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Throwing Down the Gauntlet: What the IMF Can Do About Egypt's Military Companies

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Introduction

Until recently, both the International Monetary Fund (IMF) and the World Bank were wholly reticent to say anything about the involvement of the Egyptian Armed Forces (EAF) and other military agencies in Egypt's civilian economy. This is a longstanding problem. By turning a blind eye to the diversion of resources to the military sector and to the increasingly significant impacts on the economy and public finances, these international financial institutions (IFIs) have undermined the effectiveness of their own programs and allowed their resources to be invested in support of suboptimal policies by the Egyptian government. There is a question of propriety when international assistance allows distorted policy incentives to continue or even intensify and disregards the fact that much of the hype about global growth in the Egyptian economy obscures the very real constraints imposed on private sector development. It is high time to throw down the gauntlet: IFIs and their governmental sponsors should tackle the reality of military involvement systematically in their programs and policy recommendations, and they should confront the issue head on in their dealings with Egypt's authorities.

Reticence persists but is starting to dissipate. A report released by the World Bank in December 2020 noted that military agencies account for an appreciable proportion of all state-owned enterprises producing capital goods; consumer durables and apparel; materials; food, beverages, and tobacco; automobiles and components; retailing; media and entertainment; semiconductors and intelligent transportation system equipment; and technology hardware and equipment.¹ The IMF went further in a July 2021 review of its loan agreement with Egypt, in which it referred to the presence and role of Egyptian military companies for the first time ever.² Significantly, it included them explicitly in its assessment of state-owned

enterprises in general—many of which, the report noted, are “registering weak financial performance while some are benefiting from an uneven playing field”—and implied that military companies should come under the same broad reform policies that the IMF proposes for the public sector as a whole.

Now that the IMF, in particular, has broken its former silence, it should refine its approach so as to tackle the Egyptian military’s economic role in a more targeted and consistent manner—hence making its approach more effective and sustainable. This requires a mix of measures. The first set involves bringing military agencies and companies within the scope of recommendations proposed by the IMF for Egypt’s civilian public sector and state-owned enterprises as a whole. These first measures therefore engage with IMF recommendations and Egyptian government policy initiatives relating to broad questions of ownership, regulation, and financing strategy. The second set of measures tackles the specific aspects of the legal, regulatory, and judicial frameworks that enable the military’s activities in the civilian domain. Unless they are revised, these enabling frameworks will impede wider reforms, but the Egyptian government and IMF have, for the most part, neither reviewed nor addressed them to date.

Ownership, Regulation, and Financing Strategy

The general economic argument for revising the Egyptian military’s activities in the civilian domain is presented in my Carnegie paper, “Retain, Restructure, or Divest? Policy Options for Egypt’s Military Economy.”³ In summary, it focuses in particular on three critical questions: Are these activities efficient? (Do they generate net savings for the public purse?) Are they sustainable? (Do they offer superior business practices and methods that ensure growth and enhance productivity in the civilian economy?) And do they generate economic opportunity (for civilian actors) and add value? These questions underline the need for the IMF and its Egyptian counterparts to rethink and restructure the ownership, regulation, and financing strategy within which the military contributes to the economy, public finances, and trade.⁴

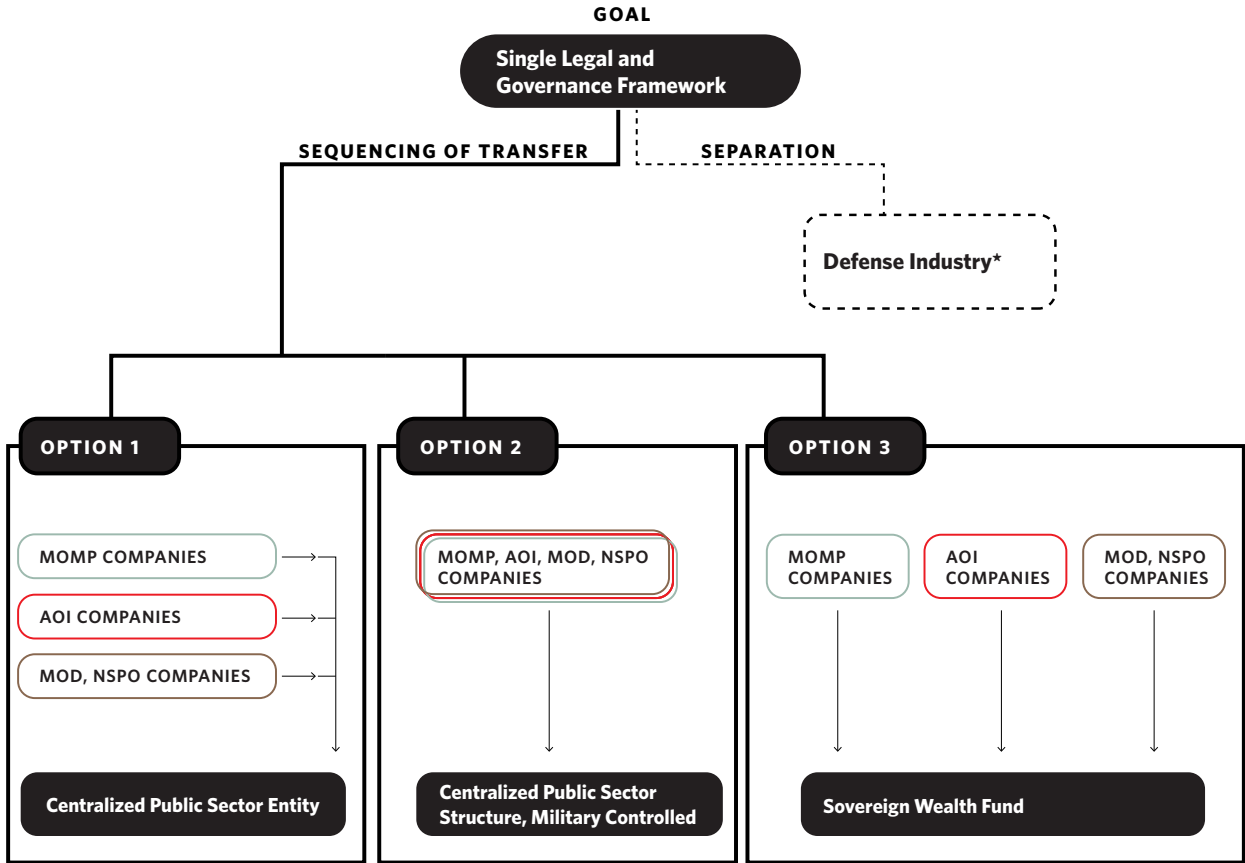
Ownership

Egyptian military companies come under three forms of ownership, as detailed in my “Owners of the Republic: An Anatomy of Egypt’s Military Economy.”⁵ Around twenty companies belong to the Ministry of Military Production (MOMP) and are registered as public business sector companies; another dozen or so belong to the Arab Organization for

Industrialization (AOI), which has an anomalous legal status as an international organization; and around forty come under the Ministry of Defense (MOD), mostly affiliated to its National Service Projects Organization (NSPO), which uses conscript labor. Only around one quarter of the total number of military companies manufacture any defense-related products, but all produce civilian goods and services (including contracting) and fulfill government procurement and public works contracts.

A first step toward improving efficiency and performance and rationalizing governance could be to move all military companies into a single holding structure. This converges broadly with the IMF’s call on Egypt in July 2021 to “centraliz[e] state ownership in a single entity,” which could be taken to encompass the transfer of military companies to the public business sector.⁶ It also corresponds with the Egyptian government’s push since 2018 to restructure loss-making public business sector companies through mergers, liquidation, and the sale of equity to private investors. (Although minor in volume, equity shares held by the MOD or other military agencies in other companies or funds should be transferred to the new holding structure; MOMP and AOI companies could retain their shares so long as this complies with all pertinent public business sector rules governing ownership of investment portfolios.)

Options for Consolidating Ownership of Military Companies



* Defense-related factories and production lines could be consolidated under the MOMP as part of the public business sector.

The transfer could be conducted in stages, starting with MOMP companies, which could be transferred to the Ministry of Public Business Sector, to be followed by AOI companies after modification of the AOI's legal registration. Converting NSPO companies from military to civilian entities would have posed a considerably greater challenge a few years ago, but President Abdel-Fattah el-Sisi has already approved the principle of selling equity in NSPO companies to private investors. So, crucial political validation is already assured and the legal foundation is well on its way to being clearly established.⁷ Furthermore, partial private ownership in military companies does not prevent them from being placed within a consolidated public sector entity, as this has been a mode of privatization in Egypt since 1991.

Finally, consolidating military-owned civilian ventures requires hiving off their defense-related production lines and activities. These should also be consolidated in a single, separate holding company that applies pertinent security protocols, given the sector's special nature, while ensuring that it adheres in all other respects to the same overall legal and governance framework as the public business sector. The National Authority for Military Production already serves this purpose for the MOMP; in this scenario, it would additionally acquire AOI defense production lines, bringing them fully in line with the rest of the public business sector (to which most MOMP subsidiaries already belong). The National Authority for Military Production could then better rationalize and streamline the activities of all its subsidiaries.

Regulation

Even if military companies are not brought under the single, government-controlled entity that the IMF recommends, they should have a single legal and governance framework. This should also extend specifically to their regulatory framework. Since the official line is that the military is just one of several state agencies with responsibility for implementing national development goals set by the presidency and government, there is no reason that it should not follow standard government procurement and inspection rules when setting project priorities and technical specifications, issuing tenders, evaluating bids, and conducting audits. The military claims to do this already, indeed more conscientiously than its civilian counterparts. But the crucial point is that its compliance must be verifiable by outside agencies, which in turn should have some form of public accountability. The military should also adhere fully to social insurance, health and safety, labor, and other legislation and regulations governing the public business sector, including compliance audits, in relation to the civilian activities that it undertakes or manages. All of this applies equally to public works projects managed by the EAF's Engineering Authority and other departments and to the (mostly) private sector subcontractors who carry out the actual work under military management.

Last but not least, in relation to their regulatory framework, military companies should comply with the IMF's call for expanded financial reporting to include all public sector companies and joint ventures with details of "fiscal revenues (taxes, dividends) and costs

(subsidies, equity injections, direct loans from budget, on-lending support and loan guarantees).”⁸ Action is also needed, as the U.S. Department of State’s 2021 Fiscal Transparency Report noted, to ensure that budget documents “include allocations to military state-owned enterprises” and to clarify “state-owned enterprise debt.”⁹ The portions of the budgets of military agencies relating to their activities in the civilian domain should be reported in a verifiable manner, show contributions from the state treasury, and be included in the general state budget or, at least, in the separate budget that Egypt maintains for its so-called general authorities that operate and finance public investments in various economic sectors. The approval of a unified public finances bill combining the general budget and government accounting laws in January 2022 provides a structure that could be readily extended to military agencies.¹⁰ Civilian agencies should, moreover, be in a position to undertake full economic costing and environmental audits of all civilian infrastructure and housing projects managed by the military, which amount to one quarter of total government-funded public works.¹¹

Additionally and crucially, net incomes from military production of civilian goods and services or military-managed public works should accrue to the state treasury—rather than to the discretionary “special” funds held by various military agencies, as is current practice—even if their end use is intended to be defense spending. At a minimum, any incomes withheld by military agencies or transferred back to them should be counted toward their defense budget allocations. Following the same logic of civilian control, financial transparency and accountability, and budgetary unity, commercial usufruct for projects delivered under military management—from highways to greenhouses—should be transferred to pertinent government agencies. Military management of publicly funded projects should not automatically grant the military a lease over them. Consolidating the ownership structure may facilitate the application of these measures.

Financing Strategy

A second route to restructuring ownership and governance of military companies is to bring them within the scope of the Sisi administration’s approach to consolidating and marketing state assets by increasing participation of the private sector. The IMF has called on the Egyptian government both to identify specific economic sectors in which state-owned companies or agencies can play a role and to exit other sectors completely. The government confirmed this approach in November 2021 by recommending a set of modalities for empowering the private sector that included designating principal economic sectors that the state will exit and others it will eventually sell once profitable.¹²

This approach should be applied to military companies too, albeit as a complement to consolidating ownership rather than a substitute for it. It need not entail wholesale privatization, although this may be a valid option for certain companies and activities. Furthermore, as economist Amr Adly argues, this approach will have a considerably greater impact if it encompasses government-funded infrastructure and facilities—where military agencies

are especially active—and not only the public business sector, whose companies produce tradable commodities specifically.¹³

There is more than one way to implement the preceding approach to financing. Another centerpiece of the Sisi administration's approach is to consolidate and market state assets by placing them under the control of Tharaa, Egypt's sovereign wealth fund, and in some cases through partial offerings on the Egyptian stock market (EGX). Sisi has promoted capitalizing military companies in this way since August 2018, giving this strategy necessary political endorsement. In February 2020, Tharaa and the MOD agreed to prepare ten NSPO companies for up to 100 percent private ownership.

Indeed, consolidation of military companies in a single entity, as proposed above, could also happen through Tharaa. However, the need to protect minority shareholders may be an argument in favor of floating military companies through the EGX, which has a relatively good record in this regard compared to other markets in the region. Legal and fiduciary hurdles that must be cleared—probably revolving around the need for financial disclosure, in particular—appear to have delayed flotation so far, but if an initial sale of shares in two NSPO companies by Tharaa takes place in 2022 as announced, that sale may provide a model that can be expanded.¹⁴ But for the model to be credible and scalable, the sovereign wealth fund needs to disclose its sources of funding and approach to withdrawals, again as the U.S. Department of State's 2021 Fiscal Transparency Report noted.¹⁵

Unless the preceding and other key reforms discussed in the next section are undertaken, Sisi's capitalization strategy may end up being little more than a means either for keeping problematic military companies afloat or for fueling their further encroachment into the civilian domain with injections of private funds. Restructuring military companies as a means of reducing running costs and waste and increasing income and benefits should not preclude bankruptcy and liquidation as an option. Clarifying the capitalization of military companies would also allow Egypt to apply IMF and World Bank recommendations for bankruptcy frameworks to "help prevent debt overhangs from weighing on investment for prolonged periods."¹⁶ The Sisi administration has already approved Law 185 of 2020, which requires the liquidation of public business sector companies if their losses exceed 50 percent of capital, so a clear benchmark has already been set.

At an absolute minimum, all military companies should undergo formal debt restructuring and renegotiation of their funding formula, so long as any part of their equity remains in public hands. Clear rules regarding privatization, whether full or partial, are additionally necessary in order to ensure that assets are not undervalued and sold to cronies at bargain basement prices. Military-managed public works projects do not fit this model, but they definitely lend themselves to application of the recently amended version of Law 67 of 2010, which enhances the ability of the private sector to partner with the public sector in all phases of government-funded works.¹⁷ They should therefore also be brought under the same general legal and regulatory framework for public-private partnerships.

Tackling the Enabling Frameworks of the Military Economy

The EAF's political preeminence and the continuing expansion of the military's involvement in a growing range of economic sectors necessitate tackling its special advantages in order to unlock gains across the economy—widening participation, generating sustainable growth, and increasing state revenue—while also enhancing the EAF's core mission of national defense. But without complementary amendments to the legal, regulatory, and judicial frameworks that enable military autonomy in the civilian economic domain, it will be harder to dislodge military resistance to reforms. Indeed, some of the more problematic patterns and impacts of the military economy may migrate to other state agencies and economic sectors if its reach continues to expand. A detailed review of the specific enabling frameworks that position military companies and economically active military agencies apart from their civilian counterparts is also needed to complement IMF recommendations for the public sector as a whole.

The Legal Framework

The obvious place to start is with the laws and regulations that enable the military's special economic privileges and financial exceptions, grant it commercial advantage, and shield its civilian activities from independent evaluation. A general goal is to ensure what the IMF calls “competitive neutrality”—a level playing field for private and public sector companies with regard to business laws, taxation and customs, access to finance and land, and the resort to direct award (noncompetitive) procurement contracts.¹⁸

Curtailing the Scope of Laws Actually or Nominally Pertaining to Defense

Mission Creep in Defense Laws

A first cluster of laws and regulations grants preferential treatment to military agencies in relation to their defense functions, which these agencies extend to encompass their activities in the civilian domain. These laws require revision to demarcate genuine national defense needs, while eliminating the discretionary powers that enable the military to act as a gatekeeper of public assets and resources (see table 1). Foremost of these are Prime Ministerial Decree 263 of 1956 and Law 204 of 1957, and their subsequent amendments, which exempt defense stores and armament contracts from civilian inspection and audit, taxes and customs, and standard financial regulations. Their interpretation has since expanded to include all activities from which the military derives an income in the civilian domain, denying the public purse its share of revenue and skewing the economics of military businesses. Subsequently, Law 11 of 1991 additionally exempted “commodities, tools, equipment, and

Table 1: Enabling Laws and Decrees Pertaining to Defense

| Law/Decree | Scope | Impact |
|--|---|--|
| Prime Ministerial Decree 263 of 1956 | Excludes defense stores from inspection by accounting agency and Ministry of Finance and Economy | Used to exclude all military agencies and assets from civilian monitoring and audit |
| Law 204 of 1957 and later amendments | Exempts arms contracts from taxes, fees, and financial regulations | Provides the basis for subsequent exemptions and exclusions |
| Law 147 of 1964 | Extends Law 204 of 1957 to include works and services contracts and the import and domestic supply of all equipment and machinery relating to those contracts | Applied in blanket form to exempt all military agencies and activities |
| Law 38 of 1977 | Requires tourism agencies to obtain MOD permission to operate in border areas | Represents first award of formal military control over access and use of state land |
| Law 143 of 1981 | Requires tourism agencies to obtain MOD permission to operate in all desert land | Expands formal military control over access and use of state land |
| Prime Ministerial Decree 933 of 1988 | Affects land reclamation and reconstruction areas | Requires civilian ministries to obtain MOD permission to operate in areas deemed of military importance |
| Law 7 of 1991 | Creates presidential power to designate desert lands as strategic and require general economic authorities to coordinate land use and zoning with the MOD | Expands formal military control over access and use of state land |
| Law 11 of 1991 | Establishes General Tax on Sales | Exempts the MOD and affiliated branches and agencies from sales tax |
| Law 5 of 1996 | Governs disposal of desert land | Empowers the president to set rules and procedures governing disposal of state land |
| Presidential Decree 152 of 2001 | Empowers president to designate strategic zones of military importance | Grants MOD power to block sale of land, designate it for military or commercial use, and set criteria for civilian construction or activity on, over, or under ground, roads, and shores near military zones |
| Presidential Decree 153 of 2001 | Establishes the National Center for Planning State Land Uses | Requires coordination of all state land use with the MOD |
| Law 17 of 2001 | Amends Law on General Tax on Sales | Extends exemptions to all EAF commands, agencies, and funds, and to the MOMP and AOI |
| Law 91 of 2005 | Regulates income tax | Renews the military exemption from customs duties |
| Prime Ministerial Decree 1769 of 2020 | Requires increasing efficiency of state spending and revenues | Assigns the MOMP to monitor imports of equipment by all government agencies |
| Law 165 of 2020 | Amends Law 55 of 1968 on Popular Defense Organizations | Assigns military advisers to provincial governors to monitor citizen services, project implementation, and economic, social, and cultural developmental goals |

Note: Later amendments to these laws are not shown.

services affected by this law and necessary for armament for defense and national security, along with raw materials and factors of production and parts involved in their manufacture” from property, sales (later converted to value-added), and other taxes.¹⁹ Law 17 of 2001 extended these exemptions to all EAF commands, agencies, and funds, and to the MOMP and AOI, while Law 91 of 2005 renewed exemptions from customs duties.

All these exemptions have been applied *de facto* to the military’s activities and assets in the civilian domain. In addition to giving military companies an edge in manufacturing, farming, fish farming, and other activities, they provide the general framework for the military’s insertion into Egypt’s external trade and domestic supply chains. Military agencies are heavily involved in the trade of livestock, meat, grain, and fodder from Sudan, for example, as well as importing cut-price products such as frozen poultry, all of which are sold in civilian markets. Military representatives also occupy an influential position in the central state committee that controls all medical procurement from abroad, while Prime Ministerial Decree 1769 of 2020 required all government bodies to verify with the MOMP (and the General Authority for Industrial Development) that domestic alternatives are not available before importing equipment. An amendment to Law 55 of 1968 on Popular Defense Organizations was introduced by Sisi in Law 165 of 2020, adding a new layer of military intervention in civilian affairs by assigning military advisers to the governors of the country’s twenty-seven provinces with the power to “contribute to periodical field follow-up of services provided to citizens, ongoing projects, and their rates of implementation . . . and coordinate with concerned parties in the province to undertake procedures necessary to attain the state’s developmental goals in the economic, social, and cultural spheres.”²⁰

More recently, an amendment in November 2021 to Article 80.a.4 of the military penal code made it a punishable offense “to collect questionnaires or statistics or conduct studies of any information or data relating to the armed forces or to their missions or to serving and retired personnel because of their functions without written consent from the Ministry of Defense.”²¹ The article’s sweeping scope may easily be used to block review of military businesses or military-managed public contracts—even, for example, review by IMF or World Bank country teams—impeding meaningful cost-benefit analysis leading to efficiency gains and guiding future investment. It should be revised to exclude the military’s businesses and civilian activities, if not repealed altogether.

Control of Land Use

Also within this first set are laws that refer to national security but award the military powers beyond defense. Most significant are those giving the military what the World Bank has called a “combined *de jure* and *de facto* hierarchy of control over public desert land,” through which it determines use of state land by any civilian entity, public or private, Egyptian or foreign.²² The key legal instruments are Law 143 of 1981 on “Desert Lands” and Presidential Decrees 152 and 153 of 2001, which empowered the MOD to designate “strategic zones of military importance” anywhere in so-called “desert lands” and required coordination of civilian use of any state land—comprising an estimated 95 percent of Egypt’s total surface area—with the MOD.²³ As desert lands are defined as all areas lying

outside municipal borders or registered private property—in a country where a large proportion of privately owned land remains unregistered and untitled—these laws grant the military pervasive leverage over a key economic asset.

The discretionary power of the military over land use is reinforced in additional laws. Law 38 of 1977 and Law 143 of 1981 required tourism agencies to obtain MOD permission in order to operate first in border areas, and then in all desert lands. Prime Ministerial Decree 933 of 1988, Law 7 of 1991, and Law 5 of 1996 required ministries and general economic authorities to obtain military permission to utilize state land outside municipal boundaries and granted the president additional power to delineate desert areas as strategic zones of military importance and to set rules and procedures governing the disposal of state land.

The Sisi administration has intensified its use of these powers to grant the military control—and, therefore, commercial usufruct—over significant assets with little or no connection with national security. These include almost all intercity and interregional highways (allowing the military to lease roadside services and billboard franchises), a swath of Red Sea islands and coastal areas (prime tourism real estate), and coastal lagoons and inland lakes (for fish farming). Sisi’s deployment of the EAF to remove what are allegedly illegal encroachments on state land along the highways and the Nile River also resulted in the award of formal control over thirty-six river islands in the heart of Cairo and other prime urban locations in January 2022.²⁴

Besides impeding access to land for both private investors and public entities, as the World Bank has repeatedly noted, the enormous leeway enjoyed by the MOD has imposed a burden on businesses and even on government ministries.²⁵ Civilian applicants for permission to use land are pressured to make “donations” to army funds in return for approval and often have to bribe granting officers and area commanders. Military control has also fueled real estate speculation through insider trading among officer networks and with well-connected civilian officials and private investors. Control of land use additionally generates perverse synergies with other state agencies that are heavily staffed by senior EAF retirees, most notably the New Urban Communities Authority, which partner with the military in speculative and rentier behavior. Government plans to modernize land and real estate registration thanks to a \$240 million loan from the World Bank should help curb abuses, but only if both sides monitor how the relevant mechanisms are staffed and ensure full transparency of processes and registries.²⁶

Curtailing Military Inclusions and Exceptions in Public Sector Laws

A second cluster of laws and decrees that enable military economic and commercial activity does not relate to defense at all (see table 2). Significantly, most enabling laws and decrees issued since Sisi came to office have been in this category, potentially making it easier either to reverse course altogether or to redirect it by specifying that military entities operating on the basis of these laws must do so under the same rules that apply to their civilian, public

sector counterparts. A first subset in this category applies to the civilian public sector as a whole but either includes the military in respects from which it should be excluded, or else exempts it from provisions that should include it. A second subset of laws and decrees empowers the commercialization and monetization of military activities and assets, while a third grants the military assured income streams from Egypt's natural resources, most notably its mineral wealth.

Public Procurement

Chief among the first subset of laws is the general framework for public procurement. The main legal instrument here is Law 182 of 2018, which allows government ministers and other officials to award public contracts for goods and services up to certain values on a no-bid, noncompetitive basis known as “direct award.”²⁷ The law extends similar powers to the MOD and MOMP, with the principal difference being that no thresholds are set for the value of contracts that military officials may issue by direct award. While in theory this power relates to defense needs, the military routinely uses it to award contracts in government-funded projects it manages and in other civilian contexts. Sisi assigned Egypt's most powerful audit agency, the Administrative Monitoring Authority (AMA), to team up with the EAF's Engineering Authority in reviewing tenders in construction projects starting in November 2015. This move improves oversight but neither eliminates the risk of corruption in the award of contracts nor encompasses all other areas of military-managed delivery of civilian goods and services.²⁸

The Egyptian government committed to producing a unified procurement law as part of its \$12 billion loan agreement with the IMF in 2016, but the IMF noted in July 2021 that the country's state-owned enterprises continued to “operate under multiple laws for incorporation and ownership, and different governance and procurement regulations.”²⁹ The formal role of the military in procurement has increased in the meantime: in addition to being assigned to vet imports of equipment by government bodies, the MOMP was appointed (along with the AOI) as the central procurement hub for the Haya Karima (Decent Life) program, a quasi-governmental agency involving twenty government ministries focused on rural areas.³⁰

The military's role in civilian procurement conflicts with the IMF's view that the “roles of regulator and market player should be separated to address potential conflicts of interest.”³¹ At a minimum, the provisions of Law 182 should be made to apply to the military only with respect to contracts involving actual defense goods and services; even then, they should be made subject to clearly stated MOD rules and procedures. A similar provision should also limit the blanket exception in Prime Ministerial Decree 1769 of 2020 that relieves “processes whose details should not be published for national security reasons” from adhering to government rules requiring disclosure of the details of tendering and technical and financial evaluation of terms and contracts, as this is the language used consistently to exempt the military's business and public works activities.³² A related issue is Egypt's continuing delay in amending its competition law with stronger anti-monopoly provisions, in fulfillment of its 2016 loan agreement with the IMF.³³

Commercialization and Monetization

A second subset of enabling laws and decrees, unrelated to defense, concerns the commercialization and monetization of military activities and assets. The military has been allowed for decades to derive income from providing commercial services to civilian customers at hotels, clubs, resorts, rest houses, parks, sports facilities, cinemas and theaters, and supermarkets belonging to thirty-eight branches and departments of the EAF and MOD. As with other military, income-generating activities, these are exempted from all taxes and from inventorying and valuation in accordance with periodically renewed decrees, most recently Decree 68 of 2015 issued by the minister of defense and military production.

Monetization has expanded exponentially since 2015, when Presidential Decree 127 permitted all military and other state agencies to establish their own commercial companies and joint ventures under the framework of public business sector legislation (subject to cabinet approval). The General Intelligence Directorate (GID), which draws heavily on the EAF for officers, was authorized to establish facility protection and money transfer companies; in February 2022, amendments approved by parliament to Law 100 of 1971 on the GID expanded the agency's power to establish companies of all kinds and to appoint its officers as heads or board members of these companies.³⁴ Presidential Decree 446 separately empowered the EAF's Land Projects Agency to utilize its real estate assets as equity in forming joint ventures with domestic and foreign companies. Previously, the latter agency had the mandate to dispose of land no longer needed by the armed forces and to use the resulting revenue to provide replacement facilities and to contribute to EAF pay, bonuses, allowances, and arms purchases. But the new decree sought to monetize its assets commercially.

Presidential Decree 127, in particular, potentially opens a Pandora's box of military agencies—besides the MOMP, MOD and NSPO, and EAF Land Projects Agency—establishing their own companies, although none have so far done so. Regardless of the decree's validity with regard to other state agencies, its scope should be amended to exclude the military entirely. Presidential Decree 446 should also be reviewed; deriving income from the rental or sale of military real estate and facilities is legitimate, but this should be conducted or supervised by the Ministry of Finance or another suitable government body. Such income should also be subject to evaluation and audit by the Central Accounting Organization and AMA in order to verify cost-benefit and financial integrity. Income should moreover accrue to the state treasury, with any amounts retained by the agency or the MOD being shown in the defense budget or set against it.

In all of the above instances, military agencies and facilities generating income from commercial activity should be subject to the same framework for financial reporting and accounting, tendering, and disposal (of assets and incomes) as civilian counterparts in the public business sector are. At a minimum, if Presidential Decree 127 is not amended, it

should require any new military companies that are established within its scope to submit fully to public sector company laws 159 of 1981, 97 of 1983, and 203 of 1991, upon which it is based. Exceptions to these laws granted to MOMP companies should moreover be reviewed. One example is the exemption given in the General Budget of the State for fiscal year 2016–2017 to the MOMP’s holding arm, the National Authority for Military Production, and its subsidiaries, from the 25 percent levy that Sisi has imposed on deferred surpluses taken from all other governmental service, economic, and national general authorities. A second example is Presidential Decree 244 of 2018, which designates the MOMP as an “entity of special nature” and exempts it from applying Articles 17 and 20 of the civil service law of 2015, which require competitive hiring to senior management posts.³⁵

Mineral Wealth

The third subset in this category is small but significant, as it enables military exploitation of Egypt’s considerable mineral wealth. Prime Ministerial Decree 1657 of 2015 issued implementation statutes for the revised Mineral Wealth Law 198 of 2014, which required all civilian actors to obtain MOD approval for the extraction of mineral wealth anywhere in Egypt and empowered the ministry to levy fees on all output at production sites. Military control is less monopolistic in other regards, but the stakes are still high. In 2016, the NSPO acquired control of Egypt’s sole black sands site, which is expected to produce 3 to 5 percent of the world’s total supply of titanium and zirconium. In 2019, the Egyptian Black Sand Company Agreement Law authorized the NSPO (along with the Nuclear Materials Authority) to explore, extract, and process black sand minerals and derivatives throughout Egypt, effectively granting a largely military-owned company a commercial monopoly.³⁶

Similarly, in 2018 the NSPO joined with other state-owned companies to form a marketing venture that aims to act as the “exclusive commercial agent” of all Egyptian phosphate producers.³⁷ The MOD also has a share of gold prospecting, which accounted for 5.64 percent of the country’s total exports in 2019, and has awarded the NSPO the right to control access to mineral-rich military zones in the southern border region of Shalateen and auction minerals extracted there. The NSPO has moreover built marble and granite processing factories that account for 36 percent of national capacity. In all these and other cases, such as fish farming, the Sisi administration has mostly built on existing legislation to expand the scale and scope of military commercial activity. So, the most-needed reforms relate to bringing the military activity under standard requirements for financial reporting and disposal of incomes.

Table 2: Enabling Laws and Decrees Not Pertaining to Defense

| Law/Decree | Scope | Impact |
|---|--|---|
| Presidential Decree 127 of 2015 | Licenses state agencies to establish public limited companies | Permits state agencies, including the military, to form commercial companies and joint ventures |
| Presidential Decree 446 of 2015 | Regulates disposal of land and real estate vacated by the armed forces | Permits the EAF Land Projects Agency to utilize its assets to form joint ventures |
| Ministerial Decree 68 of 2015 (issued by the Minister of Defense and (Military Production | Exempts armed forces units from tax on built-up plots | Exempts military facilities providing commercial services to civilian customers from all taxes, inventorying, and valuation |
| Prime Ministerial Decree 1196 of 2015 | Designates the AMA as an agency whose transactions require confidentiality for national security reasons | Shields the AMA from scrutiny and indirectly shields formal and informal military economic activities |
| Prime Ministerial Decree 1657 of 2015 (implementation statutes for revised Mineral Wealth (Law 198 of 2014 | Implementation statutes for the Mineral Wealth Law | Requires all civilian actors to obtain MOD approval for the extraction of mineral wealth anywhere in Egypt and empowers the ministry to levy fees on output |
| General Budget of the State for fiscal year 2016–2017 | Imposes 25 percent levy on deferred surpluses | Exempts the National Authority for Military Production and its subsidiaries from the levy |
| Law 207 of 2017 | Amends Law 54 of 1964 on the AMA | Effectively excludes the military from the jurisdiction of the AMA |
| Law 182 of 2018 | Regulates public contracts | Permits military agencies to award contracts on a no-bid, noncompetitive basis, with no thresholds for contract value |
| Presidential Decree 244 of 2018 | Designates the MOMP as an entity of special nature | Exempts the MOMP from the requirement to apply competitive hiring for senior managers |
| Prime Ministerial Decree 1769 of 2020 | Increases efficiency of state spending and revenues | Assigns the MOMP to vet imports of certain equipment by government bodies |
| Amendments to Law 100 of 1971 | Regulates the GID | Authorizes GID to form commercial companies and joint ventures and to appoint its active-duty officers to the companies' boards of directors |

Note: Any later amendments are not shown.

The Regulatory Framework

A special subset of public sector laws has been qualified to exempt military activity in the civilian domain from standards and obligations with regard to audits (see table 3). Thanks to its powers of judicial investigation and, uniquely, arrest, the AMA is the critical linchpin in an unwieldy and suboptimal collection of over a dozen official anticorruption watchdog agencies. Headed and extensively staffed by both active-duty and retired EAF officers since its creation

in 1958 by then president Gamal Abdel Nasser, the AMA has shielded the military from any meaningful audit or accountability since then. Its own operations were, moreover, given de jure protection from scrutiny by Prime Ministerial Decree 1196 of 2015, which designated it as an “authority whose transactions require confidentiality for national security reasons.”³⁸ The formerly de facto exclusion of the military from the AMA’s remit was formalized in Law 207 of 2017, which specifically limited its jurisdiction to civilian individuals and entities.

The AMA should be civilianized—partly in order to prevent a conflict of interest between the military as market actor and as investigator—and military activities in the civilian domain should be brought within its remit. This may be a tall order for international financial institutions such as the IMF to take on, but they could push for the entirety of the military production of goods and services to be brought formally within the jurisdiction of Egypt’s second-most-important audit agency, the Central Accounting Organization. This agency evaluates the performance and cost-effectiveness of public entities, but it was sidelined after its then (civilian) head Hesham Geneina claimed publicly in April 2014 that so-called sovereign agencies—a term used to indicate the military, police, intelligence agencies, judiciary, and prosecutors—had misappropriated some \$3 billion dollars in land deals.³⁹ And, while not related directly to the military, Sisi’s Presidential Decree 89 of 2015, which transferred the power to dismiss the heads of “all independent and monitoring authorities” to himself, further diminished the ability of state agencies to regulate the military’s businesses and finances.⁴⁰ Not surprisingly, the U.S. Department of State’s 2021 Fiscal Transparency Report concluded that “Egypt’s supreme audit institution did not meet international standards of independence.”⁴¹

Table 3. Enabling Laws and Decrees Pertaining to Public Audit

| Law/Decree | Scope | Impact |
|---|--|---|
| Prime Ministerial Decree 1196 of 2015 | Designates the AMA as an agency whose transactions require confidentiality for national security reasons | Shields the AMA from scrutiny and indirectly shields formal and informal military economic activities |
| Presidential Decree with Force of Law 89 of 2015 | Regulates the dismissal of heads of independent and audit agencies | Transfers the power to dismiss the heads of all independent and monitoring authorities to the president |
| Law 207 of 2017 | Amends Law 54 of 1964 on the AMA | Formalizes the exclusion of the military from the AMA’s jurisdiction by limiting this specifically to civilian individuals and entities |

Note: Any later amendments are not shown.

The Judicial Framework

The blanket legal exclusion of all military personnel and agencies—including companies—from the jurisdiction of civilian laws and courts means that all their economic and commercial activities take place in a legal gray zone. The military penal code tackles financial impropriety by EAF personnel but does not cover military contracting and commerce or other business activity in the civilian domain.⁴² Private firms, whether Egyptian or foreign, therefore rely heavily on political connections for security and enforcement of contracts. Paradoxically, eight years after launching the Suez Canal Economic Zone—an area of special interest to the military that is often described as the engine of economic growth and industrial output for Egypt—the military has still not permitted resolution of internal debates about the suitable legal and regulatory frameworks for private investment and partnership in the zone. The fact that this undermines Sisi’s exhortations to the private sector to invest in massive state-led projects (including in the Sinai Peninsula, another area of special military economic interest) suggests an opening for the IMF and reformers to lobby the president to resolve the issue of jurisdiction.

Until then, military immunity severely disadvantages even the largest domestic companies and major multinationals when negotiating contracts, seeking payment of arrears, or posing third-party challenges. It also leaves them vulnerable to various pressures, including delays that can last years and even decades in the award of licenses to use state land; withholding of customs clearance or other bureaucratic permits; prohibition of hiring labor other than from military-approved brokers; and the threat of initiating investigation by the AMA. This discourages private investors, who have no legal recourse or hope of winning a case against the military, from entering into contracts with military agencies or business partners. It moreover leaves foreign companies dependent on the goodwill of military counterparts or on high-level political connections, deterring them from investing in Egypt and prompting others to leave the country or file for arbitration.⁴³

Redressing the issue of jurisdiction is essential for economic growth. Subjecting all business contracts and disputes involving the military to the jurisdiction of civilian courts, by presidential or cabinet fiat, is one possible stopgap measure. Failing that, special legal provisions covering these needs should be issued. The military penal code could also be amended to clarify the conditions under which EAF personnel may be tried in civilian courts in relation to business activities and financial dealings in the civilian domain. The authority of military prosecutors in accordance with the Decree with the Force of Law 45 of 2011, which amends the Military Justice Law 25 of 1966 to determine whether accusations against EAF officers should be referred to military courts or civilian agencies, could be made statutory rather than discretionary in relation to dealings in the civilian domain. The decree should moreover be revised to exclude EAF retirees from its remit and to apply to EAF personnel still in service.

Conclusion: A Multi-Pronged Strategy

However remote the prospect, any public body seeking to bring about substantive changes in Egypt's military economy—whether the IMF and other international institutions, the Egyptian government, or even Sisi himself—will have to work on several fronts and at a different pace in each one. But for any meaningful and lasting progress to be made, the strategic goal must be clear. Dismantling the military economy is not within the realm of the possible for the foreseeable future: the Egyptian authorities will not seek it, and the IMF and other international partners cannot. But working to rationalize the military economy's financial and economic model in line with the IMF's broader recommendations for Egypt might slow its expansionary trend enough to alter its dynamics and deflect its current trajectory.

The core of such a strategy lies in both unambiguously demarcating the military's assets and activities in the civilian domain from its defense functions, and aligning rules and regulations for the former with those of the civilian public sector—and, where relevant, those governing private sector participation in the market. Principal routes to this end include pushing more vigorously for:

- competitive neutrality (especially through the IMF's push for a unified procurement law and an amended competition law with anti-monopoly provisions and by revising military control of state land use),
- budgetary unity (such as transferring military business profits and fee incomes to the state treasury before reallocating supplementary amounts to the defense budget and bringing off-budget funds under a national Treasury Single Account), and
- the strengthened enforceability of contracts (including resolving the ambiguity of the legal framework governing military-civilian business partnerships and moving dispute resolution to civilian courts).

There is a real risk of trying to change everything in Egypt in order to change anything. This is partly why the Sisi era is so radically different from all its predecessors, whether for good or bad. In the president's striving to change how government business is done, for example, he has placed a widening range of newly created state development funds and programs outside the purview of normal government rules and regulations and assigned himself the unchecked power to reassign state assets so as to circumvent cumbersome state bureaucracy entirely. The military is his chosen vehicle to spearhead much of this approach, in part precisely because it already enjoys this kind of leeway. This presents the IMF not only with new obstacles, but also with opportunities: The obstacles come because the thrust of Sisi's strategy and the military's vested interests is to remove or circumvent, rather than reform, the public sector laws that are the focus of key IMF recommendations. The opportunities are related to the Sisi administration's need for the IMF's stamp of approval to unlock

borrowing from international capital markets, which gives the fund some leverage in light of Egypt's growing financial vulnerability.

Of course, politics trumps all. The IMF cannot swim against the tide if principal foreign allies and partners of the Sisi administration—in the Gulf, the U.S. administration, and the European Commission in particular—do not bring their own influence to bear in support. Khalid Ikram, a former senior economist and director of the World Bank's Egypt department, has described how behind-the-scenes interventions by the U.S. administration repeatedly stymied efforts by the World Bank and the IMF to hold successive Egyptian governments to various reform commitments since the late 1970s.⁴⁴ The fact that Egypt was the IMF's second-largest borrower worldwide in 2020 only underlines the political importance attached by the U.S. administration, in particular, to keeping capital flowing to it.⁴⁵

The IMF should play its cards more assertively, nonetheless. Given that its funds come from the taxpayers of its member countries, it has a duty to treat official Egyptian data less uncritically. This is especially true following the concerns about the soundness and appropriateness of IMF assessments generated by the 2017 World Bank data rigging scandal and the politically motivated softening of IMF warnings of environmental risks in Brazil in 2021.⁴⁶ The war in Ukraine has highlighted the precariousness of Egypt's financial position, making determined action by the IMF in support of its own recommendations imperative.

The IMF and other international agencies and Western governments invested in Egypt's economic success should also seek to match their own rhetoric on responsible investment, transparency, and best practices. Researcher Xue Gong has showed that Chinese firms that had invested in Myanmar under military rule prior to the country's democratic opening in 2011 subsequently adopted the "Equator Principles, which promote socially and environmentally responsible investments," and began "voluntary reporting . . . to the Extractive Industries Transparency Initiative, a global standard that promotes best practices and transparency in hydrocarbons extraction operations."⁴⁷ It is ironic that these Chinese firms have set a bar not met by liberal financial institutions in Egypt.

The IMF is the only international body that both looks at the structural issues of Egypt's economy and has the leverage to push for change. But it has failed to use this capability to sufficient effect. In its current mode, the Egyptian military economy is a drag, constraining both social spending and private sector development, distorting markets, and reducing resources such as capital. The government's heavy-handed policy of favoring the military sector through the distortion of market incentives, combined with this sector's various exemptions from general laws, rules, and regulations, hinders private sector development and constrains the fiscal space necessary for adequate spending on education, health, social protection, and core infrastructure spending. Until this changes, other IMF program goals—the creation of a level economic playing field in Egypt, reducing unemployment, and raising longer-term economic growth through sustainable policies—remain unrealistic.

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