



## **Universal Periodic Review (UPR)** **The Arab Republic of Egypt Report** **September 2009**

1- This report is presented by the Egyptian Association for Community Participation Enhancement (EACPE). EACPE is a non-for-profit Egyptian non-governmental organization (NGO) registered under Egyptian law no. 84/2002. EACPE believes in community participation as a tool for change and for building a democratic, free and fair society, in which public affairs are managed by and for the people. EACPE has three core programs, namely: the Education of Human Rights Culture, Gender Equality and Democratic Development programs.

### **Introduction:**

2- The "Democracy Status Watch" (DSW), which was initiated in May 2005, is part of the Democratic Development Program. DSW aims at measuring the degree of democratic development in Egypt through monitoring electoral processes, including general elections (Presidential elections and the Peoples' Assembly and Advisory Council), and the elections of local councils, trade unions, professional associations, sports federations and clubs, student unions and other organizations.

3- The present report covers the most significant elections observed by the DWS, from September 2005 until September 2009. These include the Presidential elections of September 2005, the Parliamentary elections from October 2005 to December of the same year, the mid-term elections of the Advisory Assembly in 2007 and the elections of local councils held in 2008.

### **First: the Egyptian Presidential Elections (September 2005): Inequality and Lack of Equal opportunity:**

4- The first pluralist Presidential elections generated different views and perspectives about the nature of the event, its implications and transparency. It provoked questions on whether the State dealt with them as a step towards political and democratic reform, or as a mere formal step in response to foreign pressures calling for reform and democratization. Prior to the September 2005 elections, the presidential candidate was nominated by a two thirds majority of the People's Assembly, which was followed by a popular referendum for the sole nominee. The pre-election period of the September 2005 elections, however, witnessed unprecedented political dynamism. Political movements and powers raised slogans calling for reform and change of the present government in addition to opposing the re-election of President Mubarak. The DWS' most significant observations on the September 2005 Presidential elections can be summarized as follows:

- a- The amendment of Article 76 of the Egyptian Constitution stipulating for the Presidential elections to be performed by direct secret ballot made the administration of the electoral process more difficult. It moreover entails that the participation of candidates not belonging to any political party conditional upon endorsement of no less than 250 of the elected members of the Peoples' Assembly, Advisory Council and local councils. These councils are completely controlled by the ruling National Democratic Party (NDP). The

referendum on the amendments of Article 76 highlighted intrusive administrative and security interventions in the electoral process through electoral fraud and attacking political activists. The Supreme Committee of Elections announced that participation rate reached 23% of the total number of people of voting age,<sup>1</sup> which EACPE believes to be an exaggerated number.

- b- Law no. 174/2005 that pertains that decisions of the Supreme Committee of Presidential Elections are final and cannot be appealed or suspended. In other words, this Committee holds absolute powers over the electoral process.
- c- Given high illiteracy rates in Egypt, each candidate is given a symbol during the nomination process. Although the Committee claimed that it works on a first-come first-served basis, the crescent – a particularly popular symbol in the country –, was given to the NDP candidate.<sup>2</sup>
- d- The Committee issued some campaigning regulations, such as the prohibition to use public utilities, buildings and means of transportation. State media outlets are expected to be neutral. However, the nominated NDP candidate was allowed to use the walls of many public institutions, State media and State funds for publicity. In addition, citizens were allowed to vote without voting cards and phosphoric ink in committees called "Arrivals Committees".

### **Second: The Legislative Elections (October 2005): Abuse of Power, Violence and Flagrant Fraud:**

5- The three stages of the electoral process were held under a full judicial supervision. The process proved to be closer to a free and fair election in the first stage and the first round of the second stage. The latter part of the second stage as well as all of the third stage provided the worst examples of administrative and security interventions. The most important observations that can be made regarding the legislative elections of October 2005 are summarized in the following:

- a- The legislative elections were held immediately after the law on political rights was amended in accordance with the provisions of law no. 173/2005, as amended by law 73/1956, and the text of the law in its article III bis "2" b, c, d, is to set up a supreme committee supervising the general elections held in Egypt. The Committee is chaired by the Minister of Justice, who is a member of the executive branch and the NDP, which puts the neutrality of Committee's decisions into question. The Committee is also composed of a representative of the Ministry of the Interior in addition to six other people four of which are chosen by the Peoples' Assembly and two by the Advisory Council. These two chambers, as previously noted, are controlled by the NDP. The bias of this committee was especially apparent in setting up the rules and regulations organizing the nomination and advertising processes. For example, under Law no. 38/1972 that governs the work of the People's Assembly, the Minister of Interior retained the right to supervise electoral charts and nominations. Accordingly, such privilege enabled him to commit administrative breaches in favor of the NDP. As a result, the electoral charts were full of mistakes that allowed NDP supporters to vote more than once, while depriving the opposition supporters of their right to vote.
- b- During the media campaigning phase NDP candidates have committed numerous violations. For instance, they violated the regulations set by the Committee by using public institutions, private sector property and religious

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<sup>1</sup> EACPE, *Analytical Study on the First Presidential Elections in Egypt*, 2005, at 79.

<sup>2</sup> *Id.*, at 37.

- institutions as well as schools for their own benefit. State funds were also used for the publicity of NDP candidates. In addition, these candidates were allowed to distribute campaign material and leaflets in youth centers owned by the government and were supported by governors, heads of districts, villages and cities. On the other hand, security forces prevented opposition candidates from putting up publicity posters and arrested some of their supporters.
- c- The day of the elections witnessed violence that led to the death of 13 people due to the security restrictions put by security forces at the headquarters of the election ballots to hinder the access of candidates of opposition parties, while allowing in candidates of the ruling party as well as independent candidates, especially businessmen.
  - d- Since elections were held under judicial supervision, explicit fraud was prevented, where the turnout of total participation stood at 20% of the total number of those who have the right to vote.<sup>3</sup>
  - e- On the other hand, the processes of ballot-counting and the announcement of results have witnessed invasive administrative and security interventions. This has eventually lead to announcing results that had apparently contradicted reality. This was the case in Damanhour, Dokki and Nasr City governorates. The second phase of the second stage and the third stage witnessed excessive violations. For example, judges in charge of supervising the electoral processes in Bulaq, Cairo, Al-Raml and Alexandria were attacked.
  - f- The Committee deliberately ignored court verdicts of several circuits and allowed candidates to appeal to incompetent courts allowing for elections to be held in breach of the law. Elections were also disrupted in six circuits which denied them from being represented in Parliament until late 2008. The reason for such acts is due to the fact that the administrative authority feared that the opposition would win if elections were held to be in those six districts.

**Third: The Advisory Council Elections 2007: the wide-scale falsification in the absence of judicial supervision:**

6- The Advisory Council elections took place in a repressive political climate, where the calls for political reform were receding. Since the end of legislative elections in 2005, the struggle between the executive authority and the Muslim Brotherhood dominated the political climate. The State succeeded in using the results of the Parliamentary elections in which the Muslim Brotherhood won 88 seats to fight off any foreign pressures that criticized the lack of political reform in Egypt. The NDP dominated the legislative branch and controlled the discussions that took place regarding the 2006 Constitutional amendments. The NDP also dominated subsequent legislative amendments of the law on the exercise of political rights and the composition of a new Supreme Committee supervising the elections. As it was observed, the administrative and security forces went too far in their violations in order to hinder the opposition, which affected the Advisory Assembly elections in the following manner:

- a- These elections were held after the Constitutional amendments were initiated that gave the Advisory Assembly important legislative powers. However, under the new Constitutional amendments the President of the Republic still holds the right to appoint one third of its members, while the rest of the members are elected according to a lottery system. Law no. 18/2007 provided

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<sup>3</sup> *Political Participation in the Parliamentary Elections 2005: Constraints and Requirements*, D. Samer Suleiman, EACPE Publication, at 152.

that that the electoral Committee is composed of four public figures, which is an overly vague expression. Judges serving on the Committee are chosen from members of the Supreme Judiciary Council, which too is overly dominated by the executive branch. The law prevented the Committee from overseeing the process of registration in the electoral tables, which in turn allowed for the the Ministry of the Interior to register names of deceased candidates in the electoral charts.

- b- The nomination phase witnessed a number of violations. Security forces imposed strict restrictions on the premises and harassed observers from civil society organizations. Only security and administrative authorities had the right to monitor this phase, so they made it difficult for opposition and independent candidates to present their nomination papers. They also prevented some of them from submitting their papers altogether.
- c- The Advisory Council elections of 2007 witnessed a phenomenon that had disappeared from the legislative elections in Egypt since 1979. A number of the members from the Muslim Brotherhood and their lawyers and agents were arrested during the presentation of their nomination documents.
- d- During the campaigning phase, it was observed that NDP candidates gravely violated the national rules and regulations. For example, NDP candidates exceeded the spending cap set nationwide on advertising. Also administrative institutions, factories, governmental installations and State-owned media venues have been used in their media campaigns.
- e- The Committee ignored court verdicts and cancelled administrative decisions which ended up excluding eight candidates of the Muslim Brotherhood.
- f- It was announced that the NDP won 84 seats, whereas independent candidates politically affiliated to the NDP won 3 seats and Al- Tagamoa Al-Yasary opposition party won one seat. These numbers show to what extent the elections witnessed high degrees of fraud as a result of the suspension of judicial supervision. In fact, it is not plausible that the opposition failed to win more than one seat only two years after the People's Assembly elections in which they won more than 20% of the total number of seats in parliament.<sup>4</sup>

#### **Fourth: The Election of Local Councils (2008): Appointment in the Form of Elections:**

7- Elections of Local Councils were supposed to take place in 2006, but they were postponed till the issuance of Presidential decree no. 55/2008 that called for voters to elect members of Local Councils according to Law no. 43/1979. This law renders the work of local councils meaningless and stands in contradiction to the spirit of the Constitutional amendments that basically were in support of decentralization. Moreover, this law does not give any authority to the members of those councils and turns them into employees working for governors and the Minister of Local Administration despite the fact that they are supposed to monitor the work of governors. In addition, the Prime Minister and governors are entitled to dissolve People's Councils.

8- Through the use of violence the executive power was able to prevent independent candidates and those belonging to opposition parties from submitting their nomination papers. They moreover forced NDP members to submit their documents through lawyers working for the party in order to prevent them from running independently.

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<sup>4</sup> *The Final Report on the Advisory Council elections: Why elections are run in Egypt?* DWS, EACPE, 2007, at 43-7.

Acts of violence were committed against members of the Muslim Brotherhood and candidates belonging to other opposition parties and a majority of them were put under arrest during the submission of nomination documents.

9- The executive authority granted the NDP 43,600 seats out of a total of 52,000. This limited the competition between 1,100 opposition candidates, 6,900 NDP candidates and 400 independent candidates over the remaining 8400 seats. Moreover, the executive authority needn't to have intervened to secure legitimacy since it is secured by a majority in the councils. Yet, it secured a victory by obtaining a sheer 99.13% of the total number of seats, which is equal to 51,546 seats.<sup>5</sup>

### **Recommendations and Conclusions:**

10- The legislative environment in Egypt is in need of a concerted review and reform. Such environment affects the integrity of elections and their conformity with the basic standards for the guarantee of free and fair elections. The Emergency Law, which had been in force for over 25 years as well as ordinary legislations limit freedoms and create an environment that allows the executive authority to interfere in the process of the elections, which contributes to the reluctance of citizens to participate. Also the general elections in Egypt are regulated under a number of contradictory laws, such as Law no. 73/1956 on the exercise of political rights as amended in Act no. 173/2005, and Law no. 18/2007, which assigned the organization of elections to the Supreme Committee. On the other hand, the laws governing the work of the People's Assembly (as stipulated in Act no. 38/1972 as amended in Act no. 175/2005) and the Advisory Council (as stipulated in Act no. 120/1980 as amended in Act no. 176/2005) give the Minister of Interior the right to regulate the nomination and campaigning processes of the elections as well as the right to regulate complementary elections. As a result, it can be concluded from the above that the Supreme Committee failed in its first test to manage the Advisory Assembly's elections.

11- The executive authority and its administrative forces dominate most state authorities, fail to show any respect to the law and do not respect the authority of judicial decisions. This behavior was especially apparent during the process of the elections of the People's Assembly, Advisory Council, trade unions, sports clubs, student unions and trade unions. Therefore, clear lines need to be drawn between the State, its executive authorities, its organs and the ruling parties in order to prevent the use of public resources for the benefit of the NDP.

12- State security interference in the process of the elections need to come to an end. It was noted that security forces dominate important political, economic and social issues as well as elections. This allows them to play a key role in the management of public life in Egypt. In general elections, the Ministry of the Interior is responsible for the registration of voters' registration tables and registration takes place in police stations. Security forces also control, without any supervision, the process of adding, deleting or repeating names in those tables. They are also responsible for the opening of nomination and campaigning stages and are empowered to arrest candidates and their supporters, impose a security cordon on the committees, prevent citizens from casting their votes and expel candidates' representatives as well as observers from civil society organizations.

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<sup>5</sup> *Report on Local Councils Elections in Egypt: April 2008*, DSW Publication for the Advancement of EACPE, 2008, at 44.