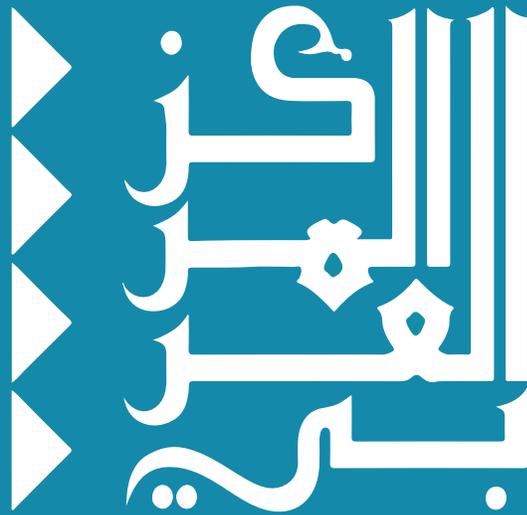


# Is the Trump-Sisi Honeymoon Over?

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Donald Trump's election as president of the United States came as a good omen for Egypt's President Abdel-Fattah al-Sisi. After eschewing the talk about human rights and democracy and extolling the virtues of strongmen from Russia to Egypt to the Philippines during his presidential campaign, Trump's presidency promised a new relationship that would sweep away inconvenient pretenses and advance strict national security interests. To Sisi, Trump's election signaled Washington's rejection of what he thought were the follies of the Obama Administration and a welcome perception of the virtues of hard geopolitical calculations at which center stood Egypt as a citadel of stability and anti-Islamism.

But only seven months into the Trump presidency, American law reared its ugly head to spoil the heretofore rosy Egyptian understanding of future relations between Egypt and the United States. In a surprise move, the Trump Administration denied Egypt over \$95 million in formerly allocated aid and delayed the delivery of another \$195 million in military assistance "because of its failure to make progress on respecting human rights and democratic norms." Public Law 114-113 of 2016, the Consolidated Appropriations Act, Section 7041 (a)(3)(A), stipulates that the administration is required to withhold 15 percent of the \$1.3 billion in annual American military assistance to Egypt (or \$195 million) if the Department of State cannot certify the Egyptian government's progress on human rights.

Given his previous laudatory comments about President Sisi, President Trump may be able to circumvent this decision and order Department of State to issue its certification. In fact, his call to Sisi on August 24 may have included a promise to re-evaluate the matter. But the State Department's decision means that the die may have been cast: the Trump Administration cannot sidestep established law or Congress's power of appropriation despite the importance of the US-Egyptian relationship and the pivotal role Egypt plays in America's geostrategic planning. This institutional impediment to unconditional relations may also be assisted by the requirements of a successful American foreign policy. In this case, Washington is disappointed that Egypt maintains good relations with North Korea despite the American capital's leading an international crusade to isolate Pyongyang as it develops its nuclear and ballistic missile programs.

### **The State of Human Rights in Egypt**

This space has previously and briefly documented the general deterioration of Egypt's human rights conditions since Sisi's 2013 military coup against former Muslim Brotherhood President Mohamed Morsi. An anti-protest law in November 2013 and an anti-terrorism law in August 2015, together with the practices of the deep state that has been nourished since the Nasserist era, have resulted in a dangerous transformation of Egyptian politics and society. Abuses include arbitrary detentions, torture, restrictions on movement, association, and freedom of expression, closing

of civil society organizations, banning public demonstrations, and declaring the Muslim Brotherhood a terrorist organization and dissolving its Freedom and Justice Party, among other things.

Human rights organizations report that around 60,000 people have been imprisoned in Egypt since 2013. In the past five years, Egypt has built 19 prisons, 16 of which since President Sisi assumed power in June 2014; following a one-year, post-coup interim presidency by Adly Mansour. Sisi's crackdown has affected all sectors of civil society and pro-democracy activists who were instrumental in toppling the dictatorship of former President Hosni Mubarak. The crackdown is not limited to Islamists belonging to the disbanded Muslim Brotherhood but has also included "liberal and secular activists"; and that is in violation of the country's 2014 constitution.

The country today lives under a state of emergency that was declared in April 2017 for three months following attacks on the minority Coptic Christians around the country, and was renewed in June 2017 as the government continues its efforts to face up to security threats. According to Law 162, promulgated in 1958 during Egypt's revolutionary period, the state of emergency gives state organs wide powers such as setting up special courts to which the president may appoint military officers and which may try civilians; restricting freedoms and movement; and overseeing all forms of media and communication. In essence, the Sisi regime--like Mubarak's before it

between 1981 and 2011--may at any time use the state of emergency to suspend all rights and exercise whatever authority it deems necessary to impose its version of order on Egyptian society.

What specifically has triggered the suspension of US aid on August 22 is an Egyptian law governing the funding and operations of non-governmental organizations (NGOs) passed in November 2016 by the Egyptian parliament and signed by President Sisi in May 2017. The law affects some 47,000 Egyptian groups and 100 foreign ones by limiting their freedom to conduct their activities and imposes jail terms of up to five years and heavy fines for non-compliance. It also establishes a "national authority" that includes representatives from the Egyptian army and intelligence services "to oversee the foreign funding of Egyptian non-governmental organizations and the activities of foreign non-governmental organizations" in Egypt. Moreover, press reports indicated that American officials were "blindsided" by Egypt's codification of the law despite Egyptian officials' assurances during President Sisi's visit to Washington in April 2017 that it would not become the law of the land.

In addition to concerns about the NGO law, there are worries regarding other aspects of the human rights situation in Egypt, although the Trump Administration's latest move did not address them. For example, in 2016 a law forcing media outlets to only carry what the government reports about security incidents went into effect, threatening to revoke media

licenses and to fine or suspend non-compliant ones. In June 2017, 64 such outlets were blocked by the government. Earlier in the year, the government shuttered Al Nadeem Center for Rehabilitation of Victims of Violence and the Nazra Center for Feminist Studies, both of which were involved in work against torture and sexual abuse.

Even the workers' right to strike has been banned. A ruling by the Supreme Administrative Court in April 2015 criminalized public workers' strikes and penalized strikers "by forcing them into retirement." According to labor and human rights activists, the law violated both the Egyptian 2014 constitution and Egypt's commitment to the UN's 1967 International Convention on Economic, Social and Cultural Rights which it ratified in 1981. While workers occasionally challenge this ruling--for example the last strike took place mid-August when thousands of textile workers struck at the state-owned Misr Spinning and Weaving Company in Mahalla because of a wage dispute--it can always be invoked by the government which is facing difficult economic times. Additionally, there is increased worry among Egyptians about the possible passage of a law being currently written by one of the regime's friends in parliament "aimed at dismissing members of the Muslim Brotherhood from their public posts." Such a law, if passed, will most assuredly be used against regime opponents of all stripes.

### **American Disappointment, Measured**

While the State Department's decision regarding the \$195 million tranche of American aid may not hold for long given that there is a national security waiver that can be used to allow the amount to be disbursed, it points to serious confliction among US officials about how to deal with Egypt. Granted, the Trump Administration declared its intention to base its relations with foreign governments on national security grounds and not allow the nuances of human rights and democratic practices to affect them. But the reality is that the administration is faced with numerous hindrances it cannot escape, from congressional scrutiny to laws on the books to considerations of international reputation. Whatever President Trump may think about his relationship with President Sisi, his administration's responses to domestic Egyptian issues cannot overcome the impediments of decades of American institutionalism.

Yet, President Trump was able to use his personal relationship with the Egyptian president during the latter's visit to Washington in April 2017 to secure the release of Aya Hijazi and her husband, Egyptian-American aid workers who were arrested by Egyptian authorities in 2014 on trumped up charges of sexual abuse of children in their care. The Obama Administration had worked hard to secure their release but failed due to poor relations between Presidents Obama and Sisi. On the other hand, such personal intercession is doubtful to serve as the *modus operandi* in bilateral relations, specifically because of the

legal and institutional constraints on American foreign policy. After meeting with Egypt's Foreign Minister Sameh Shoukry in December 2016, Republican and Democratic senators expressed their belief that Egypt needs to work hard to reform and improve its human rights record and defend freedoms. Such sentiments and imperatives were doubtlessly behind the State Department's latest decision on aid to Egypt.

However, simultaneously and perhaps necessarily, American foreign policy officials find themselves trying to walk between rain drops in their evaluation of relations with Egypt and in applying American laws and congressional directives. As has been the case since the late 1970s, the United States considers Egypt to be an indispensable ally in the Middle East, although the bilateral geostrategic relationship suffers from the changing environment in the region and from the weakened position of the Egyptian state. Egypt's armed forces are an asset at a very important node in the American global strategic posture. The Suez Canal remains the undisputed pathway connecting different theatres and securing American hegemony. Regionally, Egypt may still be counted on in the never-ending quest for Middle East peace and the worthy mission of protecting the hydrocarbon riches of the Arabian Gulf.

Such considerations are likely not hidden on Egyptian policy makers, although they may not be in the driver's seat on important matters because of Egypt's need for American economic

and military assistance. As soon as the United States made its decision on aid known, the Egyptian foreign ministry cancelled a meeting scheduled between Shoukry and President Trump's advisor and son-in-law Jared Kushner after the latter's visits to Arab capitals, Jerusalem, and Ramallah to discuss the so-far moribund Palestinian-Israeli peace. Kushner still met with President Sisi, however, with Shoukry in attendance, but the discussion concerned the peace mission. In a reversal of his earlier decision, Shoukry still had a tete-a-tete with Kushner. In a sense, Egypt let it be known that it can indeed be slighted but it may not remain mad for long; and President Trump's call to Sisi after the episode may help that. However, this affair may have returned the bilateral relationship to its Obama tribulations; not only because of philosophical differences about rights and freedoms but also because even Donald Trump may not be able to escape the long arm of American law and congressional diktat.

### **Consequential Caveats and Warnings**

The current spat linking American assistance to Egypt to the latter's adherence to improving human rights conditions will likely be resolved with a presidential directive to the State Department about the required certification. The Republican majority in the US Senate and control over its Foreign Relations Committee surely will help. Such a development would be in line with previous similar occasions in the now-four-decade-old bilateral relationship. But what the State Department's decision may have

done is expose important caveats the American and Egyptian administrations cannot ignore.

First, the Trump Administration is yet again reminded that the White House must re-think its understanding of its control over foreign policy decisions and its ability to implement them. In the Egyptian case, President Trump may want to reward a supposedly “good man” in Sisi, but he will not be able to go far if he completely ignores the legal and institutional impediments to full and unconditional relations.

Second, the reputation of the United States still hinges on its adherence to the promotion of civil and human rights overseas and the encouragement of democratic practices by friendly and unfriendly governments. It thus behooves the Trump Administration to re-cast its declared foreign policy in those terms and rescind the instrumentalism currently advocated by the president and his secretary of state. This would enhance American credibility abroad and increase its effectiveness with governments that ignore rights and democracy. Third, President Sisi and his regime would do well to disabuse themselves of the notion that, first, the American president is the one who singlehandedly makes American foreign policy and, second, that he is free of all constraints of law. They must understand that the American president is unlike his Egyptian counterpart who presides over a sprawling foreign policy establishment awaiting orders to do his bidding.

Fourth, the Egyptian government--indeed all Arab governments--better pay attention to the distinct possibility that Donald Trump may be impeached and removed from office. He and his administration are under a threatening cloud of serious investigations by congressional committees and a special counsel because of collusion with Russia during last year's presidential campaign. They also should know that these investigations are at an advanced stage: calling in witnesses and subpoenaing records and documents. It thus behooves Sisi and his government to fathom a reality of having to deal with a future administration whose head may not think highly of the Egyptian president.

Fifth, and finally, the Egyptian government would do well to re-think the NGO law that was the trigger for the latest State Department decision. In a country like Egypt, suffering as it is from numerous political, social, and economic problems, non-governmental organizations are a catalyst for needed services not provided by the government. Furthermore, if the NGO law caused the current spat between Egypt and the United States, maybe President Sisi would think many times before he signs into law other nefarious pieces of legislation like the one currently being written to force the cashiering of civil servants accused of belonging to the Muslim Brotherhood.