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Time to Pursue Democracy in Egypt

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Crises in Iraq, Palestine, and Lebanon have led to the perception that the United States must give up on democracy promotion in the Middle East. The United States will need to close ranks with friendly Arab regimes in Saudi Arabia, Jordan, Egypt, as well as engage with less friendly governments such as Syria's, in order to resolve or at least contain these crises. But there are still many opportunities for the United States to pursue the long-term goal of democratization without endangering stability or key relationships. Egypt, the Arab world's most populous country and a major strategic ally of the United States, is a case in point. Egypt is in the early stages of a leadership succession that may swing the country toward greater openness and competition or toward consolidated authoritarianism. Whether or not the United States pursues democracy promotion will be a critical factor in the outcome and also will shape other Arabs' sense of U.S. seriousness.

The next few months will provide an important opportunity for the United States to urge Egypt toward genuine political reform. President Mubarak and his National Democratic Party (NDP) recently announced a new wave of reform initiatives, which have become critical to his son Gamal's positioning as a viable candidate in the next presidential election. Issues now on the table include easing eligibility requirements for candidacy in presidential elections, shifting power from the presidency to the legislative branch, and changing the system of parliamentary elections.

Mubarak has now proposed a detailed outline of amendments and the NDP will introduce actual legislation shortly. In the last group of reforms passed in 2005, the NDP promised at the outset significant enhancements in political liberties but then delivered much less in the specific legislation. This is likely to happen again, especially if the United States fails to lend its support to opposition and civil society forces pressing for more. The challenge for the United States is to capitalize on the current situation of flux to encourage further opening of the political space, with an eye toward the emergence of broader and fairer competition in the new political era that is unfolding.

Regime and Opposition Agendas

On December 26, 2006, President Mubarak formally requested that the Egyptian parliament amend thirty four articles of the constitution in order to fulfill political reform pledges he made in 2005. Amendments are now on a fast track. The parliament will begin considering specific legislation shortly, and NDP Secretary General Safwat Sharif has already announced

the goal of passing all the amendments and presenting them for approval in a popular referendum in April.

Among the key amendments will be changes allowing all licensed political parties to nominate candidates for the presidency, giving the parliament more detailed oversight of the budget and clearer procedures for withdrawing confidence from the cabinet, and clarifying and limiting the president's emergency powers in preparation for issuance of a new counter terrorism law. Of special concern to opposition politicians are NDP initiatives to revise Constitutional provisions for electoral supervision—most likely limiting the role played by judges, who have proved to be Egypt's most effective reform advocates so far—to institute a clear ban on the formation of political parties based on religion, and to revise the electoral system. In his December 26 letter to parliament, Mubarak implied that the amendments are intended to reshape the political system for the new era, saying that “although the effects [of the amendments] might not be clear to all in the short term ... their repercussions will be felt for decades.”

The Constitutional amendments proposed by the NDP are intimately linked to the positioning of Mubarak's son Gamal, who has risen gradually over the past decade to become Deputy Secretary General of the NDP and the party's likely candidate in the next presidential election. Over the past several years Gamal Mubarak has made economic and political reform his signature issues, and in fact he previewed most of the new initiatives announced recently by the president at the annual party conference in September. He also made news by advocating a nuclear energy program and a more assertive Egyptian regional role in order to counter U.S. influence. These attention-getting statements—along with a notably humbler, more populist tone in his rhetoric about the need to translate economic reform into real benefits for poor Egyptians—appeared to be an effort to show Gamal's responsiveness to the concerns of Egyptian citizens and to demonstrate his growing mastery of national security issues. Domestic political and economic reform took center stage, however, in NDP proposals for legislation in the parliament.

The actual legislation that the NDP will introduce in this parliamentary session may well deliver less than appears to be promised by Mubarak's proposals. In 2005, for example, initiatives by President Mubarak and the NDP to amend the constitution and laws on presidential elections, parliamentary elections, political party formation, and judicial independence led to legislation regarded by civil society and opposition groups as consolidating power in the hands of the ruling establishment more than sharing it.¹

The NDP's new political steps appear designed to seize the initiative amid widespread calls from the opposition and civil society groups for extensive constitutional amendment. They also aim at managing the Egyptian opposition—making sure there is enough competition to lend an air of credibility to future elections while marginalizing the Muslim Brotherhood (Egypt's largest opposition group) and increasing divisions between the Brotherhood and secular groups.

Political actors beyond the NDP also are putting forth reform proposals. The Muslim Brotherhood (Egypt's largest opposition group, currently holding 88 of 454 seats in the lower house of parliament), the Judges' Club (which has emerged as an important advocate of judicial independence and other civil liberties), leftist and liberal parties, and the Kifaya protest movement have articulated positions on the constitution in varying levels of detail. In addition, the National Commission on Human Rights (a government-appointed body that includes prominent civil society activists) is making recommendations to the government on constitutional reform. Although some of the groups say that it would be desirable to write an

entirely new constitution, most acknowledge that this endeavor is unrealistic at present and therefore propose extensive amendment of the current 1971 constitution.

Opposition groups and the NDP differ on many specifics, but they are all talking about the same issues: presidential elections, presidential versus legislative powers, electoral systems, judicial independence, and lifting the state of emergency. The Judges' Club and most opposition groups generally advocate diminishing the power of the presidency and enhancing the power of the legislature and the independence of the judiciary—modifications of the current system. In detailed political programs unveiled in 2004 and before the 2005 elections, the Muslim Brotherhood called for a more radical change: transition from a presidential to a parliamentary system. Brotherhood parliamentary deputies have since adopted a pragmatic attitude of proposing modifications to the existing presidential system. Nonetheless conflicting interests have prevented opposition groups from formulating a cohesive agenda for change, a situation exploited effectively by the NDP via its new initiatives.

Presidential Elections

President Mubarak's call for further amendment of constitutional Article 76, which provides for direct popular election of the president, acknowledged that the NDP had created a problem for itself when it first amended the article in 2005. Although all registered parties were permitted to put candidates on the presidential ballot in 2005, criteria for subsequent elections were so stringent that no party other than the NDP would be able to meet them in the next election, to be held in 2011 or earlier (should Mubarak not finish his current term). The NDP had established such criteria because it wanted to exclude candidates from the illegal Muslim Brotherhood, not because it feared serious competition from any of the established parties.

Mubarak has now requested that the parliament extend the provision that allowed all legally registered parties (even those with no representation in parliament) to get on the ballot in the 2005 election. Other restrictions—that a party may only nominate a candidate who has been a member of its senior leadership for at least a year, for example, and that independent candidates would need to collect many endorsements from elected officials—are likely to remain.

All opposition groups have demanded revision of conditions for presidential candidacy in Article 76 but their interests diverge when it comes to the specifics. Legal parties such as the centrist Wafd, leftist Tagammu, and Nasserists have an interest supporting an amendment that will allow them to get candidates on the ballot while excluding unlicensed competitors such as the Brotherhood, the Wasat Party (Islamist), Karama Party (neo-Nasserist), and the Democratic Front (liberal). Provisions for getting an independent candidate on the ballot—which would allow the Brotherhood a shot at the presidency—most likely will remain stringent.

An amended article 76 that allows legal parties to get on the presidential ballot would leave the Muslim Brotherhood with several options: to try to found its own party, to form an alliance with an existing party, or to try to get an independent candidate on the ballot. Brotherhood parliamentary deputies announced recently that they will test the system by trying to form a party, an effort likely to meet with stiff regime resistance. Attempting to form an alliance for presidential elections with an existing party—as the Brotherhood did twice in parliamentary elections in the 1980s, first with the Wafd and later the Labor Party—

is possible but difficult, given stringent regulations in Article 76 about how long a potential candidate must be among the senior leadership of a party before being nominated.

Working toward nominating a presidential candidate as an independent, however difficult, might be the course most feasible for the Brotherhood. According to Article 76 as currently written, an independent needs a total of 250 endorsements from elected officials: 65 from the People's Assembly, 25 from the Shura Council, and 140 from municipal councils. With 88 seats, the Brotherhood already has enough votes in the People's Assembly. The Brotherhood has announced its intention to run candidates for the first time in elections for the Shura Council, the partially elected upper house of parliament, to be held in spring 2007. It will also contest municipal council elections, which were postponed for two years in 2006, whenever they are held. While there are many obstacles to surmount—and many possibilities for the regime to interfere—this patient strategy on the Brotherhood's part could eventually pay off.

While Mubarak has made a gesture in the direction of opposition concerns by reopening Article 76 on presidential elections, so far it is unclear whether he will address widespread demands to revise Article 77 regarding term limits. Currently the Constitution allows the president to serve an unlimited number of six-year terms. Civil society and opposition groups have been calling for the reinstatement of term limits (removed from the Constitution by the late President Sadat in 1980) and shortening the presidential term; most call for a limit of two five-year terms. Reform advocates consider this point particularly urgent as they contemplate the prospect of Gamal Mubarak—currently 43 years old—being elected effectively for life.

Presidential Versus Legislative Powers

Mubarak has pledged to redress the imbalance of power between the strong executive and weak legislative branches of government through several steps. The NDP will introduce amendments clarifying procedures through which the parliament can withdraw confidence from the cabinet and removing a provision requiring the parliament to seek approval for such a step via a popular referendum. At the same time, however, Mubarak also proposed that the president be given the right to dissolve parliament without a referendum.

Mubarak also proposed procedures for article-by-article parliamentary approval of the government's budget, which in the past has normally been simply rubber-stamped in the waning hours of the parliamentary session. What the NDP did not promise, however, was to give the parliament detailed oversight of the most important and so far secret part of the budget: that of the military and internal security establishments.

The balance between presidential and parliamentary power is another area in which cleavages have developed among opposition groups, at least on the level of principle. While all agree that presidential powers must be diminished, they differ on the extent. The Muslim Brotherhood, effectively excluded from candidacy for the presidency for the time being, has advocated transformation of the Egyptian system to a parliamentary democracy in which the president would play a largely symbolic role. A prime minister and cabinet drawn from the elected parliament would actually govern. Most other opposition groups favor diminished powers for the president, along with greater legislative authority and judicial independence, but have not proposed such a radical transformation of the system. In typically pragmatic fashion, however, the Brotherhood is pursuing the opportunities afforded by the current political opening and is seeking a weakened presidential system.

Parliamentary Electoral System and Supervision

Mubarak has proposed amending the Constitution in order to give parliament the ability to change the system of parliamentary elections. The NDP is advocating a change from a single candidate system of parliamentary elections to one of proportional representation (or perhaps a mixed system allowing for some individual representation), which it justifies as increasing opportunities for political parties and for women. At the same time, Mubarak called for adding to Article 5 of the Constitution (which defines Egypt as a multi-party state) a specific ban on parties based on religion, gender, or origin. Such a ban on religious parties already exists in the political parties law (Law 40 of 1977).

The ruling party's interest in preventing the Muslim Brotherhood from forming a party is clear. The NDP has two principal reasons for advocating changes in the electoral system, which would return Egypt to a system similar to that used in the 1970s and 1980s. First, it would significantly reduce opportunities for the Muslim Brotherhood, which has adapted well to the individual districts system by running independent candidates, winning more than 60 percent of the seats it contested in 2005 despite interference by security forces in the elections. Proportional representation or a mixed system would force the Brotherhood to choose among several unappealing options: running only for independent seats (if there is a mixed system), making alliances with legal parties, petitioning to establish its own party, or boycotting elections. Second, the NDP performed dismally in the 2000 and 2005 parliamentary elections, winning outright fewer than 40 percent of seats and losing many races to NDP members who quit the party to run as independents—only to be welcomed back into the fold after elections, because the NDP needed their seats to secure a majority. A proportional or party list system would allow the NDP to reintroduce party discipline.

Proposing a new electoral system also gives the ruling establishment another way to divide the opposition by favoring the registered parties over the unregistered. A proportional system might help breathe life—to a limited extent—into moribund older parties such as the Wafd, Tagammu, and Nasserists, allowing them to capture a few seats. It would clearly be a major setback for the Brotherhood and for small parties such as Wasat and Karama (offshoots from the Brotherhood and Nasserists respectively), which have tried but so far have been denied licensing. While a system that strengthens political parties would be a positive development in Egypt, such benefits will remain theoretical as long as the NDP maintains its current stranglehold on the process of forming new parties. In addition, to allow parties to flourish the regime would have to cease harassing licensed opposition parties that have been deemed political threats of one kind or another, as it did with the Labor Party in 1999 and the Ghad Party in 2006.

While the 2005 parliamentary elections were flawed and untidy in many respects, they were more competitive and transparent than any Egypt had held since the 1952 revolution for two reasons: the active supervision of judges and monitoring by thousands of trained civilian observers. Mubarak has now called for “redefining” judges’ involvement in electoral supervision in order to allow parliamentary elections to be held nationwide on a single day, which is currently impossible because there are not enough judges to be in all polling places at once. The Judges’ Club and opposition groups are already protesting such proposals, which if implemented are likely to lead to a decline in electoral fairness unless there were a new electoral commission that was far more independent and empowered than its predecessors.

State of Emergency, Judicial Independence, and Other Issues

Other constitutional initiatives to be introduced include paving the way for a lifting of the state of emergency, increasing the powers of the prime minister and cabinet versus those of the president, giving the Shura Council greater powers, increasing judicial independence, devolving more authority to local governments, and updating constitutional language on the economy (written during Egypt's socialist era). In addition to constitutional amendments, the NDP has promised to revisit controversial laws on nongovernmental organizations and professional syndicates.

President Mubarak promised in 2005 that he would put in place a counter terrorism law that would obviate the need for the state of emergency that has been in place continuously since Sadat's assassination in 1981. Then in 2006, he renewed the state of emergency for another two years, saying that changes in Article 74 of the constitution, which gives the president emergency powers, would be necessary. Now such changes will be made. While opposition and civil society groups welcome the prospect of limiting emergency powers for the president and lifting the state of emergency, they are concerned that a new counter terrorism law might give the regime the same broad powers it now enjoys under the state of emergency to detain persons without charge for extended periods and prohibit public gatherings without prior security approval. The Egyptian government has long claimed that such powers are used only against suspected terrorists and drug dealers but in fact they have also been used against nonviolent political opponents of the regime.

Mubarak is also proposing changes to constitutional articles regarding judicial coordinating bodies, a move likely to provoke suspicion that the NDP is seeking ways to clip the wings of Egypt's judges. Another concern is that the NDP will revise again the much-amended law regulating nongovernmental organizations in order to remove loopholes that allow organizations to skirt heavy regulations by choosing to register as tax-paying civil companies rather than as NGOs.

Challenges for U.S. Policy

The coming year will be a critical time for the United States to engage with Egypt actively on political reform. Although the 2005 political season in Egypt—with its presidential and parliamentary elections—perhaps seemed to offer more compelling opportunities, the constitutional amendments now under discussion are intended to shape political conditions in Egypt for a generation. Egyptians know that a leadership succession is underway, not only in the presidency but in other institutions, as the group that came to power with Mubarak in the 1970s and 1980s gradually leaves the scene. The key question now is whether there will be enough pressure from opposition and civil society groups to compel the ruling party to make reforms that will pave the way for meaningful competition in the future. Without such changes, Egypt faces a future of political and economic stagnation at best, and perhaps of instability.

While it behooves the United States to be modest and realistic about the extent of its influence in Egypt, it should also realize that in 2004 and 2005 pressure from the United States and other donors was a significant complement to internal calls for change. During 2004-5 U.S. officials from President Bush down provided a mix of praise, criticism, and assistance in reaction to Egyptian developments, which became an important factor in Mubarak's decision to call for direct presidential elections. During this period the Bush administration, directed by Congress, increased its spending on democracy assistance activities in Egypt from approximately \$5 million annually to nearly \$50 million. This

included some \$17 million in grants given directly to NGOs, a number of which trained and deployed thousands of Egyptians in 2005 in the first-ever serious monitoring of parliamentary elections.

In December 2005 the administration took what was probably the most serious—and least known publicly—step so far regarding democracy in Egypt, indicating displeasure with the conviction of opposition politician Ayman Nour by cancelling free trade talks that would have begun in January 2006. Since that bruising contretemps senior U.S. officials have said less in public about democratization in Egypt, concentrating instead on a private dialogue with the government about political reform issues. The lack of public engagement has led to the impression among Egyptian proponents of reform that Washington is backing away from the democracy agenda for now or at least is unsure how to proceed.

Two factors have emerged in 2006 that complicate the design of an effective U.S. strategy. First, presidential succession politics—an important issue since 1999—have intensified, with many Egyptians now expecting President Mubarak to leave office within a few years. Thus every potential reform is scrutinized inside and outside the ruling establishment for its likely effects on the prospects of Gamal Mubarak or of his rivals. The United States should not attempt to play a role in determining who will follow President Mubarak and should be wary of steps that might be interpreted as such. But at the same time it should encourage changes in the Egyptian system now that will limit presidential power and increase executive branch accountability in the future.

The second complicating factor is that Egyptian opposition and civil society activists seeking reform are less unified now than they were a year or two ago. All agree on the need to transfer powers from the executive to legislative and judicial branches, but differences are emerging, particularly on how the parliamentary electoral system should be modified. These differences are a problem for the United States because so far it has adopted the strategy of drawing the attention of the Egyptian government to the demands of its own citizens, rather than attempting to impose a Washington-made reform agenda.

While these factors require careful consideration, they need not impede the development of an effective U.S. strategy. The United States can and should use its influence to promote changes in the system that will further expand political freedoms and enliven political competition. The key issues on which the United States can be most effective now are presidential term limits, greater freedom for political parties and movements, independent election oversight, and limiting executive branch powers under a new counter-terrorism law.

- **Limiting the presidency:** The United States should support widespread demands in Egypt for amendment of Article 77 of the constitution in order to reintroduce term limits and shorten terms for the president. Along with direct popular election, term limits will change the current image of invincibility surrounding the chief executive, who has been—at least since the 1950s, and arguably long before that—in office effectively for life. The United States need not take any position on whether the overall system should be parliamentary versus presidential; for now all political players seem reconciled to the idea of continuing a presidential system if powers are somewhat redistributed.
- **Freedom for parties:** The United States should support the demand of parties for a more open and straightforward licensing system—one in which the NDP cannot strangle nascent rivals in the cradle—and should protest regime interference in party affairs. Only with such changes would the NDP initiative to shift to a proportional representation system give parties with a small base of support (which means all parties except the NDP and the illegal Brotherhood) a real chance at parliamentary

representation. Regarding the Brotherhood, there is as yet no clear consensus on how it can be fully enfranchised without threatening stability, and it is not up to the United States to resolve this conundrum. Washington should, however, encourage Egypt to continue opening the political system so that a solution can emerge over time.

- **Electoral supervision:** It is extremely important that the gains made in 2005 be built upon and not reversed. Although the creation of a truly independent and capable electoral commission is desirable, it probably is not feasible at present, and so the United States should support the calls of Egyptian judges for continued extensive involvement in electoral supervision for the time being.
- **State of emergency:** The United States should maintain an active dialogue with the Egyptian government on formulating a counter-terrorism law that can be used effectively to fight terror without becoming a sword of Damocles—as the state of emergency has long been—dangling over the heads of peaceful political opponents. The United States should encourage the Egyptian government to heed the input of Egyptian judges in this regard.

Finally, the single most important thing the United States can do to promote political reform in Egypt is to pay consistent attention to the subject. Direct engagement should primarily take place through private dialogue with the Egyptian government and continued assistance to governmental and nongovernmental entities. The United States can have a significant effect on opposition and civil society activists in Egypt despite widespread anger at many aspects of U.S. policy in the Middle East. Periodic public statements by the U.S. President and Secretary of State embolden reform advocates in Egypt by showing that outsiders are aware of what is going on. Such attention on the part of the United States will be particularly critical in the next several years, as Egyptians shape the contours of a new political era. The Egyptian-U.S. relationship established in the mid-1970s will need to be redefined once there is a leadership transition, which will be easier to do if the United States can clearly support the direction in which Egypt is moving in domestic as well as foreign affairs. ■

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¹ For a review of political reform steps taken in 2005 see Michele Dunne, *Evaluating Egyptian Reform* (Carnegie Endowment for International Peace, Carnegie Paper #66, January 2006).