ANHRI's website without a judicial decision and without any reason from users in Egypt; – Filing of malicious cases to try to close ANHRI; – Public incitement to murder, by some journalists affiliated with the regime.
Association for Freedom of Thought and Expression (AFTE)	http://aftegypt.org/?lang=en	Provide a quarterly report on freedom of thought. Many pages related to Europe widely speaking, but not directly on EU policy
Association for Human Rights Legal Aid (AHRLA)	Not found	
Cairo Institute for Human Rights Studies (CIHRS)	https://www.cihrs.org	Accuses Europe of supporting dictatorship. For CIHRS, the EU policy is inefficient, and compromises the EU's values and long-term security.
Center for Egyptian Women's Legal Assistance (CEWLA)	http://www.cewla.org Not active in 2018	Azza Soliman, the leader of CEWLA, was summoned in relation with case 173/2011. Her assets are frozen and she is banned from travelling abroad.

Center for Trade Union & Workers Services (CTUWS)	http://www.ctuws.com/en Not active in 2018	States that the new labour organizations law shows signs of unconstitutionality and contradicts the measures and international labour conventions (December 2017)
Egyptian Association for Community Participation Enhancement (EACPE)	http://www.en.mosharka.org	EACPE organized in Cairo a roundtable on the implementation of the UfM Ministerial Conclusions on strengthening the role of women in society, 22-23 May 2016. No visible activities after this.
Egyptian Association for Supporting Democratic Development (EASD)	Not found	Seemed to be very active before 2011 to supervise elections.
The Egyptian Center for Economic & Social Rights (ECRSR)	http://ecesr.org/en	Focus on economic rights, no mention of EU policy. The ECRSR plays a role as a mediator in the conflict between Bohi vendors, population and Egyptian Government regarding the new Metro line in Cairo sponsored by the European Investment Bank (EIB)
Egyptian Center for Housing Rights (ECHR)	Not found	
Egyptian Center for the Rights of the Child (ECRC)	Not found	
Egyptian Center for Women's Rights (ECWR)	http://ecwronline.org	In 2015, ECWR won the Euro-Mediterranean Women's Foundation prize for advocacy and policy dialogue in the promotion for women's rights.
Egyptian Democratic Institute (EDI)	Not found	Egyptian authorities have ordered the 45-day detention of Emad Ramadan, the general manager of EDI, pending charges of illegal possession of firearms during the 2011 Revolution.
Egyptian Initiative for Personal Rights (EIPR)	https://eipr.org	Focus on death sentences, environment, punishing sexual difference, health. Mention the CIHRS hearing at the European Parliament. Invite the European Bank for Reconstruction and Development (EBRD) to include human rights in its projects in Egypt (2012).
Egyptian Organization for Human Rights (EOHR)	http://en.eohr.org	Condemns the murder of three Muslim students in the US and worries about Islamophobia. Demand US, UK and France stop playing the role of world policeman.
El-hak Center for Democracy and Human Rights	Not active	
Al-Nadeem Center for the Rehabilitation of Victims of Violence and Torture	https://www.alnadeem.org/en Not active since 2017	The center was raided by police and shut down on 9 February 2017.

Habi Center for Environmental Rights (HCER)	http://www.hcer.org/en Not active since 2016	
Hemaia Center for Supporting Human Rights Defenders	http://www.hemaiaa.wordpress.com	
Hisham Mubarak Law Center (HMLC)	Not active since 2016	
Land Center for Human Rights (LCHR)	http://lchr-eg.org/en Not active since 2013	
Nazra for Feminist Studies	http://nazra.org	Nazra leader Mozn Hassan is under investigation in relation with case 173/2011. The charges faced by Hassan include "inciting and calling for the irresponsible liberation of women". Her assets and those of Nazra have been frozen.
New Woman Foundation	http://nwrcegypt.org/en	No statements on EU policy. Interest in women's access to labour.

Source: Authors' elaboration on University of Minnesota Human Rights Library website: *Human Rights NGOs and Research Centers – Egypt*, http://hrlibrary.umn.edu/research/NGOs-research_centers.html.



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