

HUMAN RIGHTS CONDITIONS ON U.S. MILITARY AID TO EGYPT UNDER THE BIDEN ADMINISTRATION



MEDC
Middle East
Democracy Center

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By September 30, 2024, the Biden administration must determine if Egypt's government met the human rights benchmarks Congress attached to \$320 million of the \$1.3 billion in Fiscal Year (FY) 2023 Foreign Military Financing (FMF) for Egypt. For its first three years, the administration withheld a portion of the conditioned FMF, but for the last two years, members of Congress, unsatisfied by the administration's decisions, withheld even more of the conditioned aid. Congress also needs to decide if it will continue providing FMF to Egypt for FY25, how much, and what amount (if any) it will condition. MEDC's latest fact sheet provides an overview of the human rights conditions in U.S. military assistance to Egypt and what decisions the Biden administration and Congress have made since President Biden came to office.

The annual appropriations law gives the administration three options:

OPTION #1

certify progress on human rights conditions

release funds to Egypt's Federal Reserve account

OPTION #2

do not certify progress on human rights conditions

issue a national security waiver

release funds to Egypt's Federal Reserve account

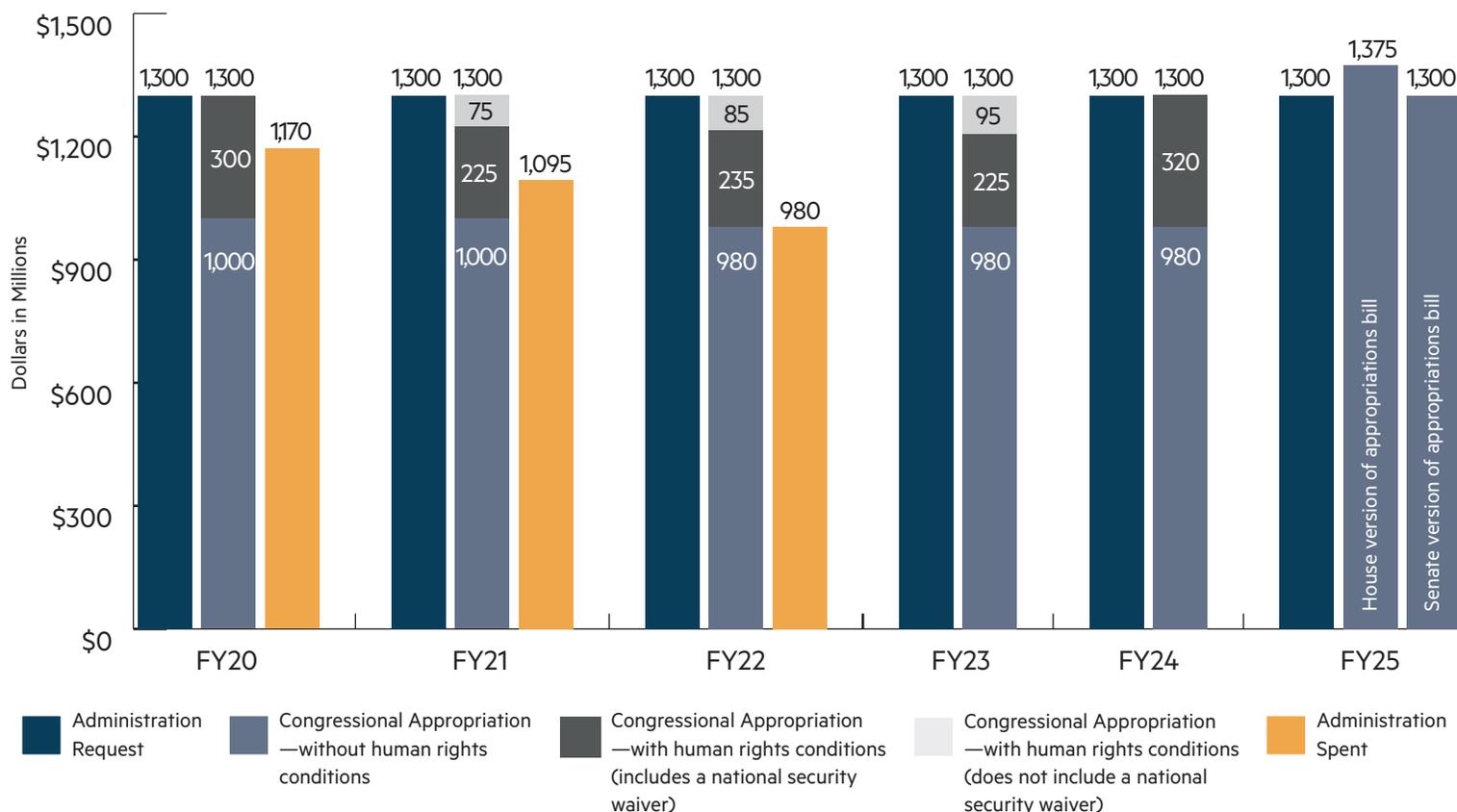
OPTION #3

do not certify progress on human rights conditions

withhold funds and either return to the Treasury or reprogram

From FY21 to FY23, Congress removed the national security waiver on a portion of the conditioned assistance, limiting the administration to Option 1 or Option 3 for these specific funds.

FOREIGN MILITARY FINANCING TO EGYPT, FY20-25



FMF APPROPRIATIONS FOR EGYPT, FY20-24

FY20

In September 2021, the State Department obligated the \$300 million in FY20 FMF conditioned on six human rights benchmarks. Instead of releasing all the money to Egypt's Federal Reserve account, it took the unusual step of placing a 4-month executive hold on \$130 million until the Government of Egypt **reportedly** addressed two human rights-related conditions:

Condition 1: Close the infamous 2013 NGO "Foreign Funding" case, also known as Case 173, which targeted Egyptian NGOs and their staff.

Condition 2: Drop charges against or release 16 Egyptians whose cases the Biden administration raised since June 2021.

In response to the Egyptian government's failure to meet the two conditions by the deadline, the Biden administration **reprogrammed** the \$130 million in January 2022 for climate resilience programs in the Pacific islands. In obligating the remaining \$170 million, the administration ignored all 3 options listed above and instead used a loophole in the law to bypass the national security waiver by claiming that the military aid supported counterterrorism, border security, and nonproliferation. Congress eliminated this loophole in the FY23 appropriation.

FY21

In September 2022, Secretary Blinken reprogrammed \$130 million of the \$300 million in FY21 FMF conditioned on human rights reforms. These funds were instead provided to Lebanon (\$30 million) and the Philippines (\$100 million). The secretary moved to obligate the remaining \$170 million, using Option 1 to release the \$75 million conditioned without a national security waiver on the release of political prisoners and the provision of due process to detainees. Retiring **Sen. Patrick Leahy**, the longtime leading Democrat on the Appropriations Committee, objected to the administration's decision for that \$75 million, since there had not been "clear and consistent" progress on the conditions. He blocked the \$75 million until it was eventually returned to the U.S. Treasury, resulting in the Egyptian military receiving only \$95 million of the \$300 million total.

FY22

In September 2023, Secretary Blinken moved to obligate \$235 million of the \$320 million in FY22 FMF conditioned on human rights reforms, using the national security waiver (Option 3 above) to bypass the conditions. Then, due to the Egyptian government's failure to make "clear and consistent progress in releasing political prisoners," he reprogrammed the remaining \$85 million in FMF that did not have a national security waiver. These funds were instead provided to Lebanon (\$30 million) and Taiwan (\$55 million). When a week later **Sen. Bob Menendez** was **indicted** on charges of bribery and being a foreign agent of the Egyptian government, members of Congress led by **Sen. Ben Cardin** and **Rep. Gregory Meeks** blocked the administration from obligating the \$235 million.

FY23

A decision on \$320 million in conditioned FMF (\$225 million with a waiver and \$95 million without) is required by September 30, 2024.

FY24

A decision on \$320 million in conditioned FMF is required by September 30, 2025.

FY23 HUMAN RIGHTS CONDITIONS ON FOREIGN MILITARY FINANCING TO EGYPT

WITH A NATIONAL SECURITY WAIVER (\$225M FOR FY23):

1. Strengthen the rule of law, democratic institutions, and human rights in Egypt, including to protect religious minorities and the rights of women, which are in addition to steps taken during the previous calendar year for such purposes.
2. Implement reforms that protect freedoms of expression, association, and peaceful assembly, including the ability of civil society organizations, human rights defenders, and the media to function without interference.
3. Hold Egyptian security forces accountable, including officers credibly alleged to have violated human rights.
4. Investigate and prosecute cases of extrajudicial killings and forced disappearances.
5. Provide regular access for U.S. officials to monitor such assistance in areas where the assistance is used.
6. Taking sustained and effective steps to provide American citizens with fair and commensurate compensation for injuries and losses caused by the Egyptian military.

WITHOUT A NATIONAL SECURITY WAIVER (\$95M FOR FY23):

7. The Government of Egypt is making clear and consistent progress in releasing political prisoners, providing detainees with due process of law, and preventing the intimidation and harassment of American citizens.