

EGYPT

Elections in Egypt

State of Permanent Emergency Incompatible
with Free and Fair Vote

H U M A N
R I G H T S
W A T C H



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Incompatible with Free and Fair

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Introduction

“The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.”

—Universal Declaration of Human Rights, Article 21(3)

The year 2010 could be key for assessing Egypt’s ability to run free and fair elections. On June 1, 2010, Egyptians cast votes for two-thirds of the Consultative Council (Maglis al-Shura), the upper house of parliament.¹ On November 28 elections are scheduled for the People’s Assembly (Maglis al-Shaab), the lower house. As the uncertain health of President Hosni Mubarak fuels intense speculation about his successor, the November 2010 elections could be an indicator of the country’s preparedness for critical presidential elections scheduled for 2011.

Much stands in the way of free and fair electoral participation. Egypt remains under an Emergency Law that gives security officials free reign to prohibit or disperse election-related rallies, demonstrations, and public meetings, and also to detain people indefinitely without charge. Throughout 2010 and especially in the weeks leading up to the parliamentary elections, authorities have used these powers to disrupt and prevent gatherings and arrest individuals solely for exercising their rights to freedom of association, assembly, and expression—freedoms that are essential to free and fair elections.

The most recent prior People’s Assembly elections in 2005 were marred by fraud and violence but were strongly contested. Members of the banned Muslim Brotherhood organization won 88 seats as independents – some 60 percent of the seats they contested. The presence of the Muslim Brotherhood-affiliated candidates sometimes sparked more active debates in the Assembly, in which MPs called ministers to account and raised specific human rights concerns.² However, the independent MPs have not been able to affect legislation.

¹ The election for the Shura Council’s 264 seats took place amid reports of fraud, violence, and intervention by security officers to prevent voters from accessing polling stations. The president appoints 88 of the Shura Council members; half of the remaining 176 seats are up for election every three years. This June the ruling National Democratic Party won 80 seats, four went to legal opposition party members, and independents won the remaining four.

² For a list of issues and questions raised by opposition and independent MPs in parliament, see quarterly Democracy Status reports by the Egyptian Association for Community Participation Enhancement, available at <http://www.mosharka.org/en/index.php>.

In 2005 President Hosni Mubarak promised to “enshrine the liberties of the citizen and reinvigorate political parties,” but a series of constitutional amendments in 2007 and the renewal of the state of emergency in 2008 and again in 2010 have further eroded political rights.³

Article 76 of the Constitution, as amended in 2005, allows multiple presidential candidates, but sharply restricts who may run; a candidate must be a leader of an officially recognized political party that has existed for at least five years and has won at least three percent of the seats in both the People’s Assembly and the Shura Council. Any independent candidate must secure the endorsement of at least 250 elected members of the People’s Assembly, the Shura Council, and governorate-level councils, with at least 65 of them members of the People’s Assembly. The ruling National Democratic Party’s stranglehold on all of these bodies makes an independent candidacy—such as that of former International Atomic Energy Agency chief Mohamed El Baradei—virtually impossible. El Baradei has attracted support from across the political spectrum because he is not affiliated with the NDP or any other party.

A substantial factor in El Baradei’s popularity has been his calls for an end to the state of emergency, for full judicial supervision of the electoral process, for monitoring by independent Egyptian and international civil society organizations, for equal access for all candidates to the media, and for simplifying voting procedures by allowing individuals to certify their eligibility through use of the national identification card that every Egyptian must acquire at age 16.

A new problem in 2010 is that unlike in the elections of the last 10 years, the government has drastically limited independent judicial supervision of the polling, following a constitutional amendment pushed through in 2007. Another new factor is the recently established High Elections Commission (HEC), which issues monitoring permits and appoints “general committees,” comprising a limited number of judges who are to oversee the polling. The HEC, whose leadership has already changed twice since the commission became operational in May, functions with little transparency and has no standing secretariat to allow for communication with other bodies involved in election observation. Prior to the Shura Council elections, the HEC rejected 65 percent of the monitoring requests by civil society groups and afterwards refused to meet with the quasi-official National Council for Human Rights to discuss this and other issues.

³ President Hosni Mubarak, speech announcing beginning of presidential campaign, August 17, 2005, <http://www.mubarak2005.com/english/speech.asp?pg=1&NewsID=19&Section> (accessed December 22, 2006).

One positive development has been Law 149 of 2009, which allocates 64 parliamentary seats to women, increasing the total number of People's Assembly seats to 518. According to the Egyptian Centre for Women's Rights, the quota has encouraged women's electoral participation, with 1,046 women running for seats this year compared to 121 in 2000 and 127 in 2005.⁴

The Political Parties Committee (PPC) retains full control over the registration of new parties. Its partisan composition, sweeping powers, and subjective criteria for making decisions have been a recipe for the routine exclusion of nascent political parties.

People's Assembly elections in particular have often involved widespread violence on voting day. The 2005 parliamentary elections saw serious violence at polling stations, which led to at least 12 deaths and hundreds of arrests of opposition activists and journalists. Sharply reduced independent judicial supervision this year makes independent monitoring of the upcoming elections more crucial, but the government has rejected calls by Egyptians and other governments for international observers. At this writing, less than a week before the elections, Egyptian NGOs have yet to receive monitoring permits from the Higher Elections Committee, which issued only 1,400 out of 4,000 requested for the Shura elections in June 2010.

Under international human rights law, the Egyptian government is obliged to respect article 25 of the International Covenant on Civil and Political Rights (ICCPR), which stipulates that

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.

⁴ Safaa Bahaa Eddin, "Quota Increases Women's Appetite for People's Assembly," October 27, 2010, <http://shorouknews.com/ContentData.aspx?id=322176> (accessed October 25, 2010).

I. Elections in a State of Emergency

Egypt has been governed under the Emergency Law (Law No. 162 of 1958) almost continuously since 1967 and without interruption since Hosni Mubarak became president in October 1981. The government has regularly renewed the law, most recently in May 2008 and May 2010, each time for two additional years, despite President Mubarak's public commitment in 2005 to allowing it to expire. The Emergency Law gives security officials free reign to crack down on demonstrations and public meetings and to detain people indefinitely without charge.

Disruption of Demonstrations

In 2010 security officials have disrupted political rallies, public protests, and efforts by members and supporters of the Muslim Brotherhood to compete in elections. Activists with the April 6 Youth Movement, named after a strike of workers and opposition activists on that date in 2008, organized a demonstration on April 6, 2010, to call for an end to the state of emergency and amend the constitution to allow for open and inclusive presidential elections. Authorities refused them permission to demonstrate, using their authority under the Emergency Law to ban all demonstrations. Around 60 demonstrators gathered anyway in front of the Shura Council building on Kasr al-Aini Street and peacefully chanted slogans. After 10 minutes, security officials moved in, arresting at least 21 protesters and beating others. Officials arrested more than 100 peaceful demonstrators in Cairo that day. The prosecutor charged 33 of them with participating in a demonstration to overthrow the regime and "participating in a group whose goal is to resist the basic principles upon which the regime is based, incite hatred against it, and show contempt for it."⁵ The prosecutor subsequently ordered their release. Authorities have not prosecuted these cases, but neither have they dismissed the charges and closed the files.

In June 2010 widespread demonstrations took place after police officers brutally beat 28-year-old Khaled Said to death on an Alexandria street. On June 20 security officers arrested at least 55 protesters in Cairo, detaining them for up to four hours before releasing them. When protesters assembled at Bab al-Louk Square and a group of around 100 of them walked from there through downtown streets chanting slogans accusing the Ministry of Interior of responsibility for Said's death, riot police and central security officers intervened. Human Rights Watch observed security officials beating, dispersing, and arresting scores of

⁵ "Egypt: Brutal Treatment of Peaceful Protestors," Human Rights Watch Press Release, April 6, 2010, <http://www.hrw.org/en/news/2010/04/06/egypt-brutal-treatment-peaceful-protesters> (accessed October 24, 2010).

people, including protesters, journalists, and bystanders. Security officials drove the detainees around for hours and then released them on highways outside of Cairo.

Media Crackdown

In the past six weeks authorities have clamped down on media freedoms, one area where there had been measurable liberalization in recent years. On October 3 Ibrahim Eissa, editor of the independent daily *Al Dustour* and one of the government's most vocal critics, warned that "the Egyptian regime cannot give up cheating in elections, so the only solution for the authorities is to stop any talk about rigging, rather than stopping the rigging itself... So the result is the silencing of satellite channels ... and then the turn of the newspapers will come."⁶ On October 5 the newspaper's new owner, Al-Sayed Badawi, fired Eissa. Badawi heads a political party, Al Wafd, which was then preparing to field candidates for the parliamentary elections.

Talk shows on private satellite television channels hosted by high-profile media personalities such as Eissa and Amr Adieb were extremely popular in Egypt. In September 2010 On TV canceled Eissa's weekly talk show, *Baladna*, a move the Journalists Syndicate criticized as "an organized attack on media freedom in Egypt, especially in light of the approaching parliamentary elections." The syndicate's statement said authorities had instructed station owners to tone down criticism of the government at this time.⁷ Also in September Orbit TV canceled Adieb's program, *Cairo Today*, which had been running for 12 years.

On October 11 the National Telecommunications Regulatory Authority announced a new requirement for organizations that send SMS messages to subscribers to secure prior permission from the Ministry of Information and the Supreme Press Council.⁸ This appeared to be directed at the Muslim Brotherhood as well as at groups such as the April 6 Youth Movement, which use SMS messaging to mobilize activists for demonstrations.

On October 13 the government issued regulations effectively bringing all live broadcasts by private companies under control of state television, and on November 1 issued directives requiring prior permission for satellite television uplinks.

⁶ Salah Nasrawi, "Egyptian Newspaper Sacks Dissident Chief Editor," Associated Press, October 5, 2010, <http://www.google.com/hostednews/ap/article/ALEqM5hgTWWon5nEfxqSKhQg-BMl3lzCOWD9lLIQ28o?docId=D9lLIQ28o> (accessed October 10, 2010).

⁷ Maggie Michael, "Egypt Journalists Decry Government Media Crackdown," Associated Press, October 4, 2010, http://news.yahoo.com/s/ap/20101004/ap_on_re_mi_ea/ml_egypt_media (accessed October 15, 2010).

⁸ Sherif Ashour, Mohamed Megahed and Omar el-Hadi, "SMS Messaging Restricted in Bid to Preempt Pre-Election Activism," Al-Masry al-Youm English, October 11, 2010, <http://www.almasryalyoum.com/en/news/restrictions-placed-sms-messages-avert-promoting-anti-regime-incitations> (accessed November 5, 2010).

Arrests of Campaign Activists

Since March 2010 security officials have arrested scores of activists affiliated with the National Association for Change, the Campaign to Support [Mohamed] El Baradei, and the April 6 Youth Movement. On April 2 state security officers arrested Ahmad Mehni, publisher of *El Baradei and the Dream of a Green Revolution*, and detained him for two days before releasing him without charge. Zyad Elelaimy, a lawyer representing the Baradei campaign, told Human Rights Watch that he had documented the arrest of at least 40 persons gathering signatures and providing other support for El Baradei's campaign; authorities held them briefly and released them without charge.

In the week beginning September 9 unidentified security officers briefly "disappeared" three activists with El Baradei's campaign. On September 9 witnesses saw men in plainclothes arrest Amr Salah, a researcher at the Cairo Institute for Human Rights Studies. Salah's whereabouts were unknown until authorities released him some 24 hours later, and Salah told Human Rights Watch that the officers had questioned him about his political activities. The following day officers arrested Ahmad Eid, also an El Baradei activist, and held him incommunicado for a day. On September 14 airport security officers arrested Salah and Eid's friend and fellow activist Shadi Ghazali Harb as he was about to board a flight to Ireland, effectively "disappearing" him, and kept him in custody for 30 hours.

Freedom of assembly and freedom of expression are prerequisites to free and fair elections. In its interpretation of Article 25 of the ICCPR, the United Nations Human Rights Committee, the body of experts that reviews states' compliance with the covenant, wrote:

In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates, and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion. It requires the full enjoyment and respect for the rights guaranteed in articles 19, 21 and 22 of the Covenant, including freedom to engage in political activity individually or through political parties and other organizations, freedom to debate public affairs, to hold peaceful demonstrations and meetings, to criticize and oppose, to publish political material, to campaign for election, and to advertise political ideas.⁹

⁹ UN Human Rights Committee, General Comment No. 25, The right to participate in public affairs, voting rights and the right of equal access to public service, (fifty-seventh session, July 12, 1996), UN Doc. CCPR/C/21/Rev.1/Add.7, para. 26, <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/dob7fo23e8d6d9898025651e004bcoeb?Opendocument>

II. Crackdown on the Muslim Brotherhood

In the 2005 People's Assembly elections Muslim Brotherhood members running as independent candidates won 88 out of the 150 constituencies they contested, confirming their status as the country's most powerful political opposition group. Their strong showing prompted a renewed government clampdown on the organization.¹⁰

On October 9, 2010, the Muslim Brotherhood announced that it would contest 30 percent of the 518 People's Assembly seats.

Elections in Egypt typically involve widespread arrests of Muslim Brotherhood members in the run up to voting day. Leading up to the elections of November 2000 Muslim Brotherhood lawyers said that security forces had arrested around 1,600 members of the organization over a period of several months.¹¹ In the election year of 2005 Egyptian security officers arrested at least 800 members of the organization in the months preceding the parliamentary elections.¹² In the month prior to municipal elections on April 8, 2008, security officers arrested at least 831 members.¹³

This year was hardly different. On November 21, Abdelmoneim Maqsd, the Muslim Brotherhood's chief lawyer, announced that Egyptian security forces had arrested 1206 Muslim Brotherhood members, including five candidates, and brought 702 of this group before prosecutors while releasing the rest. The arrests started on October 10, the day after the Brotherhood announced it would compete in the elections, officers arrested 22 members of the organization in Mansura and Alexandria; prosecutors ordered their detention for 15 days on charges of "membership in an illegal organization" and "distributing publications that threaten public order," in some cases in reference to their "Islam is the Solution"

¹⁰ For a discussion of this and the implications for internal Muslim Brotherhood politics see Amr Hamzawy and Nathan J. Brown, "The Egyptian Muslim Brotherhood: Islamist Participation in a Closing Political Environment," Carnegie Papers, Number 19, March 2010.

¹¹ Amira Howeidy, "Capitalizing on the Clampdown," *Al-Ahram Weekly*, 16 – 22, November 2000, Issue No. 508, <http://weekly.ahram.org.eg/2000/508/eg10.htm> (accessed April 24, 2010). See also Human Rights Watch, "Egypt: Muslim Brotherhood Trials," February 15, 2007, <http://hrw.org/english/docs/2007/02/15/egypt15329.htm> (accessed April 15, 2010), and Alkarama for Human Rights, "Submission under the UPR Process," August 31, 2009, http://en.alkarama.org/index.php?option=com_docman&task=doc_download&gid=134&Itemid=104

¹² Human Rights Watch, "Egypt: Government Uses National Security to Stifle Dissent," June 20, 2005, <http://www.hrw.org/en/news/2005/06/20/egypt-government-uses-national-security-stifle-dissent>; Detainees Face Military (accessed October 20, 2010).

¹³ Human Rights Watch, "Egypt: Jailing 800 Activists Casts Doubt on Elections: Mass Arrests Include Would-Be Candidates; Military Court Delays Verdict," March 29, 2008, <http://www.hrw.org/en/news/2008/03/29/egypt-jailing-800-activists-casts-doubt-elections> (October 22, 2010).

campaign slogan. Authorities arrested another 16 members on October 14 in Beheira, Aswan, Minya, Gharbiyya, and Sharqiyya. By October 16, according to Abdelmoneim Maqsd, the Muslim Brotherhood's chief lawyer, 154 people had been arrested, 84 of whom were released.¹⁴ Over the following two weeks security officers arrested a further 109 members, including, on October 26, a group of 76 in Alexandria, Gharbeia, and Beheira, for putting up campaign posters.¹⁵ A security official told *Al-Masry al-Youm* that putting up posters with the slogan "Islam is the Solution" was against the law, though no provisions under Egyptian law specifically prohibit such language.¹⁶

Earlier in the year, in the six weeks before the Shura elections, security officers arrested at least 105 Brotherhood members in connection with campaigning, mainly for putting up posters for candidates. Security officials sometimes said those detained "belonged to a banned group" and held meetings and distributed leaflets "that incite the toppling of the regime."¹⁷ *Al-Masry al-Youm* reported that some of those arrested were preparing to submit their candidacy papers for the Shura elections.¹⁸

The Muslim Brotherhood has never sought to register as a political party. At first, the group's older members opposed the idea ideologically, and later, many members felt it would be a futile attempt, given the ongoing government crackdown. The government continues to rely on the 1954 decree banning the Muslim Brotherhood for alleged acts of violence in order to arrest thousands of Brotherhood members half a century later on the basis of "membership in an illegal organization." One of the constitutional amendments introduced in 2007 included an addition to article 5, which now reads: "No political activity shall be exercised or political parties established on the basis of religion or on discrimination due to gender or race."¹⁹ In a February 2010 letter to Human Rights Watch, the Ministry of Foreign Affairs

¹⁴ Khaled Afifi, "Arrest of 154 and Plundering of 88 Commercial Offices," October 16, 2010, Ikhwan Online, <http://www.ikhwanonline.com/Article.asp?ArtID=72241&SecID=211> (accessed October 25, 2010).

¹⁵ For a full list of all the arrests see <http://www.ikhwanonline.com/Archive.asp?Page=1&SectionID=211>.

¹⁶ Ahmad Shalaby, "76 Brotherhood Members Arrested While Hanging Up Campaign Posters for Brotherhood Candidates," *Al-Masry al-Youm*, October 27, 2010, <http://www.almasry-alyoum.com/printerfriendly.aspx?ArticleID=274975> (accessed October 27, 2010).

¹⁷ Ahmad Shalabi and Tarek Salah, "17 Brotherhood Members Arrested in 3 Governorates," *Al-Masry al-Yom*, May 8, 2010, <http://www.almasryalyoum.com/en/news/17-brotherhood-members-arrested-3-governorates> (accessed June 15, 2010).

¹⁸ *Ibid.* The arrests continued; for example, 21 supporters of candidates were arrested on May 21 in Mansura and Qalyubeia, nine in Beheira on May 23, and eight in Minya on May 30 while putting up campaign posters, and seven on May 26 in Sharkiya for taking part in a procession of one of the candidates. Prosecutors ordered their detention for 15-day periods on charges of membership in an illegal organization but later released them.

¹⁹ For text before and after the amendment see "Modernizing the Constitution of Egypt," Egypt State Information Service Website, Ministry of Information, <http://constitution.sis.gov.eg/en/ecardo3.pdf>.

reiterated the government position that “no political activity or political party can be based on any religious reference or basis.”²⁰

Under international law, freedom of expression and association can be limited only on narrowly defined grounds of public order. Any restriction must be prescribed by law, be for a legitimate purpose, and be the least restrictive measure possible to meet that purpose. A ban on an organization solely because of the political positions it holds, and the fact that it uses a religious framework or espouses religious principles, is not a legitimate reason to limit freedom of association and expression under international human rights law. A government may legitimately ban a party that uses or promotes violence, but it must meet that high standard of factual proof. In addition, it may detain individuals responsible for specific criminal acts, but not for mere membership in, or support for, a political organization that the government has decided to outlaw.

The ICCPR prohibits broadly worded bans on nonviolent political activity. It guarantees citizens, in article 25, the right to take part in the conduct of public affairs, either directly or through freely chosen representatives, and the right to vote and to be elected in periodic and fair elections. These rights may not be denied on the basis of race, religion, or gender, among other distinctions. Egypt’s present law violates the rights of supporters of a party that claims a religious basis for its program to associate together and to vote for representatives of their choice.

“Membership in an illegal organization,” the charge most frequently leveled against Muslim Brotherhood members, amounts to punishing persons solely for exercising their right to freedom of association. In its General Comment 25, which provides interpretation islfor article 25 of the ICCPR, the Human Rights Committee stated: “the right to freedom of association, including the right to form and join organizations and associations concerned with political and public affairs, is an essential adjunct to the rights protected by article 25.”²¹

²⁰ Government of Egypt letter to Human Rights Watch, February 22, 2010; see also Human Rights Watch, *World Report 2010* (New York, Human Rights Watch, 2010, Egypt Chapter).

²¹ Human Rights Committee, General Comment 25 (57), General Comments under article 40, paragraph 4, of the International Covenant on Civil and Political Rights, adopted by the Committee at its 1510th meeting, U.N. Doc. CCPR/C/21/Rev.1/Add.7 (1996); Paragraph 27.

III. Election Violence and Police Brutality

During elections season in Egypt, political activism typically becomes focused and opposition parties and movements organize protests and meetings in which they call for free elections and structural reforms. Security officials view these activities with suspicion and frequently resort to arbitrary arrests and excessive use of force to disperse rallies and demonstrations. In one incident on May 25, 2005, security agents and thugs apparently working on their behalf attacked protestors at a demonstration against proposed constitutional amendments to limit judicial supervision of elections, further restrict who can run for president, and abrogate constitutional civil liberties protections in cases involving terrorism charges.²² Plainclothes security agents beat demonstrators, and riot police allowed—and sometimes encouraged—thugs to beat and sexually assault women protestors and journalists.

In some cases documented during the 2005 parliamentary elections, security officials barred access to polling stations; in other cases violence erupted between NDP supporters and opposition candidates, usually from the Muslim Brotherhood. At least 12 people died as a result of violence during the 2005 elections, which were held in three rounds in November and December. The second and third rounds in particular, following the Muslim Brotherhood's strong showing in the first round, were marked by increased voter intimidation, with widespread reports of beatings and arrests of journalists and election monitors.²³

According to the report on the 2005 elections by the Independent Committee on Election Monitoring (ICEM), a coalition of NGOs led by the Cairo-based Ibn Khaldun Center,

By the end of the election, the levels of violence and harshly repressive tactics used by security reached a critical point. The number of fatalities, injuries, and arrests accumulated throughout the month, reaching its apex in the runoff of the final round where twelve people were killed.... Thugs, in plain sight of the police, prevented voters from entering the polling places in

²² "Calls for Reform Met with Brutality," Human Rights Watch Press Release, May 25, 2005, <http://www.hrw.org/en/news/2005/05/25/egypt-calls-reform-met-brutality> (accessed March 3, 2010). This incident has since become the subject of a case before the African Commission on Human Rights which ruled it admissible. See also "Security Forces Attack Opposition Demonstrators," Human Rights Watch Press Release, August 1, 2005, <http://www.hrw.org/en/news/2005/08/01/egypt-security-forces-attack-opposition-demonstrators> (accessed March 3, 2010).

²³ Letter from Human Rights Watch to Secretary of State Condoleezza Rice regarding Department of State Comments on Egyptian Elections, , December 1, 2005, <http://www.hrw.org/en/news/2005/12/01/letter-secretary-state-condoleezza-rice-about-department-state-comments-egyptian-elec>

Bandar Beni Sueif and in the Nasser district. In the same district at Al Adwa school, the polling station was closed for a few hours to prevent a group of Muslim Brotherhood supporters who had gathered from voting.²⁴

Monitors from the International Republican Institute, a Washington-based NGO affiliated with the Republican Party, witnessed “a brutal and bloody fistfight between candidate supporters, during which police stood by silently and did not intervene.”²⁵ Reporters Without Borders documented at least 18 cases where security forces beat up or arrested Egyptian and foreign journalists, denied them entry to polling stations, or confiscated their cameras and phones.²⁶

In the aftermath of the 2005 elections, several senior judges publicly criticized election irregularities. Government moves to discipline the judges prompted public demonstrations on their behalf. On April 24, 2006, plainclothes police attacked activists who had gathered outside the Judges’ Club, the quasi-official professional association for members of the judiciary, to support the judges, and beat them with batons. Over the course of several days, police arrested at least 51 persons protesting the lack of judicial independence and the fraud and intimidation associated with the 2005 elections. Authorities, under provisions of the Emergency Law, referred the detained protesters to the State Security Prosecutor on charges of participating in a gathering of more than five people, insulting the president, and disseminating propaganda and malicious rumors.²⁷ Several days later, members of security forces attacked protesters attempting to rally near the High Court in support of two of the judges, Hisham al-Bastawissi and Mahmud Mekki, who were facing a disciplinary hearing after they publicly criticized the parliamentary elections as fraudulent. Plainclothes security officers also attacked journalists attempting to cover the events.²⁸

The violence surrounding the 2005 parliamentary elections and their aftermath was not unique, although the Egyptian Organization for Human Rights “found that violence in 2005

²⁴ Independent Committee on Election Monitoring, Press Statement, November 15, 2005, http://www.ndi.org/files/1943_eg_icefirst_110905.pdf, accessed March 10, 2010.

²⁵ “International Republican Institute 2005 Parliamentary Election Assessment in Egypt,” International Republican Institute, November 15-21, 2005, <http://www.iri.org/sites/default/files/Egypt%27s%202005%20Parliamentary%20Elections%20Assessment%20Report.pdf> (accessed March 10, 2010).

²⁶ “More than 50 Journalists and Media Workers Harassed, Some Beaten while Covering Elections,” Reporters Without Borders, December 9, 2005, <http://en.rsf.org/egypt-more-than-50-journalists-and-media-09-12-2005,15881.html> (accessed March 10, 2010).

²⁷ “Egypt: Troops Smother Protests, Detain Activists,” Human Rights Watch Press Release, May 5, 2006, <http://www.hrw.org/en/news/2006/05/05/egypt-troops-smother-protests-detain-activists>.

²⁸ “Egypt: Police Assault Demonstrators, Journalists,” Human Rights Watch Press Release, May 11, 2006, <http://www.hrw.org/en/news/2006/05/11/egypt-police-assault-demonstrators-journalists>.

was much higher than during the 2000 [previous parliamentary] election. In 2005, 12 people were killed and 500 were injured in election-related violence, compared to 8 killed and 64 injured in 2000.”²⁹ The failure to investigate the attacks on peaceful demonstrators and arbitrary arrests of protestors in past elections, or to prosecute any of those responsible, can give an impression of toleration for such violence and intimidation in future elections.

Under the ICCPR, Egypt has a general obligation to provide an effective remedy to all those whose rights have been violated.³⁰ This involves the duty to promptly investigate and prosecute those responsible for ordering or carrying out acts of violence.

Egypt is also obliged under international law to ensure an environment where voters feel secure and able to make voting choices freely. The Human Rights Committee says that, to ensure the application of article 25, “voters should be protected from any form of coercion or compulsion to disclose how they intend to vote or how they voted, and from any unlawful or arbitrary interference with the voting process.”³¹

²⁹ “Assessment of the Electoral Framework,” Democracy Reporting International and the Egyptian Organization for Human Rights, April 2007, http://www.democracy-reporting.org/downloads/reports/dri_egypt.pdf (accessed March 15, 2010).

³⁰ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, art 2(3).

³¹ UN Human Rights Committee, General Comment No. 25, The right to participate in public affairs, voting rights and the right of equal access to public service, (fifty-seventh session, July 12, 1996), UN Doc. CCPR/C/21/Rev.1/Add.7, <http://www.unhcr.ch/tbs/doc.nsf/%28Symbol%29/dob7fo23e8d6d9898025651e004bcoeb?Opendocument>.

IV. Insufficient Independent Oversight

Egyptian citizens perceive the judiciary in Egypt as more independent politically than any other official institution. Until amended in 2007 at the government's behest, Egypt's constitution required judges to supervise the process of voting and vote-counting.

Despite—or perhaps because of—the violence and fraud associated with elections in 2000 and 2005, the 2010 People's Assembly elections will take place in the absence of meaningful judicial supervision and with civil society monitoring tightly curtailed. On August 29, 2010, *Al-Dustour* published the findings of a leaked National Council for Human Rights (NCHR) report on the Shura elections of the previous June, which NCHR staff subsequently confirmed to Human Rights Watch as accurate.³² The NCHR report found that for the Shura elections, only 700 judges were responsible for monitoring 35,000 auxiliary polling stations, making effective supervision impossible. The NCHR recommended that the number of judges supervising polling stations be significantly increased.³³

On September 29, Mufid Shehab, minister for parliamentary and legislative affairs, told a seminar audience that:

Direct judicial supervision of ballot boxes in 2005 had a lot of disadvantages because it took judges away from their courts and they left a number of cases hanging because of their work on the elections. A judge has important status and it is beneath him to perform administrative work in a competitive atmosphere between candidates and voters. Judicial supervision does not require a judge to go himself to the elections scene; it's enough for a judge to send someone to solve any problems, which is why we replaced direct judicial supervision with the High Elections Commission."³⁴

³² Sources close to the NCHR told Human Rights Watch that NCHR members – which include representatives of several ministries – blocked official publication of the report before November's parliamentary elections because they felt this was a politically sensitive time.

³³ Ibrahim Al-Tayeb, "Al Dostor Publishes the Report of the National Council for Human Rights Report on the Monitoring of Shura Elections whose Publication was Postponed," *Al DustourDustour*, August 28, 2010, <http://dostor.org/politics/egypt/10/august/28/26832> (accessed October 28, 2010).

³⁴ Passent Zein Eddin, "Mufid Shehab: No Fraud in Elections, Only Mistakes by Candidates and Bureaucrats," *Al-Masry al-Youm*, September 29, 2010, <http://www.almasry-alyoum.com/article2.aspx?ArticleID=271506> (accessed October 25, 2010).

Judicial Supervision Curtailed

Perhaps the most controversial constitutional amendment introduced in 2007 was to article 88, which drastically reduced judicial supervision. Judges would no longer have a mandatory presence at every polling station, but instead, a very small number of them would have a role as part of “general committees” under the High Elections Commission.³⁵ Restoring full judicial supervision is a main demand of opposition politicians and activists.

The background to the constitutional requirement for judicial supervision is instructive. Article 88, prior to its amendment, read: “The rules of election and referendum shall be determined by law, while the ballot shall be conducted under the supervision of members of a judiciary organ.”³⁶ In July 2000, in response to a lawsuit contesting the constitutionality of earlier parliamentary elections, Egypt’s Supreme Constitutional Court stated in a landmark ruling that the legislation then governing the electoral process was unconstitutional because it failed to provide for full judicial supervision of elections as required by article 88. In both the 1990 and 1995 parliamentary elections, members of the judiciary had only supervised principal polling stations, while civil servants supervised auxiliary stations. Following the Supreme Constitutional Court ruling, parliament amended Law 73/1956 to include judicial supervision of all polling stations, not only “principal” ones.³⁷

In the 2005 parliamentary elections polling was held on three separate days: November 9 and 20 and December 1, in order to comply with the court ruling, given the limited number of judges. The government at that time also insisted, over the objection of many judges, that prosecutors and other judicial officers could serve as poll supervisors.

President Mubarak wrote in a December 26, 2006 letter to the People’s Assembly that article 88 required amendment to “facilitate the management of the ongoing increase in the size of the electorate, and the concomitant increase in the number of polling stations.”³⁸ The amendment reflected official unhappiness with the independent role that the Judges’ Club

³⁵ On March 21, 2007, the Egyptian parliament overwhelmingly approved amendments to 34 articles of the constitution on Tuesday in a vote that closely followed party lines. Egyptian President Hosni Mubarak scheduled a referendum on the amendments for today, weeks ahead of the expected date. Many of the amendments effectively removed basic protections against violations of Egyptians’ rights to privacy, individual freedom, security of person and home, and due process. For a full list of the amendments see “The Citizen’s Guide to Ballot on Constitutional Amendments in March 26, 2007,” on the official government website set up at the time, <http://constitution.sis.gov.eg/en/enconst1.htm>.

³⁶ For a comparison of constitution before and after amendment see “Modernizing the Constitution,” Egyptian State Information Service, Ministry of Information, <http://constitution.sis.gov.eg/en/enconst1.htm> (accessed March 15, 2010).

³⁷ Law on the Exercise of Political Rights (Law 73 of 1956).

³⁸ Letter Addressed to Parliament by H.E President Mohamed Honsi Mubarak requesting amendments to the Constitution of Egypt, December 26, 2006, <http://constitution.sis.gov.eg/en/11d.htm>.

had played, and attempted to play, in the 2005 elections, particularly the insistence of some judges in exposing fraud and violence during the voting process.³⁹ The Judges' Club refused to endorse the 2005 parliamentary elections after more than 100 judges reported irregularities at polling stations.⁴⁰

On November 24, 2005, *Al-Masry al-Youm* published a letter from Noha al-Zeiny, a judge who had supervised voting in a Damanhour constituency. "I was there and I participated in this process and this is my testimony of the truth of what happened," al-Zeiny wrote. "I am fully aware of the problems this will bring me."⁴¹ According to al-Zeiny, in the auxiliary polling station she supervised on November 20, the independent candidate Gamal Heshmat, from the Muslim Brotherhood, had at least three times the number of votes of the NDP candidate, Mustafa al-Fikki. Yet at the end of the day, the committee in charge of announcing the results in that constituency declared al-Fikki the winner. Al-Zeiny noted the presence of a state security officer and criticized the fact that one of the judges chairing the committee also held a government post. She submitted a complaint to the Alexandria Judges' Club, she wrote, which in turn filed a complaint with the General Prosecutor, who did not investigate the complaint. In response to her public letter, 120 judges signed a statement confirming that the violations she had described were common in many constituencies.⁴²

Civil Society Observation of Elections

A coalition of independent NGOs that observed the 2005 People's Assembly elections found that "in addition to the violence and arrests, the electoral process was marred by other serious and widespread violations that contributed to the withering credibility and integrity of the election. These violations include vote-buying, voter intimidation, illegal campaigning, ballot-stuffing, counting irregularities, and inaccuracies with voter lists."⁴³

³⁹ The Judges' Club, which represents some 8,000 judges in its Cairo and Alexandria headquarters, began as a social organization concerned mainly with material issues such as salaries and benefits and has evolved into an unofficial professional association. In recent decades it has become a forum for public issues relating to the judiciary, rule of law, and the administration of justice generally. From 2005 onwards, the judges were demanding independence from the ministry of justice's control over the budget and the evaluation of judges' performance. On May 13, 2006 an emergency general assembly attended by some 3,000 members issued an ultimatum to the government, saying they would refuse to certify the upcoming presidential election unless the government granted long-standing demands of the profession for greater independence. This move for independence was ultimately quashed by the government.

⁴⁰ For more on the backlash against the judges see "Egypt: Investigate Election Fraud, Not Judges," Human Rights Watch Press Release, April 24, 2006, <http://www.hrw.org/en/news/2006/04/24/egypt-investigate-election-fraud-not-judges> (accessed March 27, 2010).

⁴¹ "Al-Masry al-Youm Published the Testimony of a Judge who Participated in Supervising the Elections in Damanhour," *Al-Masry al-Youm*, November 24, 2005, <http://www.almasry-alyoum.com/article2.aspx?ArticleID=43599> (accessed April 9, 2010).

⁴² Gamal Nkrumah, "Noha Othman El Zeiny: the Whistleblower," *Al-Ahram Weekly*, December 7-13, 2006.

⁴³ The Independent Committee for Elections Monitoring (ICEM), December 2005.

The Egyptian Association for Community Participation Enhancement, a human rights organization that specializes in election monitoring, has observed parliamentary and municipal elections since 2005. One of its lawyers, Ahmed Fawzy, told Human Rights Watch that judges' supervision of polling stations during voting and vote counting in the 2005 People's Assembly elections prevented more extensive fraud.⁴⁴

The government refused to allow international monitors to observe the September 2005 presidential vote or the People's Assembly elections in 2000 and 2005. At the UN Human Rights Council's Universal Periodic Review of Egypt's human rights record in February 2010, Egyptian officials rejected Canada's recommendation to "allow international election observation in all upcoming elections" but accepted a separate recommendation from Germany to "enable human rights organizations to monitor general elections."⁴⁵

In May 2010, the Egyptian Organization for Human Rights (EOHR) brought a case before the administrative court against the High Elections Commission for approving only 20 out of the 125 permits the group requested to observe the 2010 Shura elections. On June 1 the court ruled in favor of the EOHR, ordering the HEC to issue the permits.

On the day before the Shura elections took place, when it became clear that the High Elections Commission would not issue any last-minute permits, the Forum of Independent Human Rights organizations, a coalition of independent human rights NGOs, issued a statement:

The refusal of the High Elections Commission to allow human rights groups to monitor the Shura Council elections indicates the committee is not independent and is subject to the state security apparatus that intervenes to ensure the election outcome favors the ruling party.⁴⁶

⁴⁴ Human Rights Watch interview with Ahmad Fawzy, Cairo, March 16, 2010. For more on the issue of candidates running as independents only to later rejoin the NDP see "Assessment of the Electoral Framework," Democracy Reporting International and the Egyptian Organization for Human Rights, April 2007, http://www.democracy-reporting.org/downloads/reports/dri_egypt.pdf (accessed March 15, 2010).

⁴⁵ For full list of recommendations the Egyptian government accepted and rejected see Draft Report of the Working Group on the Universal Periodic Review, Human Rights Council, Seventh Session, 8-19 February 2010, A/HRC/WG.6/7/L.16 . All official documents related to Egypt's UPR are available at <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/EGSession7.aspx>.

⁴⁶ The Legitimacy of Our Monitoring Comes from Our Constitutional Rights and our Credibility," The Forum of Independent Human Rights Organizations, "<http://www.mosharka.org/index.php?newsid=274> (accessed October 24, 2010).

In its leaked report on the Shura elections, the NCHR also criticized the role of the High Elections Commission for refusing to issue 3,413 of the 4,821 monitoring permits requested.⁴⁷

As of November 22, the coalition including the Egyptian Organization for Human Rights has not received a response from the HEC to its request for 1113 monitoring permits nor has the coalition including the Egyptian Association for Community Participation Enhancement received a response to its 1116 requested permits. Repeated attempts by the organizations to contact the HEC have failed.

The UN Human Rights Committee has interpreted article 25 of the ICCPR to mean that “an independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially.... There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes.”⁴⁸

⁴⁷ Ibrahim Al-Tayeb, “Al Dostor Publishes the report of the National Council for Human Rights Report on the Monitoring of Shura Elections whose Publication was Postponed,” Al DustourDustour, August 28, 2010, <http://dostor.org/politics/egypt/10/august/28/26832> (accessed October 28, 2010).

⁴⁸ UN Human Rights Committee, General Comment No. 25, The right to participate in public affairs, voting rights and the right of equal access to public service, (fifty-seventh session, July 12, 1996), UN Doc. CCPR/C/21/Rev.1/Add.7, <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/dob7fo23e8d6d9898025651e004bcoeb?Opendocument>.

V. Stifling Political Parties

The Political Parties Committee (PPC) remains the ruling party's primary lever for drastically narrowing Egypt's political landscape.⁴⁹ The PPC can refuse to register new parties, freeze existing parties' licenses, close party newspapers, reverse party decisions, or halt party activities based on undefined "national interest," and ask the Supreme Administrative Court to dissolve the party and redistribute its funds. July 2005 amendments to the political parties' law changed the requirement to register as a party from receiving permission from PPC to one of notification, putting the onus on the committee to object within 90 days.⁵⁰ The 2005 amendments also guarantee an approved party's right to "promote by lawful means its ideals and disseminate information on its activities," participate in elections and referenda, and, importantly, to "use state-owned audiovisual mass media, particularly during the election campaign, according to the regulations."⁵¹ The amendments did not, however, eliminate the vague, subjective, and unnecessarily restrictive criteria that allow the government and the PPC to continue to prevent the establishment of new political parties.

The law establishing the PPC gives it "the competence to examine and consider notices of the establishment of parties" and requires that a party's "founding pillars, principles, goals, programs, policies, or methods of the party in carrying out its activities" should not contradict the principles of Islamic jurisprudence, "being as it is, the main source of legislation"; "the principles of both the July 23, 1952 and the May 15, 1971 revolutions"; or the requirements of "preserving national unity, social peace, the social democratic order, and the socialist gains."⁵² The law further specifies, in article 4, the following criteria necessary for a party to be recognized:

- "The uniqueness of the party's programs and policies or methods for achieving these programs, in a manner clearly different from other political parties";⁵³
- "Its principles, programs, activities, and means of choosing its leaders and members" should not contradict "edicts ... concerned with the protection of the internal front and social peace, or [be based] on classicist, ethnic, factional, or

⁴⁹ Law 40/1977, art. 8.

⁵⁰ The People's Assembly approved the amendments on July 4, 2005, as Law No. 177/2005.

⁵¹ Law No. 177/2005, art. 9 (*bis*) leaves these "regulating rules" undefined.

⁵² Law 40/1977, art. 4.1.1-3.

⁵³ *Ibid.*, art. 4.2.

geographical foundations, or on the basis of discrimination based on gender, origin, religion, or faith”;⁵⁴

- The leaders or members of the party may “not be affiliated with, related to, or in cooperation with any party, organization, group, or political power” that has called for the abrogation of Egypt’s peace treaty with Israel;⁵⁵ and
- The party may not be a reincarnation of a party the government had previously banned.⁵⁶

If the PPC determines that an already-recognized party has violated any of these principles, the chair may request that the appropriate body in the Supreme Administrative Court dissolve a party, liquidate its funds, and determine which other party will absorb its members, elected officials, and assets.⁵⁷ Parties may appeal an order of suspension, but only after three months. The parties law also empowers the PPC to determine whether “the party’s platform shall constitute an addition to political life,” and whether its establishment or existence would harm “national unity.”⁵⁸

Amendments passed in 2005 expanded the PPC’s membership from seven to nine and reduced the number of seats allocated to cabinet ministers. But the president still appoints all but one of the committee’s members. The head of the Shura Council, who chairs the PPC, serves ex-officio and is not directly appointed by the president, but he can hardly be considered independent, since the president appoints one-third of the Shura Council directly and the NDP dominates the rest of the body, with the result that the chair of the PPC is invariably a leading member of the ruling party. The PPC now comprises, in addition to the speaker of the Shura Council, the minister of the interior, the minister for People’s Assembly affairs, “three former heads or deputy heads of the judiciary bodies who are not affiliated with any political party,” and “three public figures who are not affiliated with any political

⁵⁴ Ibid., art. 4.3.

⁵⁵ Ibid., art. 4.5-7.

⁵⁶ Ibid., art. 4.8.

⁵⁷ Law 177/2005, art. 17. The State Council (Maglis al-Dawla) is a quasi-judicial body comprised of 15 persons: seven judges of the first circuit of the Administrative Court and eight “public figures known for their efficiency and good reputation.” The minister of justice selects these public figures, including the president, subject to the approval of the Supreme Judicial Council. The Ministry of Justice, in turn, determines the composition of the Supreme Judicial Council, the body that nominates, promotes, and gives judges their assignments. The Minister of Justice may appoint any competent judge to occupy eight of the Supreme Judicial Council’s 15 seats. The seven other members—the general prosecutor, the minister of state for justice, the head of the Court of Cassation, two other justices from the Court of Cassation, the president of the Court of Appeal, and the chief justice from the Tribunal of First Instance in Cairo—occupy their seats by virtue of their positions. Since the executive appoints the general prosecutor, the minister of state for justice, and the head of the Court of Cassation, 11 of the 15 Supreme Judicial Council members are directly appointed by the executive. This makes it easy for the executive to determine which judges sit in key seats, such as those that result in appointment to the Supreme Judicial Council itself or the State Council — and thereby determine who will hear appeals on failed attempts to register political parties.

⁵⁸ Law 177/2005, art. 4.3. and art. 4.2.

party.” The president appoints the three former heads or deputy heads of judiciary bodies and the three public figures for renewable three-year terms.⁵⁹

Almost all of Egypt’s 24 licensed non-ruling political parties are small and ineffectual. Between 1977 and the end of 2009, the PPC rejected 63 applications to establish new parties and approved only four: the Wifaq al-Watani (National Accord) Party (later suspended), the Gil al-Dimoqrati (Democratic Generation) Party, Hizb al-Ghad (Tomorrow Party), and the Democratic Front Party.⁶⁰ On January 3, 2009, the Political Parties Court at the Council of State refused to register Nahdet Masr (Egypt’s Renaissance) and Al-Salam al-Dawli (International Peace), allegedly because of failure to comply with the requirements of the Political Parties Law. There are at least nine parties still trying to register.⁶¹

Al-Karama and Al-Wasat have tried repeatedly but unsuccessfully to register, highlighting the PCC’s subjective and arbitrary decision-making. Hamdim Sabbahi, and Amin Iskandr left the Nasserist Party in March 1996 to set up Al-Karama. The PPC rejected the party’s initial application on the grounds that its platform “was not sufficiently distinct from those of existing parties.” The founders applied to register with the PPC again in September 2004, but the PPC again rejected the application, this time on grounds that the party “espoused a radical ideology.”⁶² “Under the terms of the Political Parties Law,” Sabbahi told Human Rights Watch, “the ruling party has the right to select its opposition, on its own terms.”⁶³

Abd al-`Ila Madi started the Wasat Party in 1996 with others who had left the Muslim Brotherhood because, in his words, they “wanted to see the Brotherhood choose between being a *da`wa* [proselytizing] organization and a political party.”⁶⁴ He described the Wasat Party as “a civil party informed by the ideals of Islam,” and has likened its philosophy to that of Germany’s Christian Democratic Party.⁶⁵ On four separate occasions since Al-Wasat first

⁵⁹ Law No. 177/2005, art. 8. T.

⁶⁰ Mona el-Nahhas, “Changing Tactics,” *Al-Ahram Weekly* (Cairo), December 2-8, 2004. The PPC approved the Labor Party in 1977 but subsequently suspended its activities. The Open Egypt Party and the Social Justice Party were created by an order of the Supreme Administrative Court’s State Council reversing the PPC decision. The PPC has since suspended the Open Egypt Party, the Social Justice Party, the Populist Democratic Party, and the Liberal Party (one of the three established by President Sadat; see above). See also Tamir Moustafa, “The Law Versus State: The Judicialization of Politics in Egypt,” *Law and Social Inquiry* (Washington DC: American Bar Association, 2003), p. 14.

⁶¹ For a list of parties trying to register see the website of the Democratic Front Party: http://www.democraticfront.org/index.php?option=com_content&task=view&id=213&Itemid=61.

⁶² Human Rights Watch interview with Amin Iskandr, Cairo, November 24, 2006; Mona al-Nahhas, “Tomorrow’s Party Today,” *Al-Ahram Weekly* (Cairo), November 4-10, 2004, <http://weekly.ahram.org.eg/2004/715/eg6.htm> (accessed December 22, 2006).

⁶³ Human Rights Watch interview with Hamdim Sabbahi, Cairo, November 24, 2006.

⁶⁴ Human Rights Watch interview with Abu al-`Ila Madi, Cairo, July 19, 2006.

⁶⁵ *Ibid.*

applied in January 1996, the PPC has denied the group permission to operate because its platform was “not sufficiently distinct from existing political parties.” The PPC’s most recent refusal to register Al-Wasat, in August 2009, stated that “the party’s platform is no more than a set of unclear phrases and does not offer anything new to the political life of Egypt.”⁶⁶

The only party recently able to successfully register was the Democratic Front Party, set up by former National Democratic Party policies committee member Osama Ghazali Harb, who left the ruling party in 2006. The decision to approve a new party was a surprise to many. One Democratic Front Party member told Human Rights Watch, “The government doesn’t see us as a threat because we don’t do street activism. They see us as a group of intellectuals who will hold a lot of seminars. Plus there was a lot of pressure on the government at the time to accept new parties.”⁶⁷

⁶⁶ Hossam Sadka and Mahmoud Gaweesh, “Parties Committee Rejects Al Wasat for the Fourth Time,” Al-Masry al-Youm, August 18, 2009, <http://www.almasry-alyoum.com/article2.aspx?ArticleID=222971> (accessed November 7, 2010).

⁶⁷ Human Rights Watch interview with M.N., Cairo, March 17, 2010.

VI. Looking Forward

On November 5, 2010, Egyptian minister of finance Youssef Boutros Ghali published an op-ed in *The Washington Post* in which he argued that critics of human rights abuses and the political process in Egypt are ignoring the government's economic achievements.⁶⁸ He also pointed to the media, the Internet, and civil society in Egypt as evidence of political openness.

Yet it is clear on the eve of the 2010 People's Assembly elections that the government has no interest in opening up the political arena in Egypt, even a crack, to allow for elections that might eventually lead to a peaceful transition of power in Egypt. At present the Emergency Law and other restrictive measures like the Political Parties Law remain the biggest deterrents to the ability of Egyptians to exercise freedom of expression, association, and assembly – rights that are vital in any meaningful exercise of political rights more broadly. The legal framework for parliamentary elections, and in particular the constitutional amendments of 2007, along with the behavior of security forces in the weeks leading up to the elections, make it difficult to see how the elections this November can be fair or free.

⁶⁸ Youssef Boutros-Ghali, "Egypt: Trendsetter in the Mideast," *Washington Post*, November 5, 2010, <http://www.washingtonpost.com/wp-dyn/content/article/2010/11/04/AR2010110406655.html>, accessed November 10, 2010.

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Elections in Egypt

State of Permanent Emergency Incompatible with Free and Fair Vote

The November 2010 People's Assembly elections will be key for assessing the Egyptian authorities' tolerance of free and fair elections, in advance of the critical presidential elections scheduled for 2011. Much stands in the way of voters' ability to express their will at the polls. The longstanding Political Parties Law sets out vague and subjective criteria for forming new parties that allow the government to stop interested groups in their tracks. Since 1981, Egypt has been under the Emergency Law, whose powers security forces used throughout 2010, and especially in the weeks leading up to the November 28 parliamentary elections, to disrupt and prevent gatherings and to arrest individuals solely for exercising their rights to freedom of association, assembly, and expression—freedoms essential to free and fair elections. Authorities particularly targeted the Muslim Brotherhood, arresting more than 1,000 members in the weeks preceding the elections.

In 2010, unlike in elections of the past decade, the government drastically limited independent judicial supervision of polling, following constitutional amendments in 2007 that further eroded political rights. The government rejected calls for international observers, terming their presence an intervention in Egypt's domestic affairs, and instead insisted that Egyptian civil society organizations monitor elections. Yet in the past, in advance of the June 1, 2010 elections to the upper house of Parliament, the High Elections Commission rejected 65 percent of the monitoring requests from civil society groups. Four days before the November elections, two coalitions of human rights organizations that submitted over 2,000 requests for monitoring permits had yet to receive any response.