

BUSINESS AND HUMAN RIGHTS



In its last Universal Periodic Review in 2010, Egypt did not receive any recommendations specifically related to business and human rights. Nevertheless, this issue is one of increasing importance as efforts to revive the country's sluggish economy accelerate. Of particular concern is the uneven playing field that benefits the military and other politically connected actors and stunts the potential of the private sector to contribute to equitable growth.

EGYPT'S PRIVATE SECTOR HAS BECOME UNREGULATED AND NON-TRANSPARENT. Under Mubarak, privatization fuelled systemic nepotism and corruption. High-ranking government members and the economic elite were enriched through a conflation of politics and business under the guise of privatization, which allowed them to purchase state-owned assets for much less than their market value (Termini, 2011).

The World Bank argues that this dominance of a few large, old, and politically connected firms is strangling the growth of the kind of robust and competitive private sector essential for job growth (World Bank, 2014). For example, the insurance, extractives, and telecom sectors, which are not labor-intensive industries, all benefited from reforms that began in 2004. All three sectors, although liberalized, required government permission. By contrast, the most labor-intensive sectors—agriculture and manufacturing—don't rely on payments that could be allocated to insiders and have seen weaker growth (World Bank, 2014).

WITHOUT TRANSPARENT PROCUREMENT PROCEDURES, THE MILITARY'S BUSINESS INTERESTS REMAIN OPAQUE. Much about the Egyptian military's role in the economy is unknown; its budget is secret, and its industries are unaudited and untaxed. Economic experts estimate that the military's holdings swelled to 20-30% of GDP in 2011 (World Bank, 2014). In 1997, a presidential decree awarded the army the right to manage all of Egypt's unused land. According to some estimates, this gives the military de facto control of 87% of the country's entire landmass (MEMRI, 2013).

The law governing public tenders and auctions of government entities, which dates back to 1998, exempts several key government entities, including the Ministry of Defense, the Ministry of State for Military Production, and the National Security Organization (World Bank, 2014). According to news reports, the military is increasingly being awarded major infrastructure contracts—for roads, bridges, tunnels and apartment blocks – worth billions of dollars. Yet bidding opportunities, contract awards, and technical or financial evaluations are not made public.

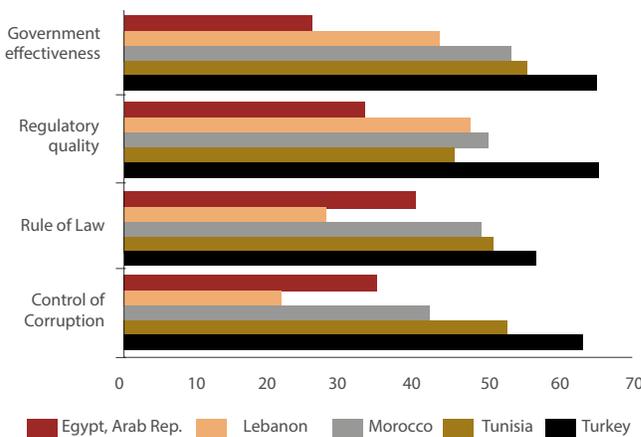
Suggested Question: Please provide updated information on any efforts to reform Egypt's procurement law. How will it ensure greater transparency?

SPENDING ON MEGAPROJECTS IS SIDELINING OTHER DEVELOPMENT PRIORITIES. Particular concern has been raised regarding the Suez Canal Corridor Development Project, an accelerated 12-month plan to develop an international industrial and logistics hub in the Suez Canal area. In August 2014 the government awarded the contract to a consortium that includes the military and the Saudi branch of global engineering firm Dar al-Handasah. Again, the rationale, feasibility and potential human rights impacts of the project have not been subject to open, public debate. There have been serious questions raised about economic feasibility and potential returns of the project (Aman, 2014).

Suggested Question: Has a human rights impact assessment of the Suez Canal project been conducted? If so, what were its findings?

THERE IS ENDEMIC CULTURE OF CORRUPTION IN EGYPT THAT HAMPERS CORPORATE TRANSPARENCY AND ACCOUNTABILITY. Though there is little reliable data on the exact scope and scale of corruption, most people perceive it as widespread and part of daily life. Egypt ranked 114 out of a total of 177 countries on Transparency International's 2013 Corruption Perception Index, with a score of 32 out of 100 (Transparency International, 2013). It performs similarly poorly on the World Bank's good governance indicators when compared to its neighbors.

World Governance Indicators: Percentile Rank (out of 100) 2013



Source: World Bank, 2013



Corruption presents a major challenge to human rights and corporate accountability in Egypt. Around 40% of small and medium enterprises surveyed in 2009 indicated that they have been obliged to offer illegal payments or gifts to obtain their business licenses. One third paid bribes during the course of their business operations. An overwhelming majority regarded such payments as something normal, 'something everybody does' (CIPE, 2009). Cracking down on corruption would level the playing field, to support the growth of small and medium enterprises in Egypt that is so urgently needed to stimulate job growth (World Bank, 2014).

Suggested Question: Please provide updated information with regard to the measures, legislative or otherwise, taken by the State party to combat the legacy of state-condoned corruption and to hold relevant actors accountable for their complicity in it.

IMPUNITY FOR CORRUPTION HAS BEEN CODIFIED IN LEGISLATION. Although Egypt has ratified relevant anti-corruption treaties, enacted laws and established anti-corruption bodies, according to a 2010 US State Department Report, these laws are not consistently and effectively implemented. The Worldwide Governance Indicators ranked Egypt in the bottom 30% of countries for its ability to control corruption in 2013 (World Bank, 2013). Worryingly, recent actions have further problematized anti-corruption efforts. Law 4/2012 authorizes the General Authority for Free Zones and Investment (GAFI) to settle cases of investment fraud, theft and corruption outside the criminal court, nullifying criminal procedures against investors (Hyde & Marroushi, 2012).

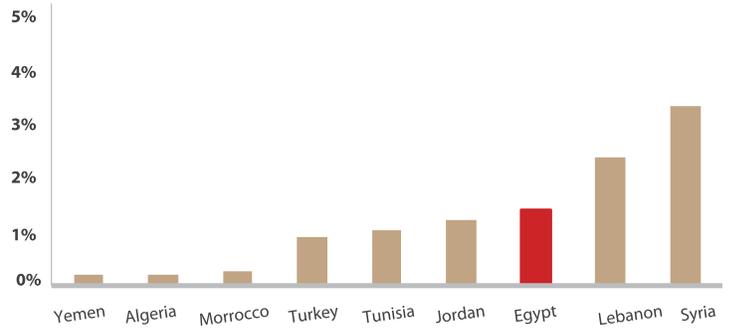
Recent amendments to Law 8/1997 on Investment Guarantees and Incentives prevent third parties from challenging contracts and deals between the state and investors and limit the right to litigate in such cases to the Minister of Investment, increasing impunity for corruption and theft of public funds (Ministry of Investment, 2013).

Suggested Question: What is the current status of Law 4/2012, which authorizes GAFI to settle fraud, theft and corruption cases outside of court?

EGYPT HAS NOT CURBED ILLICIT FINANCIAL FLOWS. Global Financial Integrity estimates that Egypt lost USD 57.3 billion to illicit financial flows between 2000 and 2009 (GFI, 2011). This includes the estimated USD 132 billion of stolen assets illegally transferred abroad during the Mubarak era. Yet, a significant proportion result from cross-border tax evasion by wealthy individuals and corporations. There do not appear to be any concrete, cooperative policies to end this corrosive phenomenon. Doing so would contribute significantly to reducing Egypt's budget deficit, assisting the country in meeting its obligation to dedicate maximum available resources to the realization of economic, social and cultural rights, as per Article 2(1) of the international Covenant.

Suggested Question: What efforts, if any, have been made to combat the trend of illicit financial flows?

Estimates of average annual illicit financial flows, % of GDP, selected countries, 2000-2009



Source: Own calculations based on estimates from Global Financial Integrity

RECOMMENDATIONS

Intensify efforts to fight corruption and ensure transparency in all economic sectors, with a view to preventing the diversion of public resources needed to fulfil human rights and bringing those responsible to justice.

Repeal Law 4/2012 and ensure the strict enforcement of anti-corruption laws.

Modernize the procurement law according to international best practices.

Enact legislation that promotes corporate social accountability and ensure the broad dissemination of the Guiding Principles on Business and Human Rights.

ABOUT THIS FACTSHEET SERIES

This Factsheet was prepared by the Egyptian Center for Economic and Social Rights (ECECSR) and the Center for Economic and Social Rights (CESR) in light of Egypt's appearance before the Human Rights Council's Universal Periodic Review in 2014. The 11 factsheets in this series accompany the joint submission on economic, social, and cultural rights in Egypt endorsed by 130 non-governmental organizations and labor unions.

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