

EU funding for the Egyptian Coast Guard

(Strengthening a Partnership That Violates Human Rights)





Ambiguous and worrying funds

Last June, the EU decided that the Egyptian Coast Guard would receive €80 million from the European Commission to suppress irregular migration from Egypt towards European borders, directly by sea or indirectly by first crossing Libyan territory. Yet there are many concerns of involvement in, or contributing to the widespread human rights violations Egypt is mired in, which include extrajudicial killings, systematic torture, enforced disappearances, indefinite arbitrary detention and the targeting of human rights defenders and civil society.

According to the European Commission (EC), on June 15, 2022, Egyptian nationals are now the top nationality of people arriving irregularly in Italy, up from fourth place last year, according to an EU internal paper seen by the Belgian newspaper EU Observer. [1]

The paper says that the EC funds will be paid in two phases: 23 million Euros will be delivered this year for "maritime border control equipment", followed by the delivery of 57 million Euros in 2023 "to identify more equipment".

The funding decision was issued following an interview conducted by the European Commissioner for Neighborhood and Enlargement Policy Oliver Varhelyi with President Abdul Fattah al-Sisi on June 1, 2022, to discuss the challenges Egypt is facing due to the war in Ukraine. "Honoured to meet President Al Sisi in Cairo. Addressed food & energy security issues and our further cooperation on migration." Varhelyi said in a tweet after the meeting, adding that the "EU-Egypt partnership is key for stability & security of Europe & Middle East-North Africa region."

European Union Commissioner for Home Affairs Ylva Johansson, had previously met with the Egyptian Foreign Minister, Sameh Shoukry in November 2021 to discuss "regional migration patterns," and then stated that the "EU is ready to deepen cooperation, with financial support, on migration in all its aspects", and emphasized, "Egypt is a key partner for the EU." [2]



EU Commissioner for Enlargement and Neighborhood Policy Oliver Varhelyi meets with President Abdul Fattah al-Sisi in Cairo June 1, 2022.



Although the European Parliament and international, regional and Egyptian human rights organizations have repeatedly expressed concerns about the poor human rights situation in Egypt, the EU decided to provide generous funding to the Egyptian authorities - in particular the Coast Guard - to protect their borders without details of the equipment or support to be provided, or how such equipment will be used.

Most worryingly, the funds will be paid without specifying clear indicators to ensure accountability for potential human rights violations. And without reviewing the impact and results of cooperation agreements in the field of "strengthening border management" with Egypt in past years should also have been carried out, especially with regard to the implications for the human rights situation in Egypt in general, and in particular, the rights of refugees, asylum seekers, and irregular Egyptians migrants trying to exit the country.

The European Commission has indicated that the funds are part of a development plan to support border management (search and rescue and border control at land and sea borders) in close coordination with the Egyptian authorities. The EC has commented, "the EU is ready to support Egypt in maintaining its ability to prevent irregular migration by sea. It also wants to increase control over Egypt's borders with Libya and Sudan."

The ambiguity surrounding the funding plan and Egypt's record of human rights abuses raise fears that funds and equipment could be used to violate the rights of migrants and refugees at land and sea borders, or used to suppress dissenting voices.

On August 24, 2022, Commissioner Oliver Varhelyi, on behalf of the European Commission, answered questions regarding the "EU funding for the Egyptian coast guard", written by two MEPs, Erik Marquardt and Tineke Strik, that "An ex ante risk assessment will be conducted and monitoring will take place throughout the action to ensure that it does not pose any threats to the respect of international human rights standards and the protection of refugees and migrants." But so far, the outcome of this risk assessment has not been announced, nor has the nature or degree of independence of the envisaged monitoring mechanism been clarified, to ensure that human rights standards are not being violated throughout the process.

Only one month after Mr. Varhelyi answered, the Egyptian Coast Guard participated in a forced return operation of migrants in cooperation with the Maltese authorities, after which 23 migrants were arrested immediately upon their return and illegally detained in one of the naval military bases in the Egyptian city of Port Said and denying asylum seekers access to asylum procedures while withholding information from detainees' families and the public. [3]

In 2017, the EC allocated €60 million from the EU Trust Fund for Africa (EUTF for Africa) to Egypt to enhance the country's migration management, address the root causes of irregular migration and to support Egyptian communities hosting migrants and refugees.

Then, on January 31, 2022, the EU Commissioner Oliver Varhelyi noted that: "At the October 2021 EU-Egypt Migration Dialogue, both parties stressed the importance of their cooperation on migration. The EU will keep supporting Egypt in this context, notably through sustained engagement with the Egyptian authorities during the period of 2021-2027."

According to Varhelyi's written statements, the EU supports Egypt's efforts in "strengthening migration governance, enhancing border management, countering trafficking of human beings and smuggling of migrants, improving protection of migrants' rights, supporting host communities and migrants on the ground, and addressing the root causes of irregular migration." [4]



Although, in fact, EU funds and support have contributed to tightening restrictions on irregular immigration in Egypt, using law No. 82 of 2016 on the so-called "Combating-Illegal Migration and Smuggling of Migrants", the law, which, among other things, criminalizes aiding irregular migrants and conflicts with other laws that lead to a violation of the rights of migrants and asylum seekers who are arbitrarily arrested and detained in inhumane conditions; many of them are forcibly deported without being able to submit an asylum request, according to documentation by international human rights organizations and RPE. Also, the absence of EU criticism of violations encouraged the Egyptian authorities to continue committing human rights violations at the borders or inside the country, and with the continuation of direct and announced political support and funds for the Egyptian authorities and its security bodies that systematically repress Egyptians. [5]

EU cooperates with authoritarian regimes to suppress migration movements

The European Commission paper also demanded "urgent cooperation between Egypt, Libya, and others "in light of a dramatic increase of irregular arrivals of Egyptian nationals to the EU (Italy)."

The decision to fund the Egyptian Coast Guard and the EU's demands for cooperation between Egyptian and Libyan authorities at sea is part of the costly European border externalisation plan that causes migrants' lives to be lost at sea and pushes them back to Libya's brutal prisons, where they face torture, forced labour and ill-treatment, among other violations. In the past years, the EU has gradually concluded agreements and provided funding to the governments of North African countries, including Egypt, Libya and Tunisia, to prevent their citizens and asylum seekers from crossing the Mediterranean towards its shores.

It is worth noting that cooperation between Libya and Egypt on land borders already exists, as large numbers of irregular migrants are forcibly returned, including unaccompanied minors, from Libya to Egypt through the land border crossings between the two countries. In September 2022 alone, Libyan authorities deported more than 700 Egyptian youths - including minors - from Libya, after they were intercepted at sea and returned to Libya, or after they were found detained in smugglers' warehouses. [6]

But strengthening this cooperation at sea between the so-called "Libyan Coast Guard" and the Egyptian Coast Guard will open the door to wider violations in the Mediterranean, given that they both have a notoriously poor record regarding the rights of migrants and refugees at sea. In addition to militarization and extension of European borders within the Mediterranean, this cooperation will increase the loss of hundreds of migrants' lives at sea.

On the Libyan side, with whom the EU requests Egypt's cooperation to stop the migration movement towards Europe, the situation is worse than in Egypt, both at sea and on land. With financial support and equipment, the EU has enabled the establishment of a system that captures migrants before they reach Europe's shores, and sends them to brutal Libyan detention centers run by Libyan militias. The so-called "Libyan Coast Guard" is consistently accused of horrific violations of migrants' rights and acts that amount to crimes against humanity, including unlawful mass arrests on land and at sea, indiscriminate shootings of detained migrants, and human trafficking, with complete impunity. [7]

The instability and insecurity in Libya in the years that followed the fall of Gaddafi led to the movement of many migrants and refugees toward Egypt, which became a departure point for large numbers across the Mediterranean to the shores of Europe. At the beginning of 2015 EU governments realized the importance of Egypt as a point of origin, departure and



transit for irregular migrants. The 28 EU governments in 2015 called for deeper and closer cooperation with Libya's neighbors, such as Egypt, Tunisia, and Niger.

Therefore, Egypt got EU funding for "addressing the root causes of irregular migration and enhancing border management", and, in fact, it was clear that the funding was being used to prevent migrants from reaching the shores of Europe, closing migration routes to it and an extension to EU borders in Africa.

Egypt enacted law No. 82 of 2016 on the so-called "Combating—Illegal Migration and Smuggling of Migrants" and a committee called the "National Coordinating Committee to Prevent and Combat Illegal Migration and Human Trafficking" to lead the drafting and activation of the law with the EU funds and the support of the International Organization for Migration, IOM. [8]

Law 82 of 2016 aims to punish smugglers of migrants and workers in smuggling networks, but most importantly, one of its articles stipulated that it does not criminalize irregular migrants - which prompted Europeans to praise the law at the time. But contrary to the provisions of the law, thousands of irregular migrants who tried to enter were repeatedly arrested based on their irregular residence in Egypt or their irregular attempt to enter or exit the country, which is criminalized in other laws and decisions.

Egypt has tightened its grip on land and sea borders since the deepening of the European partnership from 2016 to the present. In meetings with their European peers, the President of Egypt and government officials also boasted about preventing migrants and asylum seekers from heading to European shores via Egypt. The Europeans praised Egypt's efforts to keep migrants and nationals inside Egypt and prevent them from attempting the crossing, and stressed that Egypt is an important strategic partner. But there has been a permanent problem with this partnership, due to Egypt's notoriously bad human rights record, including with respect to violations of the rights of migrants and refugees.

After years of continuous partnership, and in a February 2022 meeting of Egyptian Foreign Minister Sameh Shoukry and German Foreign Minister Annalena Baerbock in Egypt, the German minister told her Egyptian counterpart, human rights criteria will play a role in her government's decision to sell arms to allies, including Egypt.

Egyptian Minister Shoukry used the issue of immigration to respond to the criticism about human rights and said, "Egypt does not build its international relations based on conditionality, but on the basis of non-interference in internal affairs within the framework of the United Nations Charter and international norms." He added that Egypt's resort to Germany to obtain arms was to protect its national security and borders, and Egypt has not carried out any act of aggression. He added, "What the naval forces have done in impeding any kind of illegal immigration since September 2016 to Europe, I think, is one of the matters of interest to our partners in Europe." [9]

The meeting and the statements made by the ministers are an example of the type and form of the relationship between Egypt and EU member state governments. In other words, Egypt will prevent people from reaching the shores of Europe and it is not up to you how we do it, and what we do regarding human rights.

Continuing to build a European fortress and closing all borders in front of people on the move from the global South, in 2019, the EU halted the naval force and search-and-rescue activities that had rescued thousands of refugees and migrants from the central Mediterranean.



To fill the gap left by the EU's withdrawal from the search and rescue zone in the world's deadliest route for migrants, civilian actors and humanitarian NGOs stepped in. Not only did EU member states stop rescue operations, but several of them also enacted laws criminalizing the work of migrant rescue organizations and ships at sea and obligating them to cooperate with the so-called Libyan Coast Guard, which returns migrants to detention centers or faces legal consequences. [10]

In sum, European Union policies have failed to provide search and rescue capacity for migrants and refugees at sea, and even deliberately criminalize and stop others' attempts to save lives. This has increased the average death rate and created a deadly environment at sea and on land, and migrants and refugees are trapped in a man-made hell.

Egypt's successive failures in search and rescue operations and in providing the necessary protection to migrants and refugees, both at the borders and within the country

On the maritime border: On 21 September 2016, a boat capsized off the coast of the city of Rashid, within Egyptian waters in the Mediterranean, carrying approximately 600 irregular migrants and refugees of different nationalities, most of them children, according to official statements by the Ministry of Health and the Egyptian authorities on 27 September 2016. Rashid residents, who had been out on the Mediterranean coast for days, said they had recovered more than 300 drowned bodies.

According to testimonies and television interviews with survivors and locals, and visual and audio evidence, Egyptian border guards colluded with smugglers and were reluctant to rescue the victims from the boat that was sinking before their eyes. In fact, at that time the coast guard forces prevented local people from taking their own boats from Burj Rashid and Burj Moghaizel to the boat's location to try to rescue the migrants, who were issuing many distress calls. Despite the existence of all this evidence, the Egyptian authorities have not re-investigated the shipwreck and failure to carry out rescue operations, and the real culprits have not yet been held accountable. [11]

This tragedy is not the only example of Egyptian authorities' failure to protect the rights of migrants in the Mediterranean. On September 6, 2014, an irregular migration boat was carrying dozens of migrants including Syrians, Egyptians, Africans and 200 Palestinians -most of them from the Gaza Strip- including whole families, children and women. A few days later, the Egyptian and Italian authorities announced the sinking of the ship. Over the past years, dozens of survivors of enforced disappearance in Egypt have contacted the families of the ship's victims to tell them about meeting their sons, giving them accurate descriptions of them, and narrating discussions with them in secret detention facilities where they were being held. There have been many accounts of the fate of the ship's passengers and their whereabouts, but there are many indications that they are still alive and forcibly disappeared in Egypt.

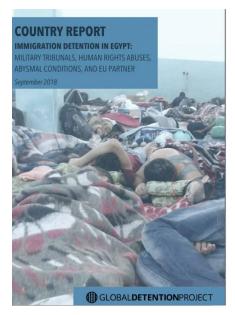
The NGO ECRF, the Egyptian Commission for Rights and Freedoms, issued a fact-finding report on the "sinking of the September 6, 2014 boat", a year after all those on board were declared missing. The report included testimonies of the survivors about the circumstances of the boat journey and the shipwreck, in addition to the measures taken by the families of the missing Egyptians, and the testimonies confirmed that some of the missing were still alive. The report concluded that there are clues and evidence indicating that Italy carried out an unannounced mass deportation of migrants and refugees from the September 6 boat after rescuing them, returning them to Egypt in a way that concealed their fate.



Other testimonies documented by the Refugees Platform in Egypt (RPE), from families of missing people, indicate that their relatives were arrested on land, not from the sea, from their places of residence before they boarded the boat; the families were initially informed that their relatives were being detained and would be deported to their residency security directorates, but none of them ever reappeared and the families were never informed of the fate of their missing relatives. No official information has been released on the place and conditions of their detention, which suggests that it is likely that those who disappeared on September 6, 2014, were not all arrested in the same place at the same time and under the same circumstances.

In September 2018, the Global Detention Project published a report about the conditions of irregular migrants in Egyptian prisons. On the cover was a picture of a young man from the missing ship that sank on September 6, 2014, named Mohamed Rantissi. [12]

On September 27, 2020, 11 residents of the Gaza Strip who were being held in Egyptian prisons, were released, including Mrs Fathia Al-Bobo, who was among the missing from "the 6/9 boat", which makes it seem more likely that the missing are really being held in Egypt in unknown places, and the Egyptian government still has not clarified their fate to date.



In addition, in March 2022, the Egyptian Parliament approved an amendment to Law 82 of 2016 on combating irregular migration and increasing penalties for smugglers and those involved in smuggling migrants, as well as those who provide services or assistance to smuggled migrants. At the time, many parliamentarians and civil society organizations, including Refugees Platform in Egypt, had called on Parliament to rather research the problems and factors that drive young people to irregular migration, in order to address those causes before increasing the penalties for breaking the law; they were not heeded. RPE also reminded Parliament, at the time, of Egypt's obligation to provide support and assistance to victims and protect them, to stop detaining migrants irregularly, and to enable asylum seekers to access asylum procedures in the country and address the contradiction of laws that lead to this happening

At the land border: Irregular migrants are arrested by Egyptian border guards in undisclosed and vague incidents, then arbitrarily detained in inhumane conditions; asylum seekers are prevented from registering asylum claims. Egyptian army data indicate that more than 80,000 irregular migrants were arrested due to irregular entry or exit from 2016 until late April 2021. There is no published detailed information about what happened to the people who were stopped: whether any of them died, how many were deported, how many are in detention, what are the procedures followed when arresting people or in case of imprisonment or deportation, and what are the conditions of detention or deportation procedures? [13]

On November 21, 2021, the investigative website Disclose published leaked documents proving the French government's involvement in carrying out a secret military operation called "Sirli" in the Egyptian Western Desert in cooperation with the Egyptian government. The leaked documents shows that Operation Sirli was supposed to be for counter-terrorism



purposes and the French intelligence personnel involved have submitted several reports complaining that these objectives were in fact of lower priority for Egyptian partners, than targeting smuggling and irregular migration. According to secret defense documents leaked by the French Military Intelligence Directorate in 2021, the Egyptian forces changed their original mission so that hundreds of vehicles were targeted with airstrikes that caused countless deaths and injuries.

In July 2020, the Egyptian presidential office announced that over the past seven years, "10,000 vehicles filled with terrorists and smugglers were destroyed", and "40,000 people were killed", without any form of trial. Among those killed thanks to the information gathered through Operation Sirli were Egyptian engineer Ahmed El-Feki and two other workers, who were killed in an air strike in July 2017, after a French reconnaissance plane identified them in a desert area. [14]

The Refugees Platform in Egypt submitted a report to Felipe Gonzalez Morales, the UN Special Rapporteur on the human rights of migrants, in February 2022 on trends in human rights violations at Egypt's borders, as well as prevention and accountability. The report found that the measures and decisions taken to regulate the status of asylum seekers and refugees in Egypt often conflict with local policies, due to the absence of national legislation regulating asylum status, which puts refugees at greater risk of rights violations. [15]

For example, although law No. 82 of 2016 regarding combating irregular migration in Egypt, amended on April 13, 2022 by a presidential decree, stipulates that smuggled migrants are not criminalized, the Egyptian authorities effectively still apply Presidential Decree no. 444 of 2014 which defines the areas adjacent to Egypt's borders as military zones. Since the inception of this decree, amended by Presidential Decree no. 420 of 2021 and resolution 444, all this has resulted in the arrest of thousands of civilians of different nationalities and their trial before (exceptional) military courts, in violation of constitutional principles.



A map attached to Presidential Decree No. 420 of 2021 defines the areas adjacent to the borders of the Arab Republic of Egypt and the rules governing them. The shaded border areas on the map are considered prohibited according to the decision. That is, it is prohibited to enter them, and civilians are punishable for merely being in those areas. Published in the Official Gazette - Issue 38, continued (B) on September 23, 2021.

In addition, during the last quarter of 2021 and 2022, Egyptian authorities deported more than 70 asylum-seekers to Eritrea despite warnings from the rights experts of the UN Human Rights Council. Dozens of Eritreans, including women and children, continue to be detained in very poor conditions and are still threatened with deportation. [16]



Inside the country: The 2021 annual report of the US Department of State on the state of human rights in the world revealed alarming cases of continuing violations against refugees and migrants in Egypt, the lack of protection available to them, as well as the most prominent obstacles they face in accessing employment and basic services such as health care and education. The report referred to the ill-treatment and discrimination refugees are facing, especially Sudanese and other sub-Saharan African nationals, and warned of sexual assaults and harassment against refugee women and girls, especially Sudanese women and other sub-Saharan Africans, as well as the lack of protection or access to justice for them.

In 2021 and 2022, RPE documented the arrest by Egyptian authorities of hundreds of people from different governorates in the country, on charges of facilitating "irregular migration". Documentation of testimonies of the detainees' families indicates that their relatives have been detained despite their lack of involvement in any smuggling of migrants and the absence of any evidence in their case records. The documentation also retraces how after the Public Prosecutor ordered their release, the security services refused to implement the decision, and instead, arbitrarily detained them and then brought similar charges against them again in new cases, in the same governorate or other governorates in Egypt. Current and former detainees also reported that they have been subjected to enforced disappearance and torture after their arrest. [17]

In February 2022, RPE published 15 documented testimonies from Sudanese refugees residing in Cairo stating that they had been kidnapped by security forces and forced to work in a warehouse, the exact location of which they do not know. Then they were left in the desert and were forced to work under beatings and threats. Human Rights Watch confirmed the same facts in March 2022: "The Egyptian police arbitrarily arrested at least 30 Sudanese refugees and asylum-seekers during raids in December 2021 and January 2022, beat some of them and subjected them to forced labour." [18]

Refugees also suffer from a complicated and bureaucratic system for registration and issuance of residence permits, as it takes several months to apply for asylum and obtain documents in the best cases, and the residence permit must be renewed every three or six months, depending on the type of permit. To obtain or renew the permit, people are required to go to several governmental institutions each time. Meanwhile, the persons' lack of valid identity papers increases obstacles, makes it difficult to access basic needs, removes legal protection and prevents asylum-seekers from completing any legal procedures. It also exposes them to arrest and arbitrary detention by Egyptian authorities; this may last for days and may extend to referral to the Public Prosecution.

More funds without transparency, independent monitoring mechanisms, or prior assessments of their impact on migrants' rights

Egyptian legislation has not created any independent mechanisms to monitor the country's borders. On the contrary, Presidential Decree 444 of 2014 defining the areas adjacent to the borders as "military areas" led to an information blackout about what is happening on the Egyptian borders or in the areas close to them. Decree 444 prevents local or international human rights organizations and NGOs from accessing, or even approaching the border areas in order to monitor and control what happens to migrants and the border guards' practices. It also prevents development and relief organizations from working along the border and adjacent areas in the South, West and East of the country.

The Egyptian government also refuses to allow Egyptian or international human rights organizations to conduct visits to military or civilian detention facilities where thousands of



asylum seekers are detained annually - according to data from the Egyptian Border Guard - in extremely inhumane and bad conditions. In addition, security authorities are keen to prevent any means of communication between detainees and the outside world and refuse to enable them to appoint a lawyer or to uphold their right to legal defense. [19]

In February 2022, European parliamentarians called on their governments and the United Nations to place the "dire" human rights situation in Egypt under greater global scrutiny. The parliamentarians issued a statement calling on the UN Human Rights Council to establish a monitoring and reporting mechanism on Egypt. "We are deeply concerned about the international community's continued failure to take any meaningful action to address the human rights crisis in Egypt," said the statement, signed by 175 parliamentarians, most of them from Europe and the UK.

"This failure, along with the Egyptian government's continued support and reluctance to speak out against rampant abuses, has only deepened the Egyptian authorities' sense of impunity," they added. [20]

Therefore, paying more money to the Egyptian authorities, including the Egyptian Coast Guard without transparency or independent monitoring will contribute to increases in the abuse and exploitation of migrants and refugees, and make it easier for the perpetrators of such crimes to escape accountability.

Recommendations

We urge the EC to:

- Announce the results of the ex ante risk assessment mentioned by Commissioner Varhelyi on August 24 and guarantee its independence; clarify what the independent oversight mechanism and adequate safeguards will consist of, in order to ensure that international human rights obligations are not violated by recipients throughout the funding period or through the use of equipment that will be provided by the said funding.
- Transparently announce the financing schedule for the Egyptian partner, what equipment is specifically referred to in the financial agreement, and the expected plan for its use.
- Review the EU-Egypt partnership in the field of "migration control and border management" since 2016, and its impact on the human rights situation in Egypt and the rights of people on the move, especially at borders, and announce the results of this review.

We urge the EU and its Member States to:

- Cease any financial and military support for Egypt that contributes to an increase in violations of the rights of people on the move at borders or within the country, increases human rights violations and threatens the security of human rights defenders.
- Ensure any monitoring and evaluation of cooperation between the EU or its individual Member States with Egypt in the field of migration and asylum is based, *inter alia*, on the consultation of relevant European and Egyptian independent civil society organizations.



- In full alignment with the EU's external obligations under international human rights law and EU law, in particular the extra-territoriality of Article 3 of the European Convention of Human Rights, suspend or annul any cooperation programme considered as negatively impacting the human rights of migrants, refugees or Egyptian nationals.
- In the current context, refrain from concluding any new readmission agreement with Egypt.

We urge the Egyptian government to:

- Clarify how the Egyptian Coast Guard plans to use the equipment and funding that this EU funding entails, in order to prevent people from migrating; clarify the measures that will be taken against persons who will be intercepted at land or sea borders under this agreement.
- Stop any plans for cooperation with the so-called "Libyan Coast Guard", which is accused of committing crimes against asylum seekers and migrants in the central Mediterranean.
- Investigate crimes committed against migrants and refugees, and work toward accountability through the prosecution of the perpetrators
- Review and amend Egyptian legislation, and all previous migration-related agreements to ensure they comply with Egypt's international and constitutional rights obligations; adopt legislation and policies that allow for an independent border monitoring mechanism.
- End the policy of systematic detention of persons intercepted for crossing a border irregularly into Egypt or out of Egypt.
- Address the urgent issue of migrants detention conditions, including access to healthcare.
- Work to ensure full access to justice and redress (in legislation and in practice) for migrants and refugees who have been victims of rights violations.
- Allow organizations that provide services and support to migrants and refugees, to do
 so at borders and in adjacent areas, and to access any prison, detention center, or
 military or Interior Ministry facility where migrant refugees are held. Give the UNHCR
 full access (in legislation and in practice) to all such facilities, to allow full access to
 asylum procedures for the detainees who wish to apply.
- Stop prosecuting refugee or migrant community leaders and human rights defenders.



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