

**STATE MANIPULATION OF NGOs**  
**GOVERNMENT-CIVIL SOCIETY RELATIONS IN EGYPT**

Master of Arts in Law and Diplomacy Thesis

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*Abstract*

Egypt has a large and vibrant NGO sector, yet it also has restrictive laws governing NGOs, and the government has frequently cracked down on the sector, both before and after the 25 January Revolution. What explains the size and vibrancy of Egyptian civil society in the face of this repression? After exploring the nature of the NGO sector in Egypt and the government's tools for constraining NGOs, this paper will evaluate possible answers to this question. Internal and external pressures on the Egyptian government as well as a lack of state capacity for repression might explain the size of the NGO sector. However, this paper concludes that the Egyptian government has intentionally promoted the growth of the NGO sector, while using the state's coercive power to influence these organizations. By both promoting and manipulating NGOs, the state has been able to pursue several objectives: providing social services with fewer state resources; co-opting organizations into behaving in accordance with state interests; pitting potential opposition factions against one another; and improving the state's image abroad while discrediting liberalism at home. While the Revolution in 2011 brought renewed hope for legal reform, it is unlikely that these state-civil society dynamics will change in the short term.

Egypt has the largest NGO sector in the Arab world, and commentators and scholars often note how vibrant Egyptian civil society is in comparison with many of its neighbors.<sup>1</sup> Yet until the recent transition in 2011-2012, Egypt was a repressive, semi-autocratic state which routinely violated the human rights of its citizens. It sought to maintain control or at least influence over many aspects of life – including civil society – and the laws governing Egyptian NGOs are extremely restrictive. It remains to be seen how much this will change post-Revolution under a revised constitution and democratically-elected government.

Given the repressive nature of the state, why are there so many NGOs and such an active civil society in Egypt? Particularly among donors and western governments, civil society is widely seen as a key factor in democratic transitions,<sup>2</sup> so why did the Egyptian state allow so many NGOs to register and operate despite its pre-Revolution desire to maintain control and avoid democratization? This question is not only key to understanding the behavior of the state before the 25 January Revolution, but to predicting the future of state-civil society relations in Egypt.

To answer this question, this paper will first explore Egypt's NGO sector and trace the history of state-civil society relations, particularly through the laws governing NGOs since the 1952 Revolution. The paper will then explore possible explanations for the size of the NGO sector: both internal and external pressures on the Egyptian government to allow civil society growth, and a lack of state capacity to fully suppress civil society organizations. While these explanations may have contributed to state behavior to some extent, this paper will argue that they cannot fully explain the presence of such a large NGO sector in a repressive state.

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<sup>1</sup> Kareem Elbayar, "NGO Laws in Selected Arab States," *International Journal of Not-for-Profit Law* 7.5 (Sept 2005): 7.

<sup>2</sup> Guilain Denoëux, "Promoting Democracy and Governance in the Arab World: Strategic Choices for Donors," *NGOs and Governance in the Arab World*, Eds Sarah Ben Nefissa et al, Cairo: American University in Cairo Press, 2005, 72.

Instead, this paper will conclude that the Egyptian state has intentionally pursued policies that allowed the growth of a large and active NGO sector, while using its coercive power to shape the sector and influence organizational behavior. Instead of contradicting the state's goal of continued dominance, by and large the NGO sector contributes to this goal. The government is able to manipulate NGOs and the sector as a whole to achieve several important objectives:

- Provide underserved communities with essential services for which the state may lack capacity
- Co-opt organizations into 'voluntarily' behaving in accordance with state interests without requiring the full application of state repression
- Pit different factions in society against one another to prevent the emergence of a coherent opposition
- Improve the government's image abroad while discrediting liberalism at home

### *Vibrant civil society*

Egyptian civil society is large and vibrant in comparison with many other Arab and developing countries. As Elbayer states, "Despite the highly restrictive nature of its civil society laws, Egypt has one of the largest and most vibrant civil society sectors in the entire developing world."<sup>3</sup> In fact, by the mid-1990s, Egypt had more NGOs than any other country in the global South.<sup>4</sup>

According to a 1999 survey by the Arab NGO Network for Development, Egypt's non-religious civil society sector employed 629,223 workers and accounted for \$1.5 billion in expenditures (2

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<sup>3</sup> Elbayer 7.

<sup>4</sup> James McGann, "Pushback against NGOs in Egypt," *International Journal of Not-for-Profit Law* 10.4 (August 2008): 32.

percent of GDP).<sup>5</sup> This does not even account for the activities of Islamic and Coptic NGOs. According to the International Center for Not-for-Profit Law, as of 2007 there were around 24,500 NGOs registered in Egypt.<sup>6</sup> Other estimates of the current number of Egyptian NGOs range as high as 41,000.<sup>7</sup>

These organizations can be categorized in a number of ways. Law 84 of 2002, which regulates NGOs, distinguishes between Associations and Non-governmental Organizations (NGOs).<sup>8</sup>

While there are some legal differences, both types of organizations are regulated by the Ministry of Insurance and Social Affairs (MISA) and are subject to similar rules.<sup>9</sup> In addition, some organizations register as civil companies (also called non-profit companies) or as law firms, which are governed by other laws and ministries.<sup>10</sup>

NGOs can also be divided into non-legal categories, such as Community Development Associations (CDAs), Islamic NGOs, Coptic NGOs, and advocacy groups.<sup>11</sup> Regardless of how Egyptian NGOs are categorized, most are focused on community development and lack explicit political aims. However, there are also dozens of organizations focused on human rights issues, including the Cairo Institute for Human Rights Studies, the Hisham Mubarak Law Centre, the Egyptian Organization for Human Rights, and the Egyptian Initiative for Personal Rights.

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<sup>5</sup> Elbayer 7.

<sup>6</sup> International Center for Not-for-Profit Law, "NGO Law Monitor: Egypt," October 2012, Accessed 7 November 2012, <<http://www.icnl.org/research/monitor/egypt.html>>

<sup>7</sup> "Egypt has refused aid for NGOs worth hundreds of millions of pounds, says minister," *Egypt Independent*, 4 October 2012, Accessed 6 January 2013, <<http://www.egyptindependent.com/news/egypt-has-refused-aid-ngos-worth-hundreds-millions-pounds-says-minister>>

<sup>8</sup> Law 84/2002, Law on Non-Governmental Organizations, Egypt.

<sup>9</sup> During various periods, this ministry has also gone under the names Ministry of Social Affairs (MOSA) and Ministry of Social Solidarity (MSS). To avoid confusion, I will refer to it as Ministry of Insurance and Social Affairs (MISA) regardless of the time period referenced.

<sup>10</sup> Unless further specificity is needed, I will refer to all of these organizations as NGOs throughout this paper.

<sup>11</sup> Maha Abdelrahman, *Civil Society Exposed: The Politics of NGOs In Egypt*, London: Tauris Academic Studies, 2004.

### *Repressive state*

It seems puzzling that Egypt has such a large NGO sector, including many human rights organizations, given the repressive nature of the state for the last 60 years. Up to the recent transition, Egypt was a dictatorship which routinely violated human rights, including rights of free speech and association which are essential to a healthy civil society. Since its Freedom in the World Reports began in 2002, Freedom House has consistently rated Egypt as Not Free. In 2010 for example, Egypt received a score of 5.5 out of 7 (7 being least free), based on many factors including the long-term application of the Emergency Law, prosecution of journalists, limits on free association for NGOs and unions, and lack of free and fair elections.<sup>12</sup>

This score has not changed since the 25 January Revolution. Throughout the months following the Revolution, the military violently dispersed protestors, killing, injuring, and arresting many of them. These detainees were often tried by military courts which failed to provide due process. Media critical of the government was censored.<sup>13</sup> State repression has continued since Mohamed Morsi was elected President in June 2012. For example, according to the Nadeem Center for Rehabilitation of Victims of Violence, there were 247 cases of police brutality during Morsi's first 100 days in office, including 34 killed and 88 tortured.<sup>14</sup> It remains to be seen whether this will change in the near future.

Even more troubling for civil society, the legal framework for NGOs remains highly restrictive. NGOs face registration, governance, and reporting requirements and MISA has wide latitude to

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<sup>12</sup> Freedom House, "Freedom in the World 2010: Egypt," 2012, Accessed 21 November 2012, <<http://www.freedomhouse.org/report/freedom-world/2010/egypt>>

<sup>13</sup> Cairo Institute for Human Rights Studies, *Fractured Walls... New Horizons: Human Rights in the Arab Region, Annual Report 2011*, Cairo: CIHRS, 2012: 95-98.

<sup>14</sup> "Egypt police kill 34, torture 88 under Mursi: Report," *Al Akhbar English*, 15 October 2012, Accessed 21 November 2012, <[http://english.al-akhbar.com/content/egypt-police-kill-34-torture-88-under-mursi-report?utm\\_source=feedburner&utm\\_medium=feed&utm\\_campaign=Feed%3A+AlAkhbarEnglish+%28Al+Akhbar+English%29](http://english.al-akhbar.com/content/egypt-police-kill-34-torture-88-under-mursi-report?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+AlAkhbarEnglish+%28Al+Akhbar+English%29)>

interfere in NGO activity. The laws governing NGOs since the 1952 Revolution have given the state many leverage points over NGOs and have defined state-civil society relations. It is essential to understand these laws before explaining why there is such a large and active civil society in Egypt. Therefore, the following section will examine the NGO laws since the 1950s.

### ***Restrictive NGO laws***

#### *Law 348-1956*

While there were numerous restrictions on civil society during the Egyptian monarchy, it was the government of Gamal Abdel Nasser that began the Egyptian state's modern efforts to control civil society and NGOs. Law 348 of 1956 required NGOs to register with MISA, barred organizations from receiving any funds from abroad, allowed MISA to dissolve NGOs, and did not give NGOs recourse to appeal such decisions through the courts.<sup>15</sup>

#### *Law 32-1964*

Law 348-1956 was soon replaced with a new law that would govern NGOs for almost 40 years. Law 32 of 1964 gave the government considerable power over civil society. All NGOs had to reregister, and MISA could reject registration if the organization was deemed to be a threat to security and order, or even if MISA determined that the organization's proposed activities were not needed by the community. Since it was MISA itself which could decide if an NGO's activities would be a threat to security or if they were unnecessary (these terms are not defined in the law), there was little room for organizations to challenge rejections.<sup>16</sup>

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<sup>15</sup> Abdelrahman, *Civil Society Exposed* 129.

<sup>16</sup> Abdelrahman, *Civil Society Exposed* 129.

Once an organization was registered, MISA was authorized to reject nominees for an organization's board of directors and it could also appoint a member of its choice. MISA could convene meetings of an NGO's board of directors, transfer one NGO's assets to another, and dissolve or merge NGOs. NGOs could obtain funding from overseas, but only with MISA's permission.<sup>17</sup> NGOs were required to notify MISA about upcoming board meetings and file minutes from those meetings with MISA. MISA could veto any decisions made by an organization's board. Finally, individuals who violated Law 32-1964 were subject to criminal penalties of up to six months imprisonment.<sup>18</sup>

#### *Law 153-1999*

Law 153, which was passed in May 1999 to replace Law 32-1964, maintained or increased many government controls over NGOs while reducing control in some areas. It maintained MISA's right to reject NGO registrations on vague grounds such as threats to national unity or public morals, although it eliminated MISA's authority to reject an NGO's registration on the grounds that its proposed activities were unnecessary or redundant. It increased MISA's control over registration by requiring human rights organizations – which had often registered as civil companies – to register with MISA as NGOs or face criminal penalties of up to 6 months imprisonment.<sup>19</sup> MISA's authority to reject NGO requests for foreign funding continued, as did its ability to veto the election of NGO board members. However, MISA could no longer appoint its own candidates to an NGO board. It could also no longer dissolve an NGO on its own

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<sup>17</sup> Marc Schade-Poulsen, Tomas Rothpfeffer, & Gilles Manceron, *Freedom of Association and Human Rights Organisations in Egypt*, Copenhagen: Euro-Mediterranean Human Rights Network, 1999, 13.

<sup>18</sup> Abdelrahman, *Civil Society Exposed* 130-131.

<sup>19</sup> Schade-Poulsen, Rothpfeffer, & Manceron 7.



authority; it had to obtain a court ruling to do so. But the maximum penalty for violations increased from six months imprisonment under Law 32 to one year under Law 153.<sup>20</sup>

Law 153-1999 provoked strong backlash from NGOs. For example, the Egyptian Organization for Human Rights characterized the law as an “assassination of civil society.”<sup>21</sup> Law 153 was overturned in 2000 by the Supreme Constitutional Court for procedural reasons; the Shura Council (the upper house of parliament) had never considered the law.<sup>22</sup> However, Law 153 demonstrated the government’s continued commitment to severe restrictions on NGOs, restrictions that would also appear in the next iteration of the NGO law.

#### *Law 84-2002*

After Law 153 was overturned, Law 32 went back into effect, but the government soon drafted a new law that was similar to Law 153. Law 84 of 2002 was passed by both houses of parliament with little public debate or press coverage and no consultation of NGOs.<sup>23</sup> Under Law 84, MISA is allowed to reject an NGO’s registration if its activities “threaten national unity, violate public order or morality or advocate discrimination” or if it “practices any political or trade union activity exclusively restricted to political parties and trade unions” (Article 11). NGOs can appeal a rejection directly to the Administrative Court; all other disputes between MISA and NGOs must first be brought to a committee consisting of a member of the Court of Appeal and two government appointees (Article 7), stacking the odds in favor of MISA.<sup>24</sup> MISA can veto

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<sup>20</sup> Barbara Cochrane Alexander, “Law No. 153: Its Impact on Egyptian Non-Governmental Organizations,” *Washington College of Law, American University Human Rights Brief* 7.2 (Winter 2000): 13.

<sup>21</sup> Egyptian Organization for Human Rights, “By Direct Order ... Assassination of Civil Society in Egypt, EOHR's Criticisms against Law 153 of 1999 on Associations and Civil Institutions,” June 1999, Accessed 7 November 2012, <<http://www.derechos.org/human-rights/mena/eohr/civil.html>>

<sup>22</sup> Abdelrahman, *Civil Society Exposed* 131.

<sup>23</sup> Mohamed Agati, “Undermining Standards of Good Governance: Egypt’s NGO Law and Its Impact on the Transparency and Accountability of CSOs,” *International Journal of Not-for-Profit Law* 9.2 (April 2007): 60.

<sup>24</sup> Human Rights Watch, “Egypt: Margins of Repression, State Limits on Nongovernmental Organization Activism,” 17.8(E) 2005, Accessed 7 Nov 2012, <<http://www.hrw.org/sites/default/files/reports/egypt0705.pdf>>, 10.

elements within an NGO's statutes (Article 8) or decisions taken by an NGO's board (Article 23). MISA must be given 60 days notice before board elections and can bar candidates from running (Article 34), although it cannot appoint its own candidates. MISA can seek a court ruling to dissolve an NGO (Article 42). Law 84 restores the harsh penalties imposed by Law 153, including up to one year imprisonment for Article 11 violations (Article 75).<sup>25</sup>

Law 84 also continues to impose procedural and administrative requirements on NGOs. For example, boards of directors must meet at least four times a year with a majority of members present (Article 38). A general assembly of an NGO's members must be held annually (Article 27), MISA must be notified and provided an agenda at least 15 days prior, and minutes of the meeting must be sent to MISA within 30 days after the meeting (Article 26).<sup>26</sup> Although Law 84 is unclear, later executive regulations require organizations to seek MISA approval before accepting foreign funding or affiliating with a foreign organization.<sup>27</sup>

However, for organizations that are able to register and avoid government interference, there are significant benefits to being an NGO. These include exemption from government fees for registering contracts and other legal documents, exemption from customs duties on materials purchased from overseas, exemption from property taxes, a 25% reduction in fees for transporting equipment by rail, reduction in phone charges, and a 50% subsidy on all other utilities (Article 13). In addition, the government can second civil servants to work for NGOs on one-year renewable contracts, thus providing free labor (Article 12).<sup>28</sup>

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<sup>25</sup> Law 84/2002.

<sup>26</sup> Law 84/2002.

<sup>27</sup> Human Rights Watch 11.

<sup>28</sup> Law 84/2002.

*Recent draft laws*

Law 84-2002 remains in force, but there have been several aborted attempts to develop a new NGO law since the 25 January Revolution. The first came from the transitional government, dominated by the Supreme Council of the Armed Forces (SCAF). In response to the NGO funding investigation, Nagwa Hussein Khalil, Minister of Insurance and Social Affairs, presented a draft NGO law in Spring 2012.<sup>29</sup> This law would have affirmed many of the elements of Law 84, but also would have increased penalties for violations. A group of 25 advocacy NGOs led by the Cairo Institute for Human Rights Studies (CIHRS) characterized the draft as a “nationalization of civil society” as it would have considered NGO staff to be public servants. The proposed law also referred not just to the powers of MISA but to an ambiguously defined “competent authority,” a shift that implicitly left room for other state entities, including security agencies, to have a legally-sanctioned role in overseeing NGOs.<sup>30</sup>

The MISA draft received considerable criticism, and the Freedom and Justice Party (Muslim Brotherhood)-dominated parliament instead supported a draft presented by the Human Rights Committee of the People’s Council (the lower house of parliament). Another group of NGOs led by CIHRS, including many of the same advocacy organizations that condemned the restrictive draft offered by MISA, gave the new draft mixed reviews. The Human Rights Committee version would require notification of authorities rather than permission from authorities to register an NGO. It would remove prison sentences from the possible penalties for violations. But, the draft continues to allow MISA to restrict NGO activities that it deems against “national unity, public order, and public morals” and also would allow MISA to arbitrarily reject

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<sup>29</sup> Sarah Carr, “Judicial source expects more attacks on NGOs,” *Egypt Independent*, 1 January 2012, Accessed 5 January 2013, <<http://www.egyptindependent.com/news/judicial-source-expects-more-attacks-ngos>>

<sup>30</sup> Cairo Institute for Human Rights Studies, “Draft Law for the Nationalization of Civil Society and Transforming it into a Government Institution!” April 2012, Accessed 7 Nov 2012, <<http://www.cihrs.org/?p=1985&lang=en>>

authorization for foreign funding.<sup>31</sup> Parliament did not have time to debate or vote on this draft before the Supreme Constitutional Court dissolved the People's Council on the grounds that the parliamentary election law was unconstitutional.

The most recent proposed reform was drafted by MISA and presented to the Shura Council in February 2013. The draft has received harsh criticism from many NGOs. The Cairo Institute for Human Rights Studies has stated, "The proposed law is more restrictive than Law 84/2002, which is currently in force. The draft law is more repressive and hostile to civil society organisations than all laws and draft bills under the rule of Nasser, Mubarak and the supreme military council."<sup>32</sup> Members of the US House of Representatives Foreign Affairs Committee addressed a letter to President Morsi on 25 February 2013 urging him to "review and revise the draft law."<sup>33</sup>

The new draft bans all political activity by NGOs. Hafsa Halawa, one of the NDI staffers currently on trial, noted that this ban might prevent NGO from providing election and campaign training for new political parties: "Does [the Muslim Brotherhood] want to stop training political parties before elections to ensure it faces no competition?"<sup>34</sup> The draft requires NGOs who wish to receive foreign funding to obtain permission not only from MISA and the Foreign Ministry, but from a committee representing the Ministries of Justice, Interior, and Planning and International Cooperation, as well as the General Intelligence Agency and the Central Bank of Egypt" (Article 16). Thus, it significantly increases the difficulty in acquiring foreign funding.

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<sup>31</sup> Cairo Institute for Human Rights Studies, "New draft law to regulate NGOs and civil society: Tangible progress along with flaws of the past," May 2012, Accessed 7 Nov 2012, <<http://www.cihrs.org/?p=2291&lang=en>>

<sup>32</sup> "Draft NGOs bill 'more repressive' than Mubarak era law: CIHRS," *Al Ahram Online*, 7 Feb 2013, Accessed 2 March 2013, <<http://english.ahram.org.eg/NewsContent/1/64/64268/Egypt/Politics-/Draft-NGOs-bill-more-repressive-than-Mubarak-era-l.aspx>>

<sup>33</sup> "Eliot Engel, Ed Royce Write Egyptian President Morsi Regarding Draft NGO Law," US House of Representatives Committee on Foreign Affairs, Democrats, 25 February 2013, Accessed 2 March 2013, <[http://democrats.foreignaffairs.house.gov/press\\_display.asp?id=1023](http://democrats.foreignaffairs.house.gov/press_display.asp?id=1023)>

<sup>34</sup> Omar Halawa, "New draft law would limit the scope of work of NGOs," *Egypt Independent*, 14 February 2013, Accessed 2 March 2013, <<http://www.egyptindependent.com/news/new-draft-law-would-limit-scope-work-ngos>>

Finally, the bill grants MISA officials arrest authority and the right to delegate powers to other government agencies – including security agencies – legalizing the de facto involvement of security services in NGO regulation (Article 20).<sup>35</sup> Thus, there is little hope in the near future for an improvement of legal status of NGOs in Egypt.

The succession of laws governing NGOs since the 1952 Revolution have given the state considerable leverage over NGOs, particularly on important pressure points such as funding and governance. Given the nature of the most recent NGO law draft, it appears likely that any new regulatory regime will continue to give the government significant discretionary authority to hinder NGO activity.

### *Extralegal barriers*

The Egyptian state has used intrusive and discretionary legal tools to exert power over NGOs, but the government has also shown a willingness to use extralegal means including violations of the NGO laws. According to Human Rights Watch, “The most serious barriers to meaningful freedom of association in Egypt lie outside of Law 84/2002.”<sup>36</sup> For example, State Security Investigations (SSI), which was responsible for internal intelligence and security, had a major role in regulating NGOs prior to the 25 January Revolution. State Security was a secretive organization not regulated by any legislation, and was one of the most feared tools of state repression in Egypt. It was dissolved in the wake of the Revolution, but for decades it exercised considerable authority over NGOs despite the fact that Law 84 gave this authority only to MISA and not to State Security.<sup>37</sup>

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<sup>35</sup> Halawa, “New draft law would limit the scope of work of NGOs.”

<sup>36</sup> Human Rights Watch 2

<sup>37</sup> Human Rights Watch 2

In addition, MISA has regularly violated Law 84 to restrict NGO activity. For example, when applying for registration, NGOs may be “asked to fill out the application in pencil and then go through it with a MISA official who instructs them what to change and what to keep.”<sup>38</sup> MISA may also illegally delay their response to NGO registration applications. Law 84 requires MISA to respond to a registration request within 60 days or the organization is legally entitled to operate as if it is officially registered. However, in some cases “ministry officials refuse to stamp the papers submitted to them, presumably to avoid triggering the sixty-day response period.”<sup>39</sup> In addition, even though NGOs are supposed to be able to legally operate after the sixty-day period if they receive no response, “in practice it is impossible to function without an official registration number”<sup>40</sup> which MISA may withhold.

MISA similarly violates legal requirements regarding approval for new NGO projects. Again, MISA must respond within 60 days of a new project proposal, otherwise the NGO is allowed to carry on. However, according to one NGO activist, “if you do this and move on and do the program, you will never get approval again.”<sup>41</sup> Thus, MISA may retaliate against NGOs for exercising their legal rights even under the restrictive Law 84. Another activist reported that when his NGO applies for approval of new projects, “the Ministry now requires us to sign a paper when we apply that says we won’t start without getting consent. This is illegal and ties our hands.”<sup>42</sup> Thus, the government uses not only its legal authority, but also extralegal and illegal means in order to suppress or hinder NGO activities.

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<sup>38</sup> Human Rights Watch 9.

<sup>39</sup> Human Rights Watch 30.

<sup>40</sup> Human Rights Watch 10.

<sup>41</sup> Egyptian NGO activist E (Name withheld by request). Personal interview. 28 June 2012.

<sup>42</sup> Egyptian NGO activist G (Name withheld by request). Personal interview. 8 July 2012.

*Legal and media attacks on civil society*

In addition to exerting pressure on NGOs both within and outside the law, the government periodically attacks NGOs with raids, prosecutions, and smear campaigns. In 1998, Hafez Abu Saeda, Secretary General of the Egyptian Organization for Human Rights (EOHR), was charged with accepting funds from the British Parliament's human rights council without permission from MISA after EOHR published a report on torture. Abu Saeda faced up to seven years in prison, but the charges ultimately were dropped.<sup>43</sup>

In another high profile case, Saad Ibrahim and other staff at the Ibn Khaldun Center were arrested in 2000 and charged with accepting foreign funds (from the EU) without MISA authorization, disseminating false information abroad, and embezzling EU funds. He was convicted by a State Security Court in 2001 and sentenced to seven years in prison, a verdict widely criticized at home and abroad. The Ibn Khaldun Center was registered as a civil company rather than an NGO, so it should not have been legally required to obtain MISA permission to accept funds. A former chief justice of Egypt's Supreme Constitutional Court, Awad Al Moor, testified at the trial that the law against spreading false information abroad was a violation of Egypt's constitution. And the EU submitted audits to the court demonstrating that there had been no embezzlement. The Court of Cassation overturned the conviction, as well as a second conviction on retrial by the State Security Court. A final retrial took place before the Court of Cassation in 2003, and Ibrahim and his co-defendants were finally acquitted and released.<sup>44</sup>

High profile attacks on NGOs continued after the 25 January Revolution under the SCAF-led transitional government. In July 2011, Minister of Planning and International Cooperation Fayza

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<sup>43</sup> "Case Notes: Middle East and North Africa – Egypt," *The International Journal of Not-for-Profit Law*. 2.3 (March 2000), Accessed 5 January 2013, <[http://www.icnl.org/research/journal/vol2iss3/cn\\_2.htm](http://www.icnl.org/research/journal/vol2iss3/cn_2.htm)>

<sup>44</sup> National Academies Committee on Human Rights, "Case Information: Saad Eddin Ibrahim," 2013, Accessed 5 January 2013, <[http://sites.nationalacademies.org/PGA/humanrights/PGA\\_043983](http://sites.nationalacademies.org/PGA/humanrights/PGA_043983)>

Aboul Naga publicly announced an investigation into whether NGOs had received the required authorizations to accept foreign funding. According to *Al Ahram*, Abul Naga had resented foreign funding of NGOs ever since a 2004 agreement between the US State Department and Egypt's Foreign Ministry allowing USAID to directly fund Egyptian NGOs rather than channeling money through her ministry.<sup>45</sup>

Throughout the investigation, the government leaked information to media sources.<sup>46</sup> According to several NGO leaders that this author interviewed in Summer 2012, much of the media during this period – particularly state media and those sympathetic to the old regime and the military government – were sensationalistic in their coverage of ‘foreign influences’ in the NGO sector. As one interviewee noted, “The fierce campaign against civil society organizations was covered by the media deceptively; they made it look like everyone in CSOs were spies and agents.”<sup>47</sup> Another NGO activist running a civic engagement project in Cairo reported, “Many media channels invited me to talk about my work, but instead during the interview they would change the topic to make our work look bad.”<sup>48</sup> This media campaign was at least partly successful in influencing public attitudes toward NGOs. One NGO activist argued that “it has affected attitudes; it’s the mentality that we are talking about. If you are trying to help people who think you are an agent, that is a bit hard.”<sup>49</sup> Another noted that after the anti-NGO campaign, their

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<sup>45</sup> Bel Trew, “The Trial: Egypt's NGO staffers speak up about political dogfight,” *Al Ahram*, 20 October 2012, Accessed 5 January 2013, <<http://english.ahram.org.eg/NewsContent/1/64/55888/Egypt/Politics-/The-Trial-Egypt-NGO-staffers-speak-up-about-polit.aspx>>

<sup>46</sup> Daphne McCurdy, “Backgrounder: The Campaign Against NGOs in Egypt,” Project on Middle East Democracy, February 2012, Accessed 7 November 2012, <<http://pomed.org/wordpress/wp-content/uploads/2012/02/Egypt-NGO-Backgrounder.pdf>>

<sup>47</sup> Egyptian NGO activist B (Name withheld by request). Personal interview. 14 June 2012.

<sup>48</sup> Egyptian NGO activist J (Name withheld by request). Personal interview. 16 July 2012.

<sup>49</sup> Egyptian NGO activist B (Name withheld by request). Personal interview. 14 June 2012.



beneficiaries “started asking why we are doing these things, why are we getting international funding, what does the international organization have to gain from it?”<sup>50</sup>

On the afternoon of Thursday 29 December 2011, government agents raided the Cairo offices of a number of Egyptian and foreign NGOs including the National Democratic Institute, the International Republican Institute, Freedom House, the International Center for Journalists, and the Konrad Adenauer Foundation. Plain clothes and uniformed security personnel, including riot police, “forced their way into the offices” and held the organizations’ employees for several hours while they searched the premises and seized documents, equipment, and cash before sealing the offices.<sup>51</sup> In February 2012, the Ministry of Justice charged 43 employees of the 5 NGOs listed above, including 16 Americans, with operating NGOs without a license, receiving foreign funding without permission, engaging in political activities, and violating NGO-related tax codes.<sup>52</sup> Egyptian authorities released all of the Americans shortly after their arrest under pressure from the US government, but one of them refused to leave Egypt and another later returned to Egypt to stand trial. These Americans, Robert Becker and Sherif Mansour, are currently on trial with their Egyptian colleagues.

Criticism that the charges against these NGO employees were politically-motivated was supported by the fact that the charges were publicly announced at a press conference before the defendants had even been informed, and their personal contact information was released online by the government.<sup>53</sup> During the trial, Fayza Abul Naga testified as a prosecution witness, discussing at length the history of US aid to Egypt and Egyptian NGOs without specifically

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<sup>50</sup> Egyptian NGO activist C (Name withheld by request). Personal interview. 21 June 2012.

<sup>51</sup> Peter Beaumont & Paul Harris, “US ‘deeply concerned’ after Egyptian forces raid NGO offices in Cairo,” *The Guardian*, 29 December 2011, Accessed 4 January 2013, <<http://www.guardian.co.uk/world/2011/dec/29/us-egyptian-forces-raid-cairo>>

<sup>52</sup> McCurdy, “Backgrounder: The Campaign Against NGOs in Egypt.”

<sup>53</sup> Trew, “The Trial: Egypt’s NGO staffers speak up about political dogfight.”

addressing the case at hand. This focus on US aid in general rather than the actions of the defendants illustrated the political nature of the charges. The trial has dragged on with repeated postponements; the next hearing is scheduled for 4 July 2013.<sup>54</sup>

These prosecutions and the accompanying media campaign against foreign influences in NGOs hit the sector hard. Many advocacy NGOs interviewed by this author reported the chilling effects of what they often simply referred to as “the campaign.” Many foreign funders have frozen grants to avoid unwanted attention from the Egyptian government. As one NGO noted, during the campaign one of their major projects was “frozen until at least the political situation is stabilized. This freeze was requested by the foreign funder.”<sup>55</sup> Another reported, “The NGOs’ fear after the campaign affects our partners, especially foreign NGOs working on democracy.”<sup>56</sup> Due to reduced funding and fear of government reprisal, many Egyptian NGOs also cut back on projects. One consultant who trains NGO staff reported, “We had less demand for programs because of the attacks on NGOs after the Revolution.”<sup>57</sup> In some cases ordinary citizens avoided participating in the work of NGOs focused on democracy because “after the anti-NGO/civil society campaign, people were afraid of our work.”<sup>58</sup> Another NGO activist reported, “In North Sinai, we tried to book a hotel meeting room but it became difficult because the hotel was afraid of our American funding.”<sup>59</sup> Thus, the government campaign has significantly hindered NGO activity.

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<sup>54</sup> “Egypt’s foreign-funded NGO trial postponed to July,” *Al Ahram Online*, 10 January 2013, Accessed 4 March 2013, <<http://english.ahram.org.eg/NewsContent/1/64/62192/Egypt/Politics-/Egypts-foreignfunded-NGO-trial-postponed-to-July.aspx>>

<sup>55</sup> Egyptian NGO activist C (Name withheld by request). Personal interview. 21 June 2012.

<sup>56</sup> Egyptian NGO activist K (Name withheld by request). Personal interview. 17 July 2012.

<sup>57</sup> Egyptian NGO activist F (Name withheld by request). Personal interview. 4 July 2012.

<sup>58</sup> Egyptian NGO activist H (Name withheld by request). Personal interview. 9 July 2012.

<sup>59</sup> Egyptian NGO activist C (Name withheld by request). Personal interview. 21 June 2012.

***Vibrant civil society in the face of repression: a contradiction?***

Egypt has a large civil society sector with tens of thousands of NGOs, including dozens of organizations working on human rights advocacy and democratization. Yet Egypt also has restrictive laws governing NGOs, coupled with legal and public relations attacks on the sector. Despite all the repressive tools at the government's disposal, Egypt's NGO sector is often characterized as one of the most vibrant in the Arab region. What explains this apparent contradiction?

The following sections will explore several possible explanations: internal pressure forces the Egyptian government to leave room for civil society, external pressure forces the government's hand, or the Egyptian state is simply incapable of preventing the growth of NGOs. After demonstrating why none of these are sufficient to explain the apparent contradiction, this paper will argue that there actually is not a contradiction. The Egyptian state's interests are served by allowing a large and active civil society sector, so long as the state is able to co-opt it and exercise influence to prevent NGOs from threatening state power.

***Possible explanations for the development of civil society***

*Internal pressure*

One possible explanation for the size and scope of the NGO sector in Egypt is that internal pressure for freedom of association has prevented the Egyptian state from using all of the legal and extralegal tools at its disposal to prevent the growth of civil society. For many years Egypt has had a relatively open press, able to criticize government actions including crackdowns on

free association.<sup>60</sup> Throughout the period since Anwar Sadat ended one-party rule in Egypt, multiple parties have contested parliamentary elections, and the parliament played a crucial role in creating the NGO laws. Furthermore, Egyptian courts are semi-independent and at times have ruled against the government in NGO-related cases. Perhaps these avenues for internal pressure allowed domestic constituencies to force the government to allow the growth of civil society.

However, this explanation has limitations. Although the press in Egypt is relatively freer than much of the Arab world, state media still wields considerable influence over public opinion. Even independent media is prone toward sensationalism and nationalism, often suspicious of foreign-backed NGOs. Prior to the 25 January Revolution, parliament was dominated by the ruling National Democratic Party, seldom placing real restraints on government power.

Furthermore, although the courts sometimes rule in favor of NGOs, court cases can take a huge amount of time and financial resources that NGOs may lack. For example, after the request for registration by the Egyptian Organization for Human Rights was rejected in 1987, it was not until 2001 that a court finally ruled against MISA and allowed EOHR to register.<sup>61</sup> In addition, the state sometimes simply disregards court rulings. One example of this is the case of Sherif Mansour, one of the NGO workers charged during the recent crackdown.<sup>62</sup> An Egyptian court ruled that a ban on Mansour's ability to travel outside the country during the trial (he is an American citizen) was illegal. However, the State Prosecutor ignored the ruling for several months, illegally stranding Mansour in Egypt.

The limited efficacy of internal pressure for increased freedom of association was demonstrated by the failure of the NGO campaign against the passage of Law 153-1999. During the

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<sup>60</sup> Maha Abdelrahman, "The politics of 'uncivil' society in Egypt," *Review of African Political Economy* 29.91 (2002): 25.

<sup>61</sup> Elbayar 10.

<sup>62</sup> Mansour holds both Egyptian and American citizenship

International Conference on Development and Population in Cairo in 1994, some Egyptian NGOs began organizing to oppose Law 32 and calling for reform. In 1997, the government seemed to respond to the pressure, and MISA formed a committee to consider amending Law 32. The initial drafts of the proposed reform were vigorously opposed by many NGOs, including 67 which signed a Declaration of Principles on freedom of association.<sup>63</sup> They launched a public relations campaign in the media to point out the shortcomings of the proposed legislation.

Again, this pressure seemed to have an effect. MISA delayed presenting its draft to parliament and opened a dialogue with NGOs, bringing several NGO representatives onto the drafting committee. Many groups active in the original opposition to the proposed reform founded the Forum for the Development of NGO Activity in 1998, whose membership grew to 104 NGOs.<sup>64</sup> The organization monitored the legal reform process and advocated for greater NGO freedoms. Ultimately, the drafting committee developed a proposed law that was satisfactory to many of the organizations involved.

However, without any consultation of the NGOs involved in this process, a much more restrictive version of the law was ultimately presented before parliament. Unlike the NGO-agreed draft, Law 153 required that NGOs registered as civil companies or law firms must instead register with MISA. Law 153 also required government authorization for receiving any funds from abroad, whereas the previous draft only required that NGOs notify the government and allow 30 days for government objection before accepting funds from overseas.<sup>65</sup> Despite vocal NGO opposition to the draft, including a hunger strike by several women activists and criticism by some opposition MPs, Law 132 was passed less than two weeks after it was

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<sup>63</sup> Viviane Fouad, Nadia Ref'at, & Samir Murcos, "From Inertia to Movement: A Study of the Conflict over the NGO Law in Egypt," *NGOs and Governance in the Arab World*, Eds Sarah Ben Nefissa et al. Cairo: American University in Cairo Press, 2005, 109.

<sup>64</sup> Fouad, Ref'at, & Murcos 111.

<sup>65</sup> Schade-Poulsen, Rothpfeffer, & Manceron 11-12.

unveiled.<sup>66</sup> While ultimately it was ruled unconstitutional for procedural reasons, the government had demonstrated its ability to pass restrictive legislation over domestic opposition. Despite the efforts of a large, well-organized coalition of NGOs with western and donor support, the fight against passage of Law 153 had failed.<sup>67</sup>

### *External pressure*

It is also possible that external pressure, mainly from western countries such as the US, has prevented the Egyptian government from completely cracking down on civil society, and outside financial support aided the development of NGOs. Crackdowns on NGOs often stir harsh international criticism, at times leading Egyptian authorities to back off. The most recent example of this was US pressure (and threats to withhold aid) that forced Egypt to allow 16 American NGO workers charged with illegal activities to return to the US in March 2012.

Furthermore, direct international support has been vital for the funding of many Egyptian NGOs. According to the 2011 Ministry of Justice investigation into foreign influence over Egyptian NGOs, about 400 NGOs had received foreign funding in the previous six years. In particular, human rights NGOs and other advocacy organizations rely heavily on western funding, and Salafi organizations receive large amounts of funding from donors in the Gulf.<sup>68</sup>

However, these factors cannot fully explain the size of Egypt's NGO sector, the existence of many advocacy NGOs, and the state's failure to prevent the growth of the sector. Despite strong western criticism of Egypt's restrictive NGO laws, these laws have still not been reformed.

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<sup>66</sup> Schade-Poulsen, Rothpfeffer, & Manceron 6-7.

<sup>67</sup> Vickie Langohr, "Too Much Civil Society, Too Little Politics: Egypt and Liberalizing Arab Regimes," *Comparative Politics* 36.2 (Jan. 2004): 182.

<sup>68</sup> McCurdy, "Backgrounder: The Campaign Against NGOs in Egypt."

Furthermore, the Egyptian government has often moved forward with crackdowns on particular NGOs in spite of international criticism. For example, although Egypt released the American NGO workers who were recently charged, the Egyptians arrested in this crackdown remain on trial, and the NGO offices remain closed. In spite of this, western media coverage and official criticism of the crackdown diminished significantly after the release of the Americans. Robert Becker, the American NDI official who stayed in Egypt to stand trial, was fired by NDI for not evacuating with the other American staff. Hafsa Halawa, an Egyptian NDI program assistant, reported that since the charges were filed her “direct boss has not been in touch.”<sup>69</sup> All of this demonstrates the West’s limited appetite for defending Egyptian civil society.

In addition, although foreign financial support has been critical to the viability of many NGOs, this too is an insufficient explanation. About 400 NGOs have received international assistance in recent years, but this is just a small fraction of the tens of thousands of NGOs in Egypt. For those organizations that receive international funding, one still must explain why the Egyptian government has not blocked this funding. It has the legal authority under Law 84 to block or delay funding, and on many occasions has exercised this authority. Egypt has the capacity to resist western pressure to allow funding to go through. In particular, due to its position in the region and its role in Israeli-Palestinian negotiations, Egypt can resist pressure from the US, the largest donor to the Egyptian government and Egyptian NGOs. Denoeux argues that the US “is unwilling to risk antagonizing a friendly regime that supports its overall policies in the region.”<sup>70</sup>

Thus, while western pressure for liberalizing civil society and foreign financial assistance to NGOs may have somewhat strengthened the hand of civil society vis-à-vis the government, it is

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<sup>69</sup> Trew, “The Trial: Egypt’s NGO staffers speak up about political dogfight.”

<sup>70</sup> Denoeux 90.

not a sufficient explanation for the apparent contradiction between the size and vibrancy of civil society and the repressive nature of Egypt's legal and extralegal institutions governing that sector.

*Lack of government capacity to crush NGOs*

One could also argue that the state lacks the capacity and resources to completely restrict civil society. However, while the policing of civil society may be an expensive and difficult undertaking, it would be hard to argue that it is beyond the state's capacity.

First, the state has legal authority under Law 84 to almost completely choke off the development of NGOs. Law 84 allows blocking of foreign funding without reason, allows denying NGO registration with vague and arbitrary justifications, allows dissolving of NGOs, imposes major bureaucratic requirements on NGOs that give the government opportunities to crack down on minor violations, and imposes harsh penalties for various offenses.

The state also has the repressive apparatus to monitor and shut down organizations. Officials from MISA or State Security frequently attend board meetings and other events of NGOs that the state may find suspect.<sup>71</sup> The bureaucracy is massive, particularly the security and surveillance apparatus. For example, State Security was estimated to have over 100,000 employees at the time of the 25 January Revolution.<sup>72</sup> If the regime had deemed that its hold on power was dependent on crushing the NGO sector and imprisoning NGO staff, it likely would have had the ability to do so.

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<sup>71</sup> Abdelrahman, *Civil Society Exposed* 160.

<sup>72</sup> "Egypt dissolves notorious internal security agency," *BBC News*, 15 March 2011, Accessed 5 January 2013, <<http://www.bbc.co.uk/news/world-middle-east-12751234>>



While relying more on threats than direct confrontation, the state has demonstrated its willingness to exercise these powers over NGOs. For example, in 1995, 48 NGOs were dissolved and 26 had their registration requests rejected. In 1991, the Arab Women's Solidarity Association was dissolved with no official justification given, and its assets were transferred to a government-sponsored NGO, the Women of Islam Organization.<sup>73</sup>

Even large, western-backed NGOs are not immune from such measures. As previously described, many of the top western human rights and democratization NGOs were recently closed and their staff arrested despite strong international opposition. The state had allowed these NGOs to operate in Egypt for many years, until the government (or elements within the government) deemed it was in their interest to shut these organizations down. This strongly suggests that the fact that the state has allowed the development of civil society and the NGO sector is not simply a sign of the state's weakness, but rather a political calculation.

***Thesis: Government manipulation of NGO sector to pursue its own objectives***

It appears that internal and external pressures, as well as limited state capacity for repression, are inadequate to explain why Egypt has a large and vibrant NGO sector in the face of a restrictive legal and bureaucratic environment. Instead, this paper proposes that the Egyptian government has intentionally pursued policies that allowed the development of a large NGO sector as an instrument to achieve the political goals of the state, while constraining civil society and giving itself the legal and extralegal tools to prevent elements in the NGO sector from posing a threat to state power. Such policies meet numerous state interests:

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<sup>73</sup> Abdelrahman, *Civil Society Exposed* 136-137.

- NGOs provide many uncontroversial community services, freeing the state from the responsibility to do so
- Government policy allows it to co-opt NGOs, often pushing them to self-censor rather than requiring direct government interference or suppression
- Civil society organizations representing different factions in society (Islamists, Copts, secular liberals) are played off of each other in a divide-and-rule strategy
- Allowing the growth of civil society, including advocacy organizations, lets the state improve its liberal image abroad while discrediting liberalism at home

The following sections will explore how state policies toward NGOs furthered these interests while allowing the development of a large NGO sector.

#### *Provision of community services*

The policy of encouraging the growth of the NGO sector in order to tackle development needs began under Nasser, who “encouraged the proliferation of new NGOs, provided they were licensed, and in many cases actually created some . . . The State succeeded in transforming NGOs into appendages of its bureaucracy.”<sup>74</sup> Abdallah also notes, “The government welcomes partnerships with NGOs working in development and providing services, especially given the rising Egyptian population.”<sup>75</sup> Egypt’s continued development needs are illustrated in Table 1.

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<sup>74</sup> Abdelrahman, *Civil Society Exposed* 128.

<sup>75</sup> Nadine Hani Abdallah, “Civil Society in Egypt: A Catalyst for Democratization?” *International Journal of Not-for-Profit Law* 10.4 (August 2008): 27.

Table 1: Key demographic indicators<sup>76</sup>

Population	82 million
GNI per capita, 2010	\$6,030
Population below poverty line, 2008	21.6%
Adult literacy rate	80.7%
Unemployment rate, 2009	16.7%
Gini Coefficient	0.31

Many of Egypt's Community Development Associations (CDAs), those NGOs that focus primarily on apolitical development programs, are closely linked to the government. These organizations often receive significant public funding. Out of a sample of 60 NGOs surveyed by Abdelrahman in 2004, 29 received grants from MISA. Most of these grants are small, but annual grants can be as high as 250,000 LE (approximately \$41,000).<sup>77</sup> Law 84 and previous laws also allow MISA and other ministries to second staff to these NGOs, providing free labor. For example, in 1992 NGOs had 60,000 employees seconded from the government.<sup>78</sup>

This support from the government is critical for many organizations, so in reality they “carry out only those projects that can be accepted by [MISA] and are in line with its strategies.”<sup>79</sup> Thus, the state is able to encourage NGOs to tackle development issues and provide essential services for which the government may lack capacity, while maintaining a close and paternalistic relationship with these organizations “to stop the development of civil society . . . into an autonomous actor, which would redefine its relationship with the state.”<sup>80</sup>

<sup>76</sup> Heba Handoussa et al, “Egypt Human Development Report 2010,” UNDP & Egyptian Ministry of Planning, 2010, Accessed 28 November 2012, <<http://www.undp.org/Portals/0/NHDR%202010%20english.pdf>>

<sup>77</sup> Abdelrahman, *Civil Society Exposed* 179.

<sup>78</sup> Abdelrahman, *Civil Society Exposed* 128.

<sup>79</sup> Abdelrahman, *Civil Society Exposed* 179.

<sup>80</sup> Fouad, Ref'at, & Murcos 105.

*Co-opting NGOs and encouraging self-censorship*

The Egyptian state has historically been successful in co-opting and shaping NGO behavior without significantly limiting the growth of the NGO sector or bringing its full repressive power to bear even on human rights NGOs. The government has enormous leverage over NGOs. It must approve NGO registration, candidates for the board, and international funding requests. It has the ability to interfere in NGO governance and administrative matters, dissolve an NGO, and prosecute violations of the NGO law. However, the law “is not so much restrictive as it is discretionary.”<sup>81</sup> The government can choose when and how to exercise its authority. In fact, according to Human Rights Watch, the state’s more extreme powers are not exercised frequently, “but their existence gives the government a decisive upper hand in all NGO dealings and promotes a climate of self-censorship and uncertainty.”<sup>82</sup> The mere possibility of government retaliation can significantly shape NGO behavior.

It is not only a fear of outright persecution that can drive organizations to self-censor and behave in a way that the government approves. It is also a desire to get things done, and a willingness to compromise principles in order to do so. As noted by Human Rights Watch in 2005, “To be successful, NGOs must maintain a good relationship with the state bureaucracy and individual bureaucrats.”<sup>83</sup> This is supported by Abdelrahman’s 2004 study of 60 NGOs, all of which reported cultivating a close personal relationship with at least one MISA official to serve as “a patron of the NGO” and help them cut through bureaucratic red tape in getting approvals for foreign funding or new projects. Of course, this also increases the leverage these officials have

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<sup>81</sup> Elbayer 8.

<sup>82</sup> Human Rights Watch 30.

<sup>83</sup> Human Rights Watch 5.

and discourages the organization from engaging in activities to which their patrons might object, even if this remains unspoken.<sup>84</sup>

Not only do NGOs work to build clientalist relationships with patrons in the government, they may even bring current or former MISA officials onto their board of directors. Both through their knowledge of bureaucratic procedures and their personal connections in the Ministry, these board members can be helpful in allowing NGOs to more quickly gain MISA approvals.

However, this is also a case of NGOs voluntarily bringing government representatives into their own governance structure, which can influence the organizations' activities. Interestingly however, the government realized that the presence of MISA officials on these NGO boards was perhaps too advantageous for the NGOs, so in 1994 a law was passed to prohibit current MISA staff from serving on NGO boards unless MISA gave permission, allowing the government to give this advantage only to favored NGOs.<sup>85</sup>

NGOs must also maintain good relationships with officials in other ministries as many projects require authorization from agencies other than MISA. As one youth NGO official noted, "Working in public schools, youth centers, and culture centers requires permission from three different ministries."<sup>86</sup> Another NGO activist seeking approval from the Ministry of Education to establish a pilot mock parliament program in schools "got approval by getting other people to get involved, including influential people who affected the Ministry's decision. For example, we got support from someone on the National Human Rights Council [a governmental body]."<sup>87</sup>

In recent years, the practice of building clientalist relationships went beyond MISA and other ministries and extended to State Security, which often held the real power over whether an NGO

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<sup>84</sup> Abdelrahman, *Civil Society Exposed* 159.

<sup>85</sup> Abdelrahman, *Civil Society Exposed* 156-157.

<sup>86</sup> Egyptian NGO activist A (Name withheld by request). Personal interview. 11 June 2012.

<sup>87</sup> Egyptian NGO activist H (Name withheld by request). Personal interview. 9 July 2012.

was able to register, raise funds abroad, and operate unmolested. For decades, State Security played a behind-the-scenes role in MISA decisions. However, according to interviews with NGOs conducted by Mariz Tadros, starting in the early 2000s State Security began more visible involvement, often directly contacting NGOs. All NGO staff interviewed by Tadros had a State Security officer assigned to their organization, and they even had a cell number to contact their State Security liaison. Like patrons in MISA, these liaisons could help organizations cut through red tape and avoid legal trouble. In exchange, NGOs kept their State Security liaisons apprised of their activities. According to Tadros, “State Security no longer needs to play its previously hidden role of stalking NGOs from behind the scenes, because now the latter have internalized thoroughly the process of informing the SSI of all their activities and outputs.”<sup>88</sup> Not only did organizations inform on themselves, they also censored their behavior to keep good relations with State Security. These direct interactions allowed NGOs to “internalize appropriate processes and behaviors of voluntarily sharing information etc., while still having NGOs feel insecure about where the red line lies vis-à-vis their activities,”<sup>89</sup> encouraging even more intense self-censorship. It is unclear what will replace State Security and how much the relationship between the security apparatus and NGOs will change post-Revolution.

### *Divide and rule*

Civil society is never a unified force, and this is particularly true in Egypt, where NGOs represent the full spectrum of interests and ideologies in society, including Salafis, moderate Islamists, Copts, secular liberals, and leftists. In fact, until the 25 January Revolution, these

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<sup>88</sup> Mariz Tadros, “The securitisation of civil society: a case study of NGOs–State Security Investigations (SSI) relations in Egypt,” *Conflict, Security & Development* 11.1 (2011): 92.

<sup>89</sup> Tadros 94.

various factions had limited ability to contest political issues in the formal political space, as parliamentary elections were tightly controlled by the government. Thus, it was through civil society – including NGOs – that these various groups organized to protect their interests, often in conflict with one another.<sup>90</sup>

These tensions within civil society can be exploited by the government to divide potential opposition and maintain its grip on power. This is demonstrated by the pattern of government repression or support for different types of NGOs over time. During Nasser's rule, secular organizations were favored while religious NGOs were heavily repressed. After Nasser's death, Anwar Sadat took a more conservative turn, including structural adjustment reforms of the economy. He feared the power of Nasserist/leftist organizations opposed to his rule, so he shifted policy to reduce restrictions on Islamists – including Islamist NGOs – as a counterweight to these opponents from the left. Islamic NGOs as a proportion of all NGOs increased from 17% in the 1960s to 31% in the 1970s.<sup>91</sup> This balance shifted again after radical Islamists assassinated Sadat, leading his successor Hosni Mubarak to view Islamists as a greater threat than secular liberal groups. Mubarak shifted favoritism toward secular groups and increased suppression of Islamist NGOs. He eased restrictions on secular NGOs, sought to co-opt non-political Islamic NGOs, and used Law 32 to restrict the activities of more radical Islamic NGOs.<sup>92</sup> The new Muslim Brotherhood-dominated government may again shift this favoritism.

These policies exacerbate existing tensions between factions in society. Abdelrahman's interviews with 60 NGOs in 2004 illustrate the level of mistrust among these groups. The interviewed CDAs – which are often linked to the old regime – generally view liberal advocacy groups as dependent on foreign aid and western ideas about democracy and liberalization.

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<sup>90</sup> Abdelrahman, "The politics of 'uncivil' society in Egypt," 25.

<sup>91</sup> Abdelrahman, *Civil Society Exposed* 99.

<sup>92</sup> Abdelrahman, "The politics of 'uncivil' society in Egypt" 28.

Advocacy NGOs tend to regard these CDAs as pawns of the government and avoid working with them. One NGO activist interviewed by the present author noted, “Before the revolution, we had one main criterion [for potential partners]: to make sure you are not a GNGO [a government or NDP-related NGO].”<sup>93</sup> Another activist stated with regards to potential NGO partners, “Of course we don’t want those who work with the government; some NGOs were part of the NDP.”<sup>94</sup> However, advocacy NGOs are even more fearful of Islamic NGOs which they often see as “the most dangerous actors in civil society, and the main threat to their project of democracy.”<sup>95</sup> Islamic NGO activists tend to be open to working with CDAs, but they view advocacy NGOs as “implementing agencies of the West’s anti-Islamic plot,” and they fear that Coptic NGOs are potential vehicles for converting Muslims.<sup>96</sup> Likewise, Coptic NGOs fear the political power of Islamists, although due to their precarious position in society they are less vocally critical of other factions in the NGO sector.

These tensions prevent NGOs from working together in ways that may serve to check government power. This NGO behavior mirrors patterns in society as a whole, where various factions could not unite in opposition to the government until the 25 January Revolution; even that unity was short-lived. This lack of horizontal relationships within the NGO sector left only the vertical relationships with the state, making it easier for the government to manipulate NGO behavior.<sup>97</sup> Fearing the influence of Islamists, secular groups sometimes even turned to the government for support, as when secularists supported the 1993 Unified Law for Syndicates, allowing the government to intervene in professional syndicate elections and restrict the influence of Islamists, who had dominated recent syndicate elections. Thus, secular liberals

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<sup>93</sup> Egyptian NGO activist D (Name withheld by request). Personal interview. 27 June 2012.

<sup>94</sup> Egyptian NGO activist C (Name withheld by request). Personal interview. 21 June 2012.

<sup>95</sup> Abdelrahman, *Civil Society Exposed* 192.

<sup>96</sup> Abdelrahman, *Civil Society Exposed* 188-189.

<sup>97</sup> Muhammad Al-Sayyid Sa’id, “Civil Versus Political Culture in NGOs,” *NGOs and Governance in the Arab World*, Eds Sarah Ben Nefissa et al, Cairo: American University in Cairo Press, 2005, 62-63.



demonstrated a willingness to set aside their opposition to the government and support authoritarian action that targeted Islamists, aggravating mistrust between these groups.<sup>98</sup>

*Improve liberal image abroad while discrediting liberalism at home*

Allowing some freedom of association and the development of a large civil society has enabled Egypt to present an image abroad of being a relatively liberal regime, making it easier to avoid criticism and secure international donor support. This point is distinguished from the previously-discarded ‘external pressure’ explanation by the fact that it is not genuine liberalization, and the government is able to shape NGO behavior to avoid serious threats to state power. As Mohamed Agati argues, “The state uses NGOs as a façade, to create a false image” as a more liberal government.<sup>99</sup> Furthermore, it is distinguished by the fact that the government is able to play a double game, appearing somewhat more liberal to the outside while manipulating public opinion against NGOs to actually discredit liberal factions domestically.

The policy of allowing increased (but controlled) NGO activity began under Anwar Sadat, who shifted Egypt’s key international relationships from the Soviet bloc to western states that had to be placated by “a limited margin of freedom for civil society organizations.”<sup>100</sup> This rationale for allowing increased NGO activity again came to the forefront during George W. Bush’s push for liberalization in the region. Through the controlled growth of civil society, the state was able to “[thwart] political dissidence that is threatening to the regime, while simultaneously mediating the space for citizen engagement that gives the external image of a politically tolerant regime.”<sup>101</sup>

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<sup>98</sup> Abdelrahman, *Civil Society Exposed* 114-115.

<sup>99</sup> Agati 74.

<sup>100</sup> Abdelrahman, “The politics of ‘uncivil’ society in Egypt” 32.

<sup>101</sup> Tadros 97.

Abdallah argues that the proliferation of NGOs, “even those seen as anti-government, can be viewed as outgrowths of a policy of controlled liberalization.”<sup>102</sup>

Furthermore, the government is able to discredit liberalism and human rights advocacy by criticizing the western backing of the most liberal NGOs – such as human rights advocacy organizations. As previously noted, foreign funding is essential for many of these organizations. Their reliance on foreign funding means they have little domestic constituency, and foreign funding for advocacy is viewed with deep suspicion by many Egyptians. These suspicions are exacerbated by “a concerted government barrage of arguments that these groups are selling Egypt out for personal benefit.”<sup>103</sup> Thus, the nature of advocacy NGOs allows the government to discredit them at home without having to shut them down and draw criticism from abroad.

### *Looking forward: prospects for reform*

Since the 1952 Revolution, the state’s relationship with NGOs has been characterized by repression, manipulation, and co-optation. The 25 January Revolution brought hopes of reform of the legal restraints on NGOs. However, prospects for a fundamental shift in the nature of the state-NGO relationship are uncertain. At least in the short-term, the interests of the Muslim Brotherhood – which dominates the presidency, controlled the constitution-drafting process, and will likely do well in the next parliamentary elections – will be the most important factor in a reform of the state-NGO relationship.

The Muslim Brotherhood has sent mixed messages about their views on NGOs and free association. During the anti-NGO campaign in 2011-2012, the Muslim Brotherhood’s political

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<sup>102</sup> Abdallah 26.

<sup>103</sup> Langohr 199.

wing, the Freedom and Justice Party, criticized the “politically motivated crackdowns against NGOs,” and FJP Chairman Mohamed Morsi demanded “immediate lifting of restrictions on the establishment and registration of NGOs.”<sup>104</sup> The FJP’s Vice-Chairman, Essam Al Erian, declared that the FJP “completely supports civil society organizations and their activities, and fully rejects the old regime’s illegal oppressive practices against them.”<sup>105</sup>

However, the FJP also criticized foreign funding of NGOs. Essam Al Erian stated, “I hope that any funding of these organizations solely comes from the Egyptian people; any outside help might imply the implementing of foreign agendas.”<sup>106</sup> It is understandable that the Brotherhood would have these concerns, as most foreign funding of NGOs goes to their political opponents: western funding to secular/liberal advocacy NGOs, and Gulf funding to Salafi organizations.<sup>107</sup>

As previously noted, Muslim Brotherhood-backed draft NGO laws have been presented by the now-dissolved People’s Council and MISA. The most recent draft would continue to allow the government to reject NGO registrations on fairly arbitrary grounds, to reject the right of foreign NGOs to operate in Egypt, and to prevent NGOs from obtaining foreign grants without government permission.

Even if the restrictive current draft could be revised to reduce government influence over NGOs, there are other actors that would wish to continue the status quo in the state’s relationship with NGOs. For example, Minister of Insurance and Social Affairs Nagwa Khalil, a holdover from the transitional government and not a Brotherhood member, has stated that she rejects calls to end

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<sup>104</sup> Freedom and Justice Party, “Freedom and Justice Party Supports Role of NGOs as Essential to Democratic Process,” *Ikhwan Web*, 20 February 2012, Accessed 7 January 2013, <<http://www.ikhwanweb.com/article.php?id=29692>>

<sup>105</sup> Freedom and Justice Party, “Statement by FJP Vice Chairperson, Essam Al Erian, Condemning Crackdown on NGOs,” *Ikhwan Web*, 31 December 2011, Accessed 7 January 2013, <<http://www.ikhwanweb.com/article.php?id=29495>>

<sup>106</sup> Freedom and Justice Party, “Statement by FJP Vice Chairperson, Essam Al Erian, Condemning Crackdown on NGOs.”

<sup>107</sup> McCurdy, “Backgrounder: The Campaign Against NGOs in Egypt.”

MISA authority over NGOs. In October 2012 she stated that MISA does not wish “to impose restrictions on . . . NGOs or dominate them, but rather organize the sector so that it is more effective.”<sup>108</sup> This ‘organization’ of the sector is likely to be a continuation of the manipulation that has always characterized state-NGO relations in Egypt.

Furthermore, the massive bureaucracy overseeing NGOs, particularly MISA but other ministries as well, may not change the way they operate in response to legal reforms. As worded by one NGO activist, “It’s not about who is in charge, it’s about the way of thinking in the Ministry.”<sup>109</sup> The bureaucracy has frequently demonstrated a willingness to violate the law in order to hinder NGOs it views as a threat. And the NGO law reforms supported by the Muslim Brotherhood would still leave the bureaucracy room for discretionary interference with NGO registration and funding. Oversight of NGOs is MISA’s primary function, so it has a strong organizational interest in maintaining its influence in the sector.

The 25 January Revolution opened a door for legal reform, and the Egyptian government will likely be more responsive to popular pressure than the previous regime. This may ultimately lead to a shift in the state’s relationship with NGOs, allowing the NGO sector to develop autonomously. However, due to the Brotherhood’s mixed interests and the difficulties in reforming an entrenched culture of manipulation and co-optation in the bureaucracy, it is likely that the dynamics of state-NGO relations will remain unchanged in the short term.

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<sup>108</sup> “Egypt has refused aid for NGOs worth hundreds of millions of pounds, says minister,” *Egypt Independent*, 4 October 2012, Accessed 7 January 2013, < <http://www.egyptindependent.com/news/egypt-has-refused-aid-ngos-worth-hundreds-millions-pounds-says-minister>>

<sup>109</sup> Egyptian NGO activist I (Name withheld by request). Personal interview. 15 July 2012.

### *Conclusion*

There is an apparent contradiction between the repressive nature of the Egyptian state and the size and vibrancy of the NGO sector. This paper has explored several possible explanations for the size of civil society. While internal and external pressure, as well as a lack of state capacity, may partly explain why the Egyptian state allowed the NGO sector to grow, there is an even more important factor at play. Egyptian government policies have intentionally allowed and even encouraged the growth of the NGO sector while simultaneously using restrictive legal and extralegal instruments to shape and influence the sector to advance state interests. These interests include providing essential community services using fewer state resources, co-opting NGOs and getting them to behave in ways preferred by the state, promoting tensions between different factions in civil society to divide the opposition, and presenting a liberal image abroad while discrediting liberalism at home.

Particularly for those who are committed to civil society development as a way of achieving social and political change, it may be difficult to accept that the growth of NGOs may not be a sign of progress. As the case of Egypt demonstrates, even a large and active NGO sector can be manipulated to advance the interests of a repressive state. This is not to detract from the work of many NGOs, particularly human rights organizations that have worked to expose government abuses. However, for decades the state has been able to sideline the work of these organizations, preventing them from becoming a real threat to state power. Given the leverage the state has over NGOs, the threat posed by civil society has been outweighed by its benefits to the state.

This conclusion is essential to understanding the role of NGOs and civil society in social and political change. Rather than looking at the number of NGOs, the level of civil society activity, or even the periodic confrontations between NGOs and government in order to judge the power

of NGOs as a check on state power, it is important to look at deeper structural issues, legal frameworks, and ways that the government might be able to manipulate NGOs to advance its own interests. It remains to be seen how much reform or continuity there will be under the new Egyptian government with respect to state-NGO relations, but the ideas laid out in this paper may provide a lens through which to evaluate the level of progress toward a more autonomous civil society that can provide a real check on state power.

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