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By

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Abstract

How can a single match ignite revolution? This question has echoed across the Arab world in the weeks after a 26-years-old unemployed Tunisian doused himself with paint thinner and lit a match on December 17, 2010. His desperate act set off street clashes that ultimately toppled the country's autocratic ruler. While Democracy has expanded significantly in every other major region of the world, only in Maghreb and Middle East has democracy failed to expand in the past three decades. The article's aim is to examine the decline of pluralism in Mubarak's Egypt as a key factor which led to the recent unrest and finally to Mubarak's resignation from his post, emphasizing on the role of the Supreme Constitutional Court as the catalyst of recent change in Egypt.

Keywords

Democratization and Liberalization in Egypt, Islam and Human Rights, Arab World, Hosni Mubarak, Muslim Brothers

**-“Isn’t amending the Constitution so easy that it can be done overnight?”
-“Yes, in Egypt it can take place in a second.”¹**

Introduction

It was early 1969 when Jan Palach was burned himself to death to protest for the Soviet occupation of Czechoslovakia after the Soviet Union and Warsaw Pact allies invaded the country to halt the reforms of Alexander Dubcek.² A decade later, Charter 77, a movement known for human rights dynamited the political system. Charter 77 became a vital factor working from below in the Helsinki process and towards the democratic revolutions in 1989 which led to the fall of the Berlin Wall and the entire collapse of the Soviet Empire during 1989-1991. Approximately 20 years later, the Arab world is toppling its “Berlin Wall” with a “March of Millions” at Cairo’s Tahrir Square which led to Mubarak’s resignation after three weeks of uprising.³

In an authoritarian polity, the potential for any given reform movement is perhaps best measured by the way that the regime responds to its new adversaries. If the regime does little or nothing at all and critics are left to organize free of interference, the opposition probably does not pose a viable threat to the regime’s control. However, when the state takes far-reaching actions to control its opponents, it is a sure sign that the regime believes it faces a credible threat from the opposition or at least a potential threat that it would like to confront early on, rather than giving it the ability to gain momentum.

The Egyptian government’s recent aggressive response to both the Supreme Constitutional Court and the judicial support network is proof that constitutional litigation increasingly posed a credible threat to the regime’s tools for maintaining control. The Supreme Constitutional Court provided an effective new avenue for critics to challenge the state through one of its own institutions. However, the ultimate collapse of the human rights movement in Mubarak’s Egypt, the continued weakness of opposition parties and movements, and the institutional assault of the Supreme Constitutional Court the last five years demonstrate how the legitimization of a regime, without support from broad sectors of society, was insufficient to preserve the regime’s viability.

So, it was not Mohamed Bouazizi’s self-immolation that led to the unrest in Tunisia, and the “butterfly phenomenon” of Chaos Theory that led to upheaval in other Arab states and finally to the “March of Millions” in Tahrir Square of Cairo.⁴ It was the repression of every single freedom; of every single human right; freedom of speech, freedom to oppose to the regime’s violations of human rights, the undermining of rule-of-law and finally the undercutting of every element that constitute a liberal constitutional state. Before examine the role that played institutional development (and its undercut) in economic growth and democracy in Egypt, let’s examine some factors of political (in)stability that could be applied vis-à-vis the majority of Arab states in the region.

¹ Question and answer session at a lecture by former Chief Justice ‘Awad al-Murr at Cairo University, September 25, 2000

² See: Williams K., *The Prague Spring and its Aftermath: Czechoslovak Politics 1968-1970*, London: Cambridge University Press 1997

³ See: “Hosni Mubarak resigns as president: Egyptian president stands down and hand over to the Supreme Council for the Armed Forces”, AlJazeera February 11, 2011, cited in URL: <http://english.aljazeera.net/news/middleeast/2011/02/201121125158705862.html>

⁴ Robert F. Worth, “How a Single Match Can Ignite a Revolution”, *The New York Times*, January 21, 2011

Indicators of decline in Arab world

Democracy

Democracy is nowadays proving contagious. It may be spreading faster in some regions than in others, but it is spreading. Everywhere except in the Arab world. In fact, in the region of Middle East and North Africa, only in Israel and Turkey has democracy survived (2 from 19 states), and in the second the persistence of democracy has been punctuated and constrained by repeated military interventions.⁵ If one of the criteria of democracy, in general, is the turnover of political power by peaceful means, that is, by elections considered free, fair and perfectly transparent and indisputably and irrefutably incontestable, then not a single Arab country is democratic today. A leader who gains power by taking the life of his predecessor, and in doing so runs the risk of having his own life taken, let go of power only when he in turn is eliminated. He stops short on of no crime in order to cling to power (and to life) for as long as possible. This is the classic scenario in Arab countries today, not of alteration in power but of succession through violent death or, in the best of cases, death by natural causes.⁶

Gamal Abdel Nasser, for example, in Egypt, who had deposed King Farouk I in 1952, escaped several assassination attempts and ended up dying in his bed in 1970, adored by his people.⁷ His successor, Anwar Sadat (1970-81), was not so lucky. If Hosni Mubarak, who succeeded Sadat, is still alive, it is not for want of zeal on the part of his adversaries. On 26 June 1995, they barely missed killing him at the airport of Addis Ababa, where he was on his way to attend a summit of the Organization of African Unity. At the end of August 1999, he escaped a third amateur assassination attempt, this time by knifepoint, at Port Said in Egypt. The seizure of power, particularly by assassination, inevitably creates a vicious circle that leaves no room for any other alternative, much less for alteration of power. As a matter of fact, elections in the Arab world are nothing but an immense masquerade, after which the stuffing of the ballot boxes begins behind closed doors. As all corruptly regimes based on sham elections, so and in the Arab countries, the leadership is able to discredit and dishonor the intelligentsia by making them swallow the sham results and by neutralizing them, if needed, by compromising with irresistible benefits of power.⁸ All it takes is to offer promotions, the highest-ranking and best-paid positions, foreign diplomatic posts, cars, honors, even taxi licenses.⁹ Corruption and dictatorship go hand in hand. All Arab dictators maintain that the law -whether it be Islamic Law (shari'a) or civil

⁵ Overall, the 19 states of the Middle East and North Africa also have by far the lowest average of levels of freedom. On the 7-point combined Freedom House scale of political rights and civil liberties, with 1 being most free and 7 the least free, the states of Middle East have an average score of 5.53. See: Adrian Karatnycky, "The 2002 Freedom of House Survey: Liberty's Advances in a Troubled World", *Journal of Democracy*, no. 13, January 2003, p. 100

⁶ Mohamed Tabli, "A Record of Failure", in Diamond L., Plattner M.F. and Brumberg D. (ed.), *Islam and Democracy in the Middle East*, Baltimore and London: The John Hopkins University Press 2003, p.3

⁷ Carl F. Petry (ed.), *The Cambridge History of Egypt*, Cambridge New York: Cambridge University Press 1998

⁸ Mohamed Tabli, "A Record of Failure", in Diamond L., Plattner M.F. and Brumberg D. (ed.), *Islam and Democracy in the Middle East*, Baltimore and London: The John Hopkins University Press 2003, p. 5

⁹ *Ibid*, p. 5

law- is on their side.¹⁰ They all claim to adhere to the “rule-of-law”. But which “rule-of-law”?

Questions over compatibility of Islam and democracy have become a key area of debate about political and economic development in Arab world. But in fact, there is no intrinsic incompatibility between Islamic Law and democracy. As a matter of fact there is a broader experience of how Muslim and Occident communities interact and relate.¹¹ Contrary to the great movements in the modern history of West Europe and North America which led to the constitutionalism and to the modern constitutional state, in the Islamic world, and especially in the North Africa and Middle East, the post-colonial states have incorporate the theocracy into their polity as a system of government. As a result the distribution of powers, fundamental constitutional principle in a constitutional polity, technical speaking, is not the ascendant element of the polity in Middle Eastern states. Specifically the independence of justice between legislature power and government is not characterized always by impartiality. Therefore the secureness of the election process- when and where they happens- and the electoral result are not become overall accepted.

Liberalization: Institutional Development and Economic Growth

While ethno-religious divisions and their manipulation have hindered democratization, they have not excluded political reforms. The leaders of Egypt, Morocco, Algeria, Jordan and Yemen have all initiated political openings despite the persistence of profound disagreements between Islamists and secularists in the first three countries, between Bedouin tribes and Palestinians in Jordan, and between tribes representing North and South in Yemen. The striking thing about the Middle East and the Arab world, in particular, is that despite the mix of socio-economic, political, cultural and ideological forces that have encouraged rulers to hold on to power, many have promoted a measure of political liberalization while maintaining the essential instruments of autocracy.¹²

For example, in contrast to the full autocracies of Libya and Tunisia which do not abide the slightest expression of dissent or pluralism, liberalized autocracies, like Egypt, not only tolerate but depend on a limited, state-managed pluralism of ideas and organization strategy for legitimation and hence survival. Furthermore, every political opening was adopted in response to economic crises, and in particular in response to austerity programs mandated by the International Monetary Fund, in order to offset the pain of economic reforms and especially in order to draw money and capitals because of conditionality prerequisites which external public donors demand.

Some scholars and policymakers have placed a great deal of faith in institutional reform as cure-all for the political and economic turmoil plaguing developing countries. Specifically, for the case of rule-of-law institutions, it have been charged that the

¹⁰ Na-aim Abd Allah Aohmad, *Islam and the Secular State: Negotiating the Future of Shari'a*, Cambridge MA: Harvard University Press 2008

¹¹ Fawaz A. Gerges, *America and Political Islam: Clash of Cultures or Clash of Interests?*, New York: Cambridge University Press 1999, p. 36

¹² See about sophisticated police forces, well staffed with law-enforcement officers, vigilant justice systems which pursues and severely punishment acts of defamation, etc. in reports of specialized organizations such as Amnesty International, Human Right Watch, Actualité International and others. See: Daniel Brumberg and Larry Diamond, “Introduction”, in Diamond L., Plattner M.F. and Brumberg D. (ed.), *Islam and Democracy in the Middle East*, Baltimore and London: The John Hopkins University Press 2003, p. xiv

emergence of legal institutions go hand-in-hand with successful market economies and democratic transitions in virtuous cycle. Some of the earliest writings in the Social Sciences by Adam Smith, Max Weber, David Ricardo, and others examined how independent and effective institutions provided the stable property rights system necessary for long time horizons and vigorous private investment. Similarly, judicial institutions are seen as essential tools for providing the checks and balances necessary to curb arbitrary rule.¹³

According to Max Weber, one of the most important ingredients of rapid economic development in the West was the particular brand of legal-rational authority that had emerged there.¹⁴ Legal-rational authority was based on a system of codified law that was universally applied with a coherent and predictable internal logic. Furthermore, this legal authority provided predictability and security, two of the most important elements for capitalist economic development.¹⁵ In the same wavelength of thought, some other scholars at their effort to examine how legal institutions could be established in the developing world to promote the same kind of rapid economic and political development as this which occurred in the West, had concluded that the leaders in most developing countries were not interested in adopting legal reforms that would promote economic growth. Rather, legal systems in most developing countries were designed to benefit elites and to satisfy and appease political allies of the regime.¹⁶

According to the above, it could be said that without judicial independence, there is no rule-of-law and without rule-of-law the conditions are not in place for the efficient operation of an open economy, so as to ensure conditions of legal and political security and foreseeability¹⁷ which could be led to guarantee of property rights. The World Bank and other international financial institutions put these policy prescriptions to work and begun to fund judicial reform programs throughout the developing world.¹⁸

In the case of Egypt the establishment of an independent constitutional court and the revival of administrative courts under Sadat were designed to counteract pathologies of unrestrained authoritarian rule. The nationalization of much of the private sector and the elimination of all constraints on executive power during the Nasser years produced massive exodus of capital. Faced with budget shortfalls and a crumbling economy after the failure of Nasser's socialist experiment, Sadat turned to private investment. However, Sadat faced an uphill battle in convincing wary investors that their assets would be safe from state seizure or adverse legislation after entering the Egyptian market. After the failure of a ten-year effort to attract investment through tax incentives and other short-term inducements, the government established a surprisingly independent court empowered to perform judicial review. The Supreme Constitutional Court provided long sought-after institutional guarantees on property rights.¹⁹ But the accelerated breakdown of court's independence discipline was result of the lack of transparency and extended corruption that are endemic

¹³ Tamir Mustafa, *The Struggle for Constitutional Power: Law, Politics, and Economic Development in Egypt*, London: Cambridge University Press 2007, p. 219

¹⁴ Max Weber, *Law in Economy and Society*, Cambridge MA: Harvard University Press 1954

¹⁵ Tamir Mustafa, *The Struggle for Constitutional Power: Law, Politics, and Economic Development in Egypt*, London: Cambridge University Press 2007, p. 220

¹⁶ *Ibid*, p. 221, also see: David Trubek and Marc Galanter, "Scholars in Self-Estrangement: Some Reflections on the Crisis in Law and Development Studies", *Wisconsin Law Review*, 1974, p. 1065

¹⁷ Edmundo Jarquin and Fernando Carrillo (ed.), *Justice Delayed*, Washington DC: International American Development Bank 1998, p. vii

¹⁸ Bernard Hoekman & Simeon Djankov, *Effective protection and investment incentives in Egypt and Jordan during the transition to free trade with Europe*, London: Centre for Economic and Policy Research 1996

¹⁹ Tamir Mustafa, *The Struggle for Constitutional Power: Law, Politics, and Economic Development in Egypt*, London: Cambridge University Press 2007, p. 229

to authoritarian rule.

In reality, the government was driven in impasse; the institution which had established to bring investors and help to economic growth was turned against the regime because of the ongoing activities of human rights movements which challenged the regime’s legitimacy. Before examine the way that Mubarak’s regime undercut the independence of judicial institutions, let’s have a look to the third factor that triggered the unrest in Egypt and in the other Arab states.

Human Rights and Islam: the case of Muslim Brothers

Finally exploring the human rights issue, we raise the point of the most important factor that led to “March of Millions” on February 1, 2011 at Cairo’s Tahrir Square and to the resignation of President on February 11th. Both human rights activists and Islamist organizations faced a hostile environment immediately after the Free Officers’ Coup of 1952 and Nasser’s ascendancy to the Presidency in 1954. Since then, Egypt has witnessed the entrenchment of single-party authoritarian rule with minimal space for the expression of political opposition. Methods of restricting political pluralism have changed over time from overt state repression to more subtle methods of co-option and legal manipulation, each seeking to achieve the same result, the neutralization of opposition.²⁰

Muslim Brotherhood remains potentially the single most viable opposition to the regime despite its illegal but tolerated status.²¹ Whilst Nasser was a secularist, he did not attempt to exclude religion from public life, in order to adsorb oppositions. Instead, he promoted a state-sponsored version of Islam that incorporated the key state priorities: Arab nationalism and Arab socialism. This placed the Muslim Brotherhood in a particular bind as Nasser adopted many of the same themes in his state Islamic program as the Muslim Brotherhood promoted prior to 1952. In particular, the Muslim Brotherhood focused on the economic and social dimensions of Islam over issues such as individual rights, themes used by Nasser to legitimize his status.²²

Nasser sought twice to directly eliminate the Muslim Brotherhood during his Presidency. Upon Nasser’s death in 1971, his successor Anwar Sadat initiated a shift away from his predecessor’s political and social priorities towards an emphasis on liberalization and human rights.²³ Sadat signaled an effort to address human rights concerns in Egypt with the 1971 Constitution. This was followed later with the signing of the International Covenant on Civil and Political Rights (1966) in 1982 and the UN Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment in 1986. But the most important innovation was the establishment of the Supreme Constitutional Court in 1971. According to Article 174 of the 1971 Constitution, the Court is an independent judicial authority. This was a landmark that, later in Mubarak’s Egypt, undermined the regime’s authoritarian rule.

President Mubarak has been far more ambiguous in his approach to both Muslim

²⁰ Benjamin MacQueen, “The reluctant partnership between the Muslim Brotherhood and human rights in Egypt”, in Akbarzadeh S. & MacQueen B. (ed.), *Islam and Human Rights in Practice: Perspectives across the Ummah*, London & New York: Routledge 2008 , p. 75

²¹ Brigitte Maréchal, *The Muslim Brothers in Europe: roots and discourse*, Leiden & Boston: Brill 2008, p. 169

²² Katerina Dalacoura, *Islam, Liberalism and Human Rights: Implications for Internal Relations*, London: I.B. Tauris 2003, p. 119

²³ Ibid, p. 120

Brotherhood and the human rights in Egypt. Coming to the Presidency after the assassination of Sadat by the radical Islamic Jihad in 1981, Mubarak initially tolerated the Muslim Brotherhood, allowing the organization to access political roles in particular areas, notably professional syndicates, university campuses and student unions, charitable and voluntary organizations.²⁴ Room was given to the organization along with some liberal and leftist organizations, as Mubarak sought to counter threat posed by radical Islamist groups after Sadat's assassination. The Muslim Brothers therefore developed a much higher level of social legitimacy than the state. The regime, recognizing this, reversed its tolerant stance and sought to undermine the influence of the organization through direct repression and exclusion from the political sphere.

Over the past two decades, Mubarak has acquired substantial liberty to have his opponents convicted in military trials, for example, or to shut down newspapers and professional syndicates, or to jail human rights activists.²⁵ Overall, pluralism has significantly declined since the outset of his rule.

Mubarak's Egypt: The collapse of a regime

The regime's concerted efforts to stifle the growth of opposition parties in Egypt represents a "re-entrenchment of authoritarianism" raising the question of whether Egypt's democratization process in 1990's has ended. We could try to identify the end of democratization process in two key factors which are interrelated. The first is to examine the ways for the repression and co-option of oppositional voices and the second is the role that the Supreme Constitutional Court has played all these years in the issue of human rights and the liberalization process.

While President Hosni Mubarak used to say that Egypt "enjoys all kinds of democracy", the country's intermediate level of economic development, its extensive array of nongovernmental organizations (NGOs), and its "multiparty" system, which all seem to favor a democratic future²⁶, seems by far an intangible dream. The recent uprising taught us with the best way how different is democracy and how low pluralism is and participation levels in the Egyptian polity. After a tenuous period of political opening in the 1980's and in early 1990's, the regime has progressively limited opportunities for the dispersal of power beyond the president. For example, in the summer of 2000, the Supreme Constitutional Court ruled that members of the judiciary had to monitor every station as voting took place. Members of the judiciary then supervised three rounds of elections and runoffs, from October 18 through November 24, across Egypt's 222 electoral districts (and 15,502 polling stations), providing unprecedented assurance that a vote cast would be a vote counted. Hoping that they could still rig the results, Mubarak's National Democratic Party officials grew frustrated when watchful judges stopped unregistered voters from casting ballots and refused to turn ballot boxes over to policemen offering to "transport them to tallying stations". After that Mubarak called for the judicial supervision and appointed as head of

²⁴ Al-Awadi, "Mubarak and the Islamists: Why did the 'honeymoon' end?", *The Middle East Journal*, vol. 59, no. 1, January 2005, p. 62

²⁵ See: Human Rights and the Unrest in the Middle East, *Amnesty International*, MDE 01/001/2011, URL: <http://www.amnesty.org/en/library/asset/MDE01/001/2011/en/1d1b94fb-ad55-4907-9e5a-224f224d90fa/mde010012011en.html>

²⁶ Jason Brownlee, "The decline of pluralism in Mubarak's Egypt", in Diamond L., Plattner M.F. and Brumberg D. (ed.), *Islam and Democracy in the Middle East*, Baltimore and London: The John Hopkins University Press 2003, p. 48

the Court Fathi Naguib, who, as assistant Minister of Justice, had helped to craft many of the laws that restricted the civil society in the 1990's.²⁷

Laws

Three mechanisms have been employed by successive regimes to restrict the political sphere in Egypt; the Political Parties Law (Law 177/2005), the Law of Associations (Law 82/2002) and the Emergency Law (Law 62/1958).²⁸ Each of these establishes the limits of the political space in Egypt and each can be controlled by the powerful executive without consultation to limit political freedoms, particularly the formation of parties, the activity of NGOs and the incarceration of opposition figures.

Specifically, the Political Parties Law has been the key mechanism used by the regime to undermine the electoral potency of every political party or organization, especially of the Muslim Brothers. Central to this is the Political Parties Committee which serves as the President's tool for regulating access to the Egyptian political system. The Committee controls the registration of new parties, can halt licenses of existing parties, restricts existing parties through the ability to close party newspapers without consultation, and close parties if they are deemed to be acting contrary to the “national interest”. Despite Article 5 of the Egyptian Constitution declaring the country a multi-party democracy, the Political Parties Law enables the executive to maintain total control over who enters the political arena. For example, the criteria established by this law, particularly the prohibition on individuals entering the political arena if they are under custody, enable the regime to tacitly eliminate potential rivals from political contention. In addition, in conjunction with the Emergency Laws, outlined below, that enable regime to make arbitrary arrests and hold people in custody without charge for indefinite periods.

The second mechanism for control over the political sphere in Egypt, the Law of Associations (82/2002)²⁹, particularly relevant to human rights NGOs, is another example of how Egyptian regime has established a system whereby a measure of tolerated opposition serves to legitimate the regime rather challenge it.³⁰ That Law governs the formation, powers, funding, composition and scope of NGOs in Egypt. According to this Law, those who belonged to unauthorized organizations are liable for prosecution that could result in a jail term. This is a useful tool for the regime in light of the Political Parties Law where imprisonment meant virtual disqualification of those individuals taking any part in Egypt's political system in the future. Also, there are unspecific prohibitions about the funding of these organizations. The last year the government arrested many members of NGOs which were not officially authorized by the regime or which received funding that had not been approved by the regime.

Finally, the Emergency Laws are by far the most visible and controversial tool used by the regime in their limitation of political freedoms and human rights in Egypt. These Laws effectively suspend Egypt's obligations under International Law, and especially under the International Covenant on Civil and Political Rights (1966), including the

²⁷ Ibid, p. 50-52

²⁸ The content of these laws can be found through the Egyptian government's website, URL: www.egypt.gov.eg/english/laws

²⁹ Previous Law 153/1999, see below

³⁰ Benjamin MacQueen, “The reluctant partnership between the Muslim Brotherhood and human rights in Egypt”, in Akbarzadeh S. & MacQueen B. (ed.), *Islam and Human Rights in Practice: Perspectives across the Ummah*, London & New York: Routledge 2008 , p. 83

prohibition of torture, on arbitrary arrest, detention and incarceration, on restrictions on freedom of movement, as well as on freedoms of organization and association. Furthermore, after 11 September 2001, the War on Terrorism has only reinforced that position and offered a new source of legitimation for the regime's political use of extralegal detentions and military trials.³¹

Institutions

In less than two decades of operation, the Supreme Constitutional Court had become the most important avenue for political activists to challenge the regime. By early 2000, right groups were rising dozens of petitions for constitutional review every year. Intent on reasserting authority, the regime steadily tightened its grip on the Court, the human rights movement, and opposition parties in the late 1990s. The Court played a crucial role in defending the human rights movement and opposition parties with two of its boldest rulings: one against the government's repressive 1999 NGOs Law and another that required full judicial supervision of elections. But ultimately, the government was able to impose its will by continuously weakening the judicial support network.

As we referred above, the NGOs Law prohibits funding for the organizations, without regime's approval. In 1998, Hafez Abu Sa'ada, secretary general of the Egyptian Organization for Human Rights, was charged by state security prosecutors with "receiving money from a foreign country in order to damage the national interest, spreading rumors which affect the country's interest and violating the decree against collecting donations without obtaining permission from the appropriate authorities". Abu Sa'ada was detained for six days of questioning and then released on bail. The trial was postponed indefinitely, but the charges remained on the books. Abu Sa'ada's interrogation served as a warning to the human rights community that strong dissent and foreign funding would no longer be tolerated by the government.³² The following year the government issued a new law governing NGOs that tightened the already severe constraints imposed by the previous law. Specifically, according to Article 17 of Law 153/1999, "no association shall collect funds from abroad, whether from an Egyptian person... except with the permission of the Minister of Social Affairs...". Human rights groups mobilized considerable opposition to the new NGO Law in a short period of time. Since then NGOs community mobilized and they vowed to fight Law 153/1999 in the Supreme Constitutional Court if it was not repealed. But the government proved its resolve to rein in human rights groups.

In February 2000, the State Security Prosecutor announced that the case against human rights defender Hafez Abu Sa'ada would be reopened and that he would be tried before the Emergency State Security Court under military decree 4/1992 for accepting money from foreign donors without governmental approval. The charges carried a sentence of seven years in prison. The announcement came when Abu Sa'ada was in France, and for the following two weeks remained in Paris, allegedly considering political asylum. With the future of human rights looking bleak, a ray of hope emerged in April 2000 when the

³¹ Remarkably, the former US Secretary of State Colin Powell has even portrayed Mubarak's heavy handed approach to domestic security as a model for emulation, stating his "appreciation for the commitment that Egypt has made to working with us as we move forward to deal with the scourge of terrorism". Collin Powell, "Remarks with Egyptian Minister of Foreign Affairs Ahmed Maher", Washington DC., 26 September 2001, cited in URL: www.state.gov/secretary/rm/2001/5066.htm

³² Tamir Mustafa, *The Struggle for Constitutional Power: Law, Politics, and Economic Development in Egypt*, London: Cambridge University Press 2007, p. 183

commissioner’s body of the Supreme Constitutional Court issued its preliminary report on a constitutional change to Law 153/1999. The case involved an NGO from Tanta by the name of al-Gam‘iyya al-Shar‘iyya, which was fighting an order by the Ministry of Social Affairs that barred several of its members from running in elections for the NGOs board of directors. Finally, on June 2000, the Supreme Constitutional Court issued its final ruling in the case, striking down the most important piece of legislation governing associational life in decades.³³

Success of the Court in battling the government’s restrictive NGO Law, as well as litigation forcing full judicial supervision of elections, illustrates how human rights groups and opposition parties had become increasingly adept at using the courts to challenge the government and defend their interests.³⁴ However the ultimate collapse of the human rights movements the previous years, the continued weakness of opposition parties and the institutional assault on the Supreme Constitutional Court, demonstrate how litigation by itself, without support from broad sectors of society, was insufficient to protect the civil society from collapse. New life came to opposition movement beginning in 2003 but popular mobilization proved to be too little and too late to restore Supreme Constitutional Court’s independence. Instead, Court’s leadership was transferred from one regime insider to another; from Fathi Nagib to Mahmud Mara’i to Maher ‘Abd al-Wahed.³⁵ As stated by Hicks, the Egyptian regime permits, or even promotes, the emergence of opposition while, at the same time, co-optive and clientel arrangements serve as the primary control mechanisms. Political opposition in Egypt, thus, serves functions entirely different from those in liberal democracies where opposition comprises an alternative to the incumbents in a competitive contest for power. A co-opted opposition serves as an instrument to control society and moderate social dissent.³⁶

Conclusion: Egypt and Arab world in the dawn of third millennium.

On January 25 2011 the people of Egypt took the streets in a “day of rage”, protesting about the rampant poverty, unemployment and governmental corruption. Social Media has been served to mobilize the people. Especially the role of internet, and mainly that of Facebook, appeared to be the most important factor about this uprising which led to the protest march. Egypt can’t slip through the past. By January 26, Facebook, Twitter, Gmail and Youtube were shut down and the cell phone company Vodafone had suspended their services. The following day Egypt’s four main internet service providers cut off international access to customers. While the government claimed it was not responsible for internet disconnection, these efforts seemed targeted specifically to quell the uprising. Finally, Hosni Mubarak has resigned from his post, after three weeks of upheaval, handing over power to the armed forces. The stance of the army at the period of recent unrest was the most important factor that shaped the final alteration of power after 30 years.

Will anything really change with the recent uprising in Egypt and in Arab world in

³³ Case 153, Judicial Year 21, issued 3 June 2000. *al-Mahkama*, vol. 9, p. 582-600

³⁴ Tamir Mustafa, *The Struggle for Constitutional Power: Law, Politics, and Economic Development in Egypt*, London: Cambridge University Press 2007, p. 217

³⁵ *Ibid*, p. 218

³⁶ Nicholas Hicks, “Does Islamic Human Rights Activism Offer a Remedy for the Crisis of Human Rights Implementation in the Middle East?”, *Human Rights Quarterly*, vol. 24, 2002, p. 379

general? As the future of democracy in the Middle East seems to be entering into a new era of change, the “thorn” of Palestinian-Israel conflict which generates a heavy fog in Arab politics remains. Over the past several decades, that conflict remain the permanent factor of discord, greater than of older forms of nationalism and pan-Arabism which have lost their luster.

Democratization in the Arab world requires serious thinking of modes, phases and sequences through which political liberalization and democratization might ultimately occur in different kinds of States. While rapid democratization might sometimes invite radical forces and thus lead to more rather than less autocracy, a process of political reform intended mainly to sustain autocracy is hardly promising. The key challenge factor which will lead to a real political reform is to transform liberalization into a vehicle for a genuine and lasting democratization.

The Middle East and Maghreb face a paradox that is hardly unique to the region: Real, lasting and peaceful democratic change requires the State to implement far-reaching reforms. But for this to occur, the State must also reform itself. Overcoming this paradox will require a push from both within and without. From within, democratization requires political leaders with the vision and political skill to challenge those in power who want to retain liberalization simply as a handy tactic of autocrats. From without, democratization will require the West, and especially the United States, to take a new stand, other than of cooperation with corrupted regimes for the sake of their national or energy security.

While it is frequently asserted that Islam is incompatible with democracy, the presence of large Muslim majorities in the most Middle Eastern States does not give a persuasive explanation. Discussion over the stance of Islam in relation to such factors as gender rights, religious freedom, social and political freedoms and other related issues, represent a microcosm of the broader experience of how Muslim and Western communities interact and relate.

Το ΕΛΛΗΝΙΚΟ ΙΔΡΥΜΑ ΕΥΡΩΠΑΪΚΗΣ ΚΑΙ ΕΞΩΤΕΡΙΚΗΣ ΠΟΛΙΤΙΚΗΣ (ΕΛΙΑΜΕΠ) ιδρύθηκε το 1988 και λειτουργεί ως ένα ανεξάρτητο, μη κερδοσκοπικού χαρακτήρα ερευνητικό και επιμορφωτικό ίδρυμα. Μέσω του πολυετούς έργου του έχει αναδειχθεί σε σημαντικό φορέα πληροφόρησης, μελέτης και σχεδιασμού θεμάτων εξωτερικής πολιτικής, και θεωρείται ένα από τα πιο έγκριτα σε διεθνές επίπεδο κέντρα μελετών της Ελλάδας στον τομέα των Ευρωπαϊκών υποθέσεων και των διεθνών σχέσεων.

Το ΕΛΙΑΜΕΠ δεν εκφράζει, ούτε εκπροσωπεί συγκεκριμένες πολιτικές απόψεις. Επιχειρεί μόνο να λειτουργήσει ως θήμα ελεύθερου διαλόγου και ως κέντρο παραγωγής και ανταλλαγής ιδεών.

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