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Memo on policies in the transitional period in Egypt from a human rights perspective

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Following the January 25 revolution, Egypt is undergoing a transition from an authoritarian police state to a democratic state that respects human rights. As such, the state's efforts in this phase must be focused on dismantling the authoritarian police structure and establishing the building blocks for a new democratic system. This in turn requires new legislation or amendments to existing legislation, a new constitution, and institutions that embody the intended nature of the new state.

The yawning political vacuum that followed the fall of the former president's regime, its parliament, and its most prominent supporters, as well as the collapse of the ruling party and its dissolution by judicial order and the collapse of the traditional opposition parties, has yet to be filled by parties and platforms formed by the forces of the revolution. Thus, great attention must be devoted during the transitional period to ensure the following:

1. Conducting a dynamic, institutional dialogue with all main groups of the society, especially civil society organizations, about the tasks, institutions, and legislation needed in the transitional phase.
2. Offering encouragement and support for non-traditional forms of direct and indirect democratic expression, such as popular committees in neighborhoods and initiatives to establish new independent trade unions.
3. Strict application of the rule of law for all parties in society without exception and without recourse to exceptional courts; otherwise, the danger of chaos looms on the horizon. The continued leniency shown to perpetrators of sectarian and religious violence, which became more prominent in recent years, will have grave consequences not only for the nascent revolution but for the country as a whole.

I. Dismantling the authoritarian police state

1. Pass a law imposing a five-year ban on the exercise of political rights for prominent figures of the former regime who engaged in repressing the people through political, security, or legislative means, who took part in falsifying the voters' will, and who were involved in grave assaults on human rights.
2. Form a commission of judicial figures to review the files of former State Security Investigations officers and to determine their fate (transfer to another position within the ministry or forced retirement). Some of the officers who engaged in torture, murder, and election fraud, or who espoused a doctrine of disdain for the Egyptian citizen may be just as dangerous in other positions, whether within the Interior Ministry or elsewhere. It may be appropriate to include one or more rights advocates with legal backgrounds as part of this judicial commission. In any case, the commission should not be an alternative to criminal accountability for officers who committed these crimes.

3. Put an end to policies that allow immunity for crimes. The Public Prosecution and the Interior Ministry—or a newly created independent judicial investigative commission—should investigate all reports and complaints of torture, disappearance, and murder (under torture or otherwise) submitted over the past decades by victims' families, human rights groups, the Lawyers Syndicate, and others which were not investigated at the time or were shelved without a proper investigation. Such investigations are particularly important in cases where the accused were officers of State Security Investigations, which was exempted from all accountability and enjoyed prerogatives with no foundation in the constitution or the law, not even in the emergency law. The best guarantee that these crimes will not be repeated is to hold their perpetrators accountable and to offer redress and compensation to the victims.
4. Investigate the extent to which State Security Investigations penetrated the Ministry of Justice, the office of the Public Prosecutor, and judicial agencies with the goal of purging these and other institutions. Put an end to the dominating role played by the Interior Ministry and to the control it exercised over other ministries and government agencies, especially as a result of its security offices within these ministries, most of which were branches of State Security Investigations, pillars of the police state, and bodies for spying on citizens at the workplace, and which enjoyed unconstitutional and illegal authorities and prerogatives.
5. Eliminate entirely State Security Investigations and refrain from establishing an alternative agency in its stead under a new name. The task of combating terrorism must be given to a civil agency outside the Ministry of Interior and the police, whose primary mission is law enforcement. Merging law-enforcement agencies with other bodies involved in surveillance and spying undermines law-enforcement agencies' ability to perform their daily tasks and erodes citizens' trust and respect for them. Several headquarters of the former State Security Investigations should be converted into museums open to the public, and every citizen should be able to view his or her file maintained by the agency.
6. Investigate complaints from researchers and staff at the National Council for Human Rights regarding State Security Investigations' control of the activities and reports of the council and its surveillance of the council's staff prior to February 11. Protests by staff at the council forced council members to submit their collective resignation, but the cabinet, instead of investigating this grave charge, has recently announced a new panel of members without absolving either former members who were reinstated or new members of this charge, which was commonly heard before the January 25 revolution. Even if it were comprised of the most capable 27 people in Egypt, the council will not be able to perform its mission effectively as long as this charge hangs over it. Public opinion will inevitably view every stance, statement, or report issuing from the new council with this in mind. In any case, the stark gap between reports issued by the council prior to January 25 and the tragic reality that has become widely known after January 25 requires an investigation to determine why the council concealed the truth from the public, particularly when the council's reports are compared with those from Egyptian and international rights groups.

7. Take immediate action to end the state of emergency, particularly since the daily conduct of the Egyptian government confirms the truth that was known before January 25 that Egypt is not facing dangerous terrorist activity that would necessitate a state of emergency. Based on this assessment, the Interior Ministry released nearly all detainees held on suspicion of terrorist activity. An immediate end to the state of emergency will strengthen the opportunities for growth and investment in the economy and in tourism and will end selective military trials for civilians, for which emergency law provides the primary legal rationale. In turn, it will normalize relations between Egyptians and their rulers in the transitional phase.

II. Institutions, legislation, and policies of the transitional phase

1. Reform of the security apparatus

- The foundation of this process must be disclosure, candor, and transparency, without which the people will not abandon their suspicion and hostility toward all security agencies accumulated over the last six decades. As a result, the security apparatus will be unable to do its job. The lack of information about the creation of the National Security Apparatus and the secrecy surrounding the decree establishing it is a step in the wrong direction, which only fosters the suspicion of human rights groups and the wider public that the new agency is nothing more than the old State Security Investigations reconstituted under a new name. This can only increase mistrust. The situation thus requires the following:
 - The Interior Ministry must take the initiative to conduct a wide-ranging political and administrative investigation to discover and inform the public how the ministry managed to attract such an unprecedented degree of public hatred and how State Security Investigations became a state within a state. This investigation should be given over to a commission composed of legal, rights, academic, and security figures. Its report should be made public after being discussed with senior officials at the Ministry of Interior.
 - The Ministry of Interior should declare its new security philosophy clearly and transparently, which is much more complex than simply changing the slogan on police station doors or the ministry's website. It must clarify its respect for human rights in this philosophy and specify its targets, its methods of action, and its stance toward all political and ideological movements, religious and ethnic minorities, and human rights organizations.
 - A commission composed of judicial and rights figures must be formed to monitor the rebuilding of the security apparatus over the coming five years. The commission should have the right to view all files relevant to its work, including the files of former officers of

State Security Investigations and the curriculum of the Police Academy, and should submit periodic reports to the president, prime minister, and interior minister.

- The ministry should undertake a fundamental reassessment of the wage structure for officers and policemen, particularly traffic police, Central Security cadets, and patrolmen. The stereotypical image of the policeman with his hand outstretched is the twin of the brutal policeman, and both foster lack of respect and cooperation with the police among the public.
- The ministry should establish relations of institutional cooperation, centralized and decentralized and of a daily nature, between human rights groups and the primary agencies of the Interior Ministry, including police stations and local security directorates. It is difficult to imagine normalized relations between the citizenry and the police without addressing the relationship between the police and human rights groups.

2. Foreign policy and human rights

- Human rights principles must constitute the cornerstone of Egypt's foreign policy and should be the defining criterion for Egypt's decision to join or not join regional and international alliances. A single standard should be followed in the country's foreign policy, based on respect for human rights and victims regardless of their nationality, religion, ethnicity, or ideological or political affiliation.
- In this context, Egypt's foreign policy prior to January 25 should be reviewed, particularly its efforts to weaken international instruments for the protection of human rights in Egypt and around the world. Diplomats who played leadership roles in this destructive policy should be reevaluated, as their efforts had a negative impact on international instruments, the protection of human rights, and Egypt's regional and international status. Care should be exercised in selecting diplomats for the ministry's new tasks and policies after January 25.
- Egypt and international human rights declarations and conventions
 - Egypt should join the optional protocols of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, the Convention Against Torture, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities.
 - Ratify the Rome Statute establishing the International Criminal Court.
 - Withdraw the Egyptian government's reservations on Articles 2, 9, and 16 of CEDAW; Articles 20 and 21 of the Convention on the Rights of the Child; and Articles 4 and 18

(paragraph 6) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

- Withdraw the two declarations submitted by the Egyptian government when it ratified the Convention on Civil and Political Rights and the Convention on Economic, Social, and Cultural Rights, both of which included a broad reservation on the state's compliance with the provisions of the conventions if they contradict provisions of Islamic law, which in effect absolved Egypt of its obligations under the treaties.
- Withdraw the aforementioned declarations as they also applied to Articles 21 and 22 of the Convention Against Torture, under which the UN Committee Against Torture is allowed to examine complaints from persons or other member states regarding torture in Egypt.
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance and its optional protocol.
- Ratify the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness, issued in 1961 and 1954.
- Cooperate constructively with treaty agencies and the UN instruments, particularly:
 - § The government should submit reports to treaty bodies in a timely manner rather than postponing them for years, and they should be prepared in a serious, responsible fashion, responding to repeated inquiries and observations from UN bodies and experts. The government should put the reports up for a social debate involving different representative bodies, political parties, trade unions, NGOs, and human rights groups, with the goal of elaborating a national plan to advance human rights.
 - § Respond to the many requests from special rapporteurs to visit Egypt, particularly the UN rapporteur on torture, who has repeatedly asked permission to visit the country over the last 15 years.

3. Additional recommendations

- Ensure when preparing any legislation or legislative amendments that it is consistent with Egypt's obligations under international human rights conventions.
- The cabinet should depend on a revolutionary standard when drafting legislation or legislative amendments to ensure that it supports the forces of the revolution and does not constrict them. Such a standard was necessary when drafting the amendments to the political parties law, determining a timeframe for the transitional period, or issuing the law criminalizing protests and sit-ins, yet it will still be important to consider when drafting other legislation, such as the People's Assembly law

(we suggest, for example, lowering the age of candidacy for the People's Assembly to 21) and amendments related to the electoral system.

- A return to the elections for relevant public positions, starting with governors, mayors, college deans, and university presidents. Attention should be devoted to strengthening grassroots democracy, including in student unions in primary schools, and involving students in the evaluation of their teachers and professors in schools and universities.

- Strengthening relations between the cabinet and human rights organizations
 - Take care to consult human rights groups on issues related to human rights when considering laws, policies, and procedures.
 - Establish direct institutional channels for cooperation between human rights groups and the relevant ministries, particularly the Ministries of Interior, Foreign Affairs, Justice, Manpower, Education, and Endowments. Take care to respond to letters, reports, and citizen complaints forwarded by human rights groups.
 - Involve human rights organizations in the process of rehabilitating and training administrative and security personnel charged with law enforcement.
 - Ensure participation by ministers in conferences and seminars organized by local human rights organizations.
 - Open an immediate investigation into the reports of human rights abuses documented after January 25, 2011.
 - In the transitional phase, the prime minister should make periodic public speeches (perhaps weekly), in which he informs citizens of progress made on the transitional tasks. Special attention should be devoted to issues of democratization and human rights. International human rights occasions should also be taken as opportunities to address the public.