



Elections in Egypt: Lessons from the 2011 Constitutional Referendum and the Constitutional Declaration

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The International Foundation for Electoral Systems (IFES) is the world’s leading election assistance and democracy promotion NGO. IFES promotes democratic stability by providing technical assistance and applying field-based research to the electoral cycle worldwide to enhance citizen participation and strengthen civil societies, governance and transparency. We bring the requisite knowledge and tools to meet a full spectrum of electoral challenges, whether in emerging, transitional, or consolidating democracies; in the case of unanticipated transfers of political power; failed states; active conflict zones, and; post-disaster settings. Since our founding in 1987, we have worked in 133 countries.

Background

Much has happened in Egypt since the International Foundation for Electoral Systems (IFES) issued a Briefing Paper on 5 February 2011 entitled *Elections in Egypt: Key Challenges for Credible and Competitive Elections*. President Hosni Mubarak stepped down on 11 February, and the Supreme Council of the Armed Forces (SCAF) took power, suspending the Constitution, dissolving the People's Assembly (PA) and the Shura Council, and declaring its intention to hand power back to civilians before the end of 2011. The SCAF held a referendum on 19 March to approve amendments to the 1971 Constitution ahead of the parliamentary and presidential elections in 2011. On 30 March the SCAF issued a Constitutional Declaration setting out the constitutional framework that will apply in Egypt until a new constitution can be drafted following parliamentary and presidential elections. There have been calls for parliamentary elections to be delayed to allow more time for new and emerging political forces to become established and to prepare to contest the elections. Several people have announced their intention to run for president. The U.S. Government and a number of European countries have indicated their willingness to support democratic elections in Egypt.

Previous elections in Egypt have not been free and fair. Although the March 2011 referendum showed some improvements, there are still a number of important issues that must be addressed before the next election in 2011. In this updated Briefing Paper, IFES provides a preliminary overview of these issues.

The Constitutional Framework

The Constitutional Drafting Committee's Proposals

One of the SCAF's first acts was to suspend the 1971 Constitution and appoint an 8-member Constitutional Drafting Committee (CDC) of legal and constitutional experts to draft amendments to the Constitution designed to prepare for parliamentary and presidential elections prior to the resumption of civilian rule. The CDC did not engage in an open or consultative process before it released its proposals on 26 February. The most significant changes proposed by the CDC were as follows:

- Presidential candidates would have three options to get onto the ballot: (1) nomination by a political party that has at least one seat in the PA or the Shura Council; (2) the endorsement of 30 elected members of the PA or the Shura Council; or (3) being supported by 30,000 eligible voters from at least 15 governorates, including at least 1,000 from each governorate.
- The presidential term would be reduced from six to four years, with a two-term limit.
- The President would be required to appoint at least one vice-president.
- The role of the judiciary in supervising the electoral process would be restored and the judiciary would serve as the final arbiter of the validity of legal challenges to election results.
- The President or half of the MPs could call for a new Constitution to be drafted, by a 100 member constitutional committee selected by elected members of the PA and the Shura Council.
- The President would be able to call a state of emergency, but only with PA approval and only for a period of six months. Extension of a state of emergency beyond six months would require approval by a public referendum.
- Article 179 which sets aside human rights provisions in terrorism cases would be repealed.

There was considerable debate about the CDC's proposals, including whether the parliamentary and presidential elections should be deferred until a completely new constitution could be drafted and approved in a referendum. Nevertheless, the SCAF decided to put the CDC's proposals to the people in a referendum held on 19 March at which voters were asked to vote 'yes' or 'no' on the whole package of amendments.

The 19 March Constitutional Referendum

The SCAF issued Decree-Law #7 on 2 March to govern the conduct of the Referendum. The decree established a new seven-member judicial body, the Higher Judicial Committee (HJC), to supervise the elections in conjunction with the reinstatement of judicial supervision at the ballot box level. In a welcome change, the SCAF decided that each voter's national ID card would be used to establish eligibility to vote rather than the voter card used at previous elections. The Constitutional Referendum was held nationwide on 19 March, allowing just over two weeks for preparations.

The chair of the HJC announced that official turnout for the referendum was 41 percent of estimated eligible voters, a significant increase on the official turnout of 25 percent at the 2010 PA elections (although others estimated that the actual turnout at those elections was about 10-15 percent). The amendments to the Constitution were approved by 77 percent of those who cast valid votes.

The main technical problems with the conduct of the referendum were expected, given the short notice with which it was held:

- There were insufficient voting centers to handle the increase in voter participation, leading to long queues in many areas.
- There was no time for training election committees or supervising judges, leading to errors and inconsistencies in the application of election procedures.
- The regulations issued by the HJC were not distributed to all judges and election committees.
- The ability of voters to vote at any voting center meant that some centers ran out of ballot papers and other essential election materials such as indelible ink.
- There were inadequate attempts to inform voters of the reasons for the amendments, or the consequences if the referendum was defeated.

Despite these problems and the pre-referendum debates about the content of the changes and the timing of the elections, it seems that there has been wide acceptance of the validity of the result.

The 30 March Constitutional Declaration

On 30 March the SCAF issued a Constitutional Declaration setting out the constitutional provisions that will be in effect until a new constitution comes into force. *See Annex 1 for an unofficial translation of this Declaration.*

The Constitutional Declaration contains 63 articles, compared to 211 articles in the suspended Constitution, and includes the articles amended through the referendum. Many of the articles in the Declaration are clearly modeled on their equivalents in the previous Constitution; although some articles from the previous Constitution have been omitted and the Declaration is not divided into Parts and Chapters as its predecessor.

The provisions of the Declaration relating to elections will be discussed in more detail below. Other provisions cover such matters as:

- Basis of the state, its religion and language
- Rights of citizens, including the right to form unions, syndicates and parties according to law
- Economy, public and private property
- Rights of those arrested or detained, and the rights of those accused of a crime
- Secrecy of communications

- Freedom of religion and opinion
- Freedom of the press
- Rights of private assembly
- Imposition of taxation
- Rights of litigation and to defend oneself in judicial proceedings
- Judicial authorities and their independence
- Role of the armed forces
- Role of the police
- Role of the SCAF
- Role of the Cabinet

Constitutional Assembly

Article 60 of the Constitutional Declaration requires the SCAF to call a joint sitting of the PA and the Shura Council within six months of their election to elect a 100-member Constitutional Assembly that will be responsible for drafting a new Constitution.¹ The Assembly must produce its draft within six months, and a referendum must then be held within 15 days to approve or reject the new Constitution. The Constitutional Declaration does not specify the composition of the Assembly, its leadership or organization, how its membership will be "elected," or any requirement for it to invite public submissions on the new Constitution or undertake public consultations.

If the parliamentary elections are completed in September 2011, the Assembly must be elected by March 2012 and will need to present its draft Constitution by September 2012. Therefore, it can be expected that the referendum will be held during October 2012.

Forthcoming Elections in Egypt

Timetable

After initially proposing that parliamentary elections would be held in June followed by the presidential election in August, the SCAF has now indicated that the parliamentary elections, both PA and Shura Council, will be held in September and presidential elections will be held about six weeks later.

Local council elections are due to be held in 2012. They could be postponed since, as noted above, it is likely that a referendum on a new Constitution will be held later that year. There has been some debate on whether governors should be elected, and whether there should be some decentralization of powers from central government to governorate councils and/or local council levels. If the new Constitution does contain measures of this type, then it seems certain that the scheduled local council elections will be deferred.

Parliamentary elections

People's Assembly

Members of the People's Assembly (PA) will be elected for a five-year term. At the time of its dissolution by the SCAF, there were 518 seats in the PA, including 508 members elected in 2010 and 10 members appointed by the

¹ This differs from the original language of the amendment that was passed in the March 19 referendum, which stated that the President or half of the MPs could call for a new Constitution, to be drafted by a 100 member constitutional committee.

President. The number of elected members included a quota of 64 seats for women. Article 32 of the Constitutional Declaration provides that the PA must have at least 350 members, retaining the occupational quota used in the previous system (“at least half of whom must be workers or peasants”). It remains unclear, at the moment, what implications the occupational quota will have on a possible new electoral system that could be adopted for the PA elections. Article 32 allows the president to appoint up to 10 additional members; however, the appointment of these members will be done by the SCAF since presidential elections are scheduled to be held after the PA elections. Article 38 of the Declaration leaves it to the law to determine matters relating to candidacy, including possible provisions relating to the representation of women. That Article also leaves it to the law to determine the electoral systems that will be used for PA elections. Additionally, Article 32 requires the law to provide a definition for the "worker" and "peasant" categories and determine the electoral districts for PA elections. It is expected that the SCAF will issue relevant laws periodically ahead of the September elections.

The last PA elections were held in November and December 2010. These elections were widely viewed as deeply flawed and resulted in challenges to the election of 486 MPs.² Under the previous Constitution, the PA, itself, made the final decision about these challenges after receiving a report from the Court of Cassation. One of the changes passed in the 2011 referendum reserved these decisions to the Court of Cassation alone. In addition, this power is granted by Article 40 of the Constitutional Declaration.

It is not yet clear whether there will be any change to the electoral system used to elect members to the PA. Various systems have been tried over recent years,³ and there have been numerous calls for a change to some form of proportional representation, although there does not seem to be any consensus on whether this should be a party list system, a mixed system or some variation of each that needs to be considered. Decisions on these matters cannot be delayed for too long, since they will affect matters such as the extent of any revision of constituency boundaries before the election, voting and counting procedures, the design of the ballot paper, and voter education and information programs.

Shura Council

The Shura Council is the upper house of the Egyptian bicameral Parliament. Article 37 of the Constitutional Declaration outlines the Council’s limited powers.

Members of the Shura Council will be elected for a six-year term. At the time of dissolution by the SCAF, there were 264 seats in the Council, including 176 elected members and 88 appointed by the President. Article 35 of the Constitutional Declaration provides that the Shura Council will consist of at least 132 members, two-thirds of whom will be elected and one-third that will still be appointed by the President. As with the PA elections, the appointment of these members of the Shura will be done by the SCAF instead of the President, as the presidential elections are scheduled to be held later in the year. That Article also states that the law will determine the electoral districts for Shura Council elections. Additionally, Article 38 of the Declaration leaves it to the law to determine the electoral systems that will be used for Shura Council elections. As with the PA elections, it is not clear at this point whether there will be any change to the electoral system used to elect the members of the Shura Council. It is expected that the SCAF will issue relevant laws periodically ahead of the September elections.

Presidential election

Many of the 2011 Constitutional Amendments outlined above that were approved in the referendum concerned the election of the president. The Constitutional Declaration incorporated these changes among other provisions, as follows:

- Article 25 – upon election, the President shall undertake the responsibilities currently undertaken by the SCAF and stated in provisions 3-10 of Article 56 of the Declaration

² ‘Egypt’s parliament admits 90 percent of MP memberships may be invalid’, *Al Masry Al Youm*, January 22, 2011, www.almasryalyoum.com/en/news/egypts-parliament-admits-90-mp-memberships-may-be-invalid, accessed February 3, 2011.

³ A two-round system was used in the 2010 PA elections,.

- Article 26 – qualifications to be President, including being ‘Egyptian, born of two Egyptian parents who do not have another citizenship, enjoying his/her political and civil rights, not married to a non-Egyptian, and not falling under the age of 40 years’
- Article 27 – to be nominated as a candidate for the presidency, a person must have the support of at least 30 elected members of the PA and Shura Council, or the support of at least 30,000 citizens who have the right to vote (including at least 1,000 supporters from at least 15 governorates), or be nominated by a party that has won at least one seat in the PA or the Shura Council
- Article 28 – a presidential election will be supervised by the Presidential Elections Commission (discussed further below)
- Article 29 – the President is elected for a four year term and can only be elected for one more term
- Article 30 – the President’s oath of office
- Article 31 – a President must appoint at least one vice-president within 30 days of taking office
- Article 59 – the President may declare a state of emergency for a period not exceeding six months, which cannot be extended unless the people agree to do so in a referendum

Presidential succession

Article 31 of the Constitutional Declaration requires a president to appoint at least one vice-president and to determine his or her responsibilities, “so that in the case of his/her stepping down from the position of president, another will be appointed in his/her place.”

Amending the Constitution

The Constitutional Declaration does not contain any provisions concerning how it may be amended, presumably because it is open to the SCAF to issue further constitutional declarations should they be necessary before a new constitution is adopted.

Electoral Management

Egypt will continue to have a different election management structure for the 2011 presidential election a different management structure for the 2011 parliamentary elections and the referendum on a new Constitution.

Article 28 of the Constitutional Declaration establishes a “supreme judicial commission” called the Presidential Elections Commission (PEC) to supervise presidential elections. The PEC will be chaired by the president of the Supreme Constitutional Court and the members will consist of ‘the president of the Cairo Appeals Court, the most senior deputies of the president of the Supreme Constitutional Court, the most senior deputies of the president of the Court of Cassation and the most senior deputies of the president of the State Council.’ As in the previous Constitution, the Constitutional Declaration specifically provides that the PEC’s decisions will be final and will not be subject to judicial review. Article 28 requires that the law state the PEC’s functions and responsibilities, including the formation of electoral committees (as stated in Article 39 for parliamentary elections and the requirement in the same Article that voting and counting be conducted under judicial supervision). Previously, Law No. 174 of 2005 On Regulating the Presidential Elections has governed the conduct of presidential elections, and it can be expected that, in due course, the SCAF will issue a decree invoking many of its provisions.

Article 28 also provides that draft legislation concerning presidential elections must be approved by the Supreme Constitutional Court before being issued to ensure consistency with constitutional provisions. The Court must issue its decision within 15 days of receiving the draft law, and its decision must be published.

Article 39 of the Constitutional Declaration requires a “supreme commission made up entirely of judges” to supervise elections and referendums. The membership and functions of this body are to be determined by law, and again it can be expected that the SCAF will issue a decree for this purpose, perhaps similar to Decree-Law #7 issued for the constitutional referendum which drew on Law 73 of 1956 On Exercising of Political Rights and which established the Higher Elections Commission (HEC) to carry out similar functions.

As noted earlier, the 2011 constitutional referendum was carried out under the supervision of another judicial body, the HJC, which has now ceased to exist.

The Elections Unit of the Ministry of Interior (MoI) is expected to continue to carry out major operational tasks for all elections and referendums, theoretically under the supervision of the relevant judicial body. In the past, however, both the PEC and HEC had limited capacity to carry out their supervisory responsibilities on account of their lack of expertise and executive capacity. In addition, the role of the MoI in previous elections did little to boost public confidence in the integrity of the process – not least because the MoI also houses the security forces and the police, neither of which has enjoyed wide public support. The 2011 referendum, however, demonstrated that there are grounds for optimism about the MoI Elections Unit’s technical capability of delivering elections, provided it has the will and the resources to overcome some of the difficulties experienced during the referendum – many of which were outside its control.

The PEC and HEC appoint committees at various levels to conduct elections and referendums. It is likely that some of the violations and irregularities that occurred at previous elections were the result of inadequate training of committee members. Additional complications are created by the separation of competencies between the MoI and the judiciary supervisory body, resulting in a disjointed management of key components of the electoral process and blurred accountability lines between these two entities. It appears that the short time before the 2011 constitutional referendum also gave rise to problems that could have been avoided if there had been adequate time for effective training of the committees and of the judges who acted as supervisors at the polling center level. It is hoped that suitable training programs can be devised and implemented before the parliamentary elections scheduled for September 2011 and the presidential elections that will be held a few weeks later.

The fact that the Constitutional Declaration re-establishes full judiciary supervision at the polling center level for the PA elections, together with the fact that the number of polling stations will need to be substantially increased to meet higher voter turnout than in the past, means that there will likely not be enough judges to allow these elections to be conducted in one single day. The practice of staggering elections over several days created numerous problems in the management of previous elections, with the second and third phases experiencing greater levels of electoral-related violence and a higher number of irregularities.

Suffrage

The law (but – oddly – not the previous Constitution or the Constitutional Declaration) provides that Egyptian citizens age 18 and over are eligible to vote in public elections and referenda. Previously, Egyptian citizens who could not vote included members of the military, the police force, prisoners, and “those with mental diseases who are detained.” However Article 1 of Decree-Law #7 for the 2011 referendum simply provided that, “Anyone who, by the first of March 2011, completes eighteen years of age may vote in the referendum on the amendment of the Constitution of the Arab Republic of Egypt,” without mentioning previous ineligible groups. It is expected that this provision will be repeated in the equivalent decrees for the 2011 parliamentary and presidential elections.

While voter participation in previous elections and referendums in Egypt has been extremely low, official turnout in the 2011 referendum was 41 percent of estimated eligible voters, and it is likely that this will increase for the parliamentary and presidential elections as parties mobilize their supporters to participate.

Voter Registration

Before the 2011 constitutional referendum, Egypt used a permanent voter registration system, which was administered by the MoI. Ahead of the 2010 elections, citizens born after 1982 were added automatically to voter lists. The registers were updated annually over a three month period, normally starting from 1 November and proceeding through 31 January of the following year, followed by a challenge and appeal period. During the update period, eligible voters had to go to the nearest police station to register their names in voter lists or to correct their details. The voter lists were final once the call for an election or referendum was issued. A registered voter also had to go to a police station to obtain his or her voter card; this could be done at any time during the year.

That voter registration system had a number of problems directly experienced by voters and reported by domestic observers. These included, but were not limited to, issues such as: registration in multiple constituencies; voter lists which included the deceased, criminals and members of the military and police force; and confusion on Election Day due to voters with identical names.

The decision to use the national ID card as the only proof of eligibility to vote in the 2011 referendum was a step forward, although the fact that voters could vote at any polling station did create problems in estimating voter participation and consequently, polling materials. However since the PA and Shura Council elections are likely to be based on constituencies, it will be necessary to use various information held on the national ID database to assign each voter to a specific voting center within a constituency, and thus produce a list of voters for each voting center. This will enable much better planning in terms of the numbers of polling places needed at each voting center and in terms of the provision of ballot papers and election materials. It should also prevent the long queues experienced at some voting centers at the 2011 referendum. The successful allocation of voters to specific polling stations ahead of the parliamentary elections will help prevent similar problems in the 2011 presidential elections and the 2012 referendum. Those allocations will likely be used even in elections that are not based on constituency. It is important, however, that detailed work on adapting the national ID database for this purpose should start without delay.

Political Party Registration

Previously, the formation of political parties was regulated by Law 40 of 1977 Concerning the Political Parties System, as amended by Law 177 in 2005. Article 5 of the previous Constitution prohibited the creation of political parties along religious lines. That prohibition has been repeated in Article 4 of the Constitutional Declaration, even though that prohibition does not meet the threshold outlined in the International Covenant on Civil and Political Rights which Egypt ratified in 1982.

Until now, the nine-member Political Party Committee (PPC) has been the official body responsible for managing political party affairs in Egypt. The PPC was headed by the Speaker of the Shura Council and its members included the Minister of Interior and the Minister of Parliamentary Affairs. The other six members (three former senior judges and three individuals who were not associated with political parties) were appointed by the People's Assembly. The PPC's lack of formal independence was further compounded by the NDP's dominance of the selection and nomination processes of the PPC.

On 28 March the SCAF announced a new law to govern the formation of political parties.⁴ A new seven-member judicial committee was formed to receive applications supported by 5,000 individuals from at least 10 different governorates, including at least 300 from each governorate. The committee must respond within 30 days of receiving the application, failing which the party will be automatically registered.

⁴ A translation of this law was not available at the time of writing. The information in this paragraph is taken from 'Military council announces new party formation law', *Al Ahrām Online*, March 28, 2011, <http://english.ahram.org.eg/NewsContent/1/64/8795/Egypt/Politics-/Military-council-announces-new-party-formation-law.aspx>, accessed March 29, 2011; and 'Egypt government to outlaw establishment of religion-based parties', *Al Masry Al Youm*, March 23, 2011, www.almasryalyoum.com/node/371620, accessed March 25, 2011.

As a result of the new political environment and the simpler registration requirements, it is likely that many more parties will contest the 2011 parliamentary elections than did so at the previous elections in 2010. It is difficult at this stage to gauge how many parties will win seats in the PA or the Shura Council; in any case this will be influenced by the electoral systems that are used to elect the members of each chamber. This is of some importance since, as noted above, parties with one seat in either chamber will be entitled to nominate a party member as a candidate for the 2011 presidential election. In the current political environment and when combined with the other options for nominating a presidential candidate, it is possible that there could be many presidential candidates, thus increasing the chances of a run-off election (assuming the two-round system continues to be used).

Election Observation

There was domestic observation of the 2005 and the 2010 Shura and PA elections. In 2005, NGOs reported considerable difficulties with the accreditation process, and that security forces denied some accredited observers access to polling and counting stations. In 2007, the HEC authorized the National Council of Human Rights (NCHR) to receive accreditation applications from civil society organizations (CSOs) that wished to monitor the elections, while also leaving it open to CSOs to apply directly to the HEC for accreditation. A similar procedure was used for the 2010 elections. There has never been international observation of Egypt's presidential elections.

On 9 March, the HJC announced that domestic NGOs that wished to observe the 2011 constitutional referendum had to apply directly to it for accreditation. There were, however, conflicting reports about the criteria for accreditation. The short timeframe did not allow adequate training of domestic monitors or of supervising judges and other election officials on the rights of domestic observers. Although no observer reports were available at the time of writing, there were reports that some accredited observers were denied access to polling stations.

Based on public statements made by the SCAF, it is expected that both domestic monitoring and international observation (at the invitation of the SCAF) will be permitted for parliamentary and presidential elections, although no rules have been issued nor arrangements made for such oversight at the time of writing. Delay of parliamentary elections until September will allow better training of domestic observers, and may also allow international observer missions to be deployed to cover pre-election (including campaigning) and post-election periods.

Electoral Violence

Electoral violence has been common during Egyptian elections,⁵ varying from tribal conflicts in the coastal areas to familial in the Sa'id (upper Egypt) and South areas. Some observers have also noted that the previous regime used security concerns to justify creating security cordons and preventing opposition voters from accessing polling stations.⁶ There were no reports of violence at the 2011 referendum and no concerns have been expressed about the role of the security forces.

Election Complaints and Disputes

As noted earlier, there is a renewed emphasis on judicial supervision of elections down to the ballot box level. This could allow for authoritative decisions to be made on complaints and disputes; although it seems that no specific procedures were implemented for the 2011 constitutional referendum to allow this to happen. No information was available at the time of writing on how judges at the ballot box level handled complaints at the 2011 referendum, although anecdotal evidence suggests they did so informally. Even though that will be appropriate in many cases, the lack of training of judges and election committees risks inconsistencies in the interpretation of

⁵ The Egyptian Organization of Human Rights reported that 'In 2005, 12 people were killed and 500 were injured in election related violence compared to 8 killed and 64 injured in 2000'. Cited in Democracy Reporting International (DRI), *Assessment of the Electoral Framework, Final Report: The Arab Republic of Egypt* (2007), p.16.

⁶ See, for example, DRI, *Assessment of the Electoral Framework, Final Report: The Arab Republic of Egypt* (2007), p.16.

laws, regulations and instructions that should be remedied given the longer lead time before the 2011 parliamentary and presidential elections.

In terms of resolution of electoral disputes, the Constitutional Declaration differentiates how electoral complaints are resolved between presidential and parliamentary elections. Article 28 establishes that, for the presidential elections, the resolution of any complaint by the PEC (and against the way in which the PEC administers the presidential elections) are final and not to be subject to further appeal “through whatsoever means or before whatsoever entity.” For the PA and Shura Council elections, Article 40 of the Constitutional Declaration prescribes that the Court of Cassation will have the authority to decide possible electoral related disputes. It should be noted that, as provided for by Article 28, senior members of the same Court are also entrusted to exert supervisory functions on the administration of elections, thereby creating a potential conflict of interest. Similarly, for the referendum, Article 5 of Decree-Law #7 issued by the SCAF also made the decisions of the HJC final.

It remains to be seen whether the decisions of the supreme body for the parliamentary elections established by Article 39 of the Constitutional Declaration can be reviewed by the courts, although previous practice with the HEC suggests that they will be appealable.

Conclusions and Priorities for Reform

The conduct of the 2011 referendum was encouraging in demonstrating that voters will participate in a process they expect to be more legitimate than the previous deeply flawed electoral process. It also showed that there is the political will to take some significant steps towards implementing a credible and competitive electoral process.

However, the referendum showed that there are a number of issues that will need to be addressed to maintain public confidence in the integrity of the electoral process and surpass the official referendum turnout of 41 percent to over 60 percent. This will require coordinated action on several fronts, including:

- Ensuring that the supreme judicial bodies in charge of supervising the elections are established as early as possible and carry out their responsibilities in an independent, impartial, open and transparent manner, and are seen to do so.
- Ensuring that the Elections Unit of the MoI and the security forces are clearly accountable to the supreme judicial bodies in carrying out their electoral responsibilities.
- Ensuring that the supreme judicial bodies enforce the election laws and regulations.
- Establishing timely and effective procedures for receiving and determining electoral complaints and resolving electoral disputes.
- Using the national ID database to assign voters to voting centers and to produce accurate lists of voters for each voting center.
- Improving the service to voters by increasing the number of voting centers and polling staff to deal with the expected increase in voter participation.
- Ensuring that there are standard polling and counting procedures and manuals.
- Developing and implementing effective training programs for supervising judges and election officials.
- Providing better voter education and information programs.
- Allowing unfettered domestic and international observation of elections.

Although it is unrealistic to expect all these goals will be completely achieved ahead of the 2011 elections, it is vital that there is demonstrable progress to ensure a more competitive and open campaign process. This should be complemented by robust participation from an informed electorate and administration and oversight of the electoral process by electoral authorities who are independent, transparent, and accountable. Only with real progress in these areas will Egypt be able to create an enabling environment for credible elections which will earn the confidence and participation of Egyptian voters and citizens, and in the process, move the country forward along a path of meaningful political reform.

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Annex 1:

Unofficial translation of the Supreme Council of the Armed Forces Constitutional Announcement – 30 March 2011

After reviewing the Constitutional Announcement of 13 February and the results of the referendum on constitutional amendments of 19 March (which were announced in the affirmative on 20 March), and in consideration of the SCAF statement of 23 March, the following has been decided:

Article 1: The Arab Republic of Egypt is a state with a democratic system, based on citizenship, and the Egyptian people are a part of the Arab nation working toward achieving its comprehensive unity.

Article 2: Islam is the religion of the state, and the Arabic language is its official language. The principles of Islamic law are the chief source of legislation.

Article 3: Sovereignty is from the people only, and the people are the source of authority. The people practice this sovereignty and protect it, safeguarding national unity.

Article 4: Citizens have the right to form associations, unions, syndicates, and parties, according to the law. It is forbidden to form associations whose activities are opposed to the order of society or secret or militaristic in nature. It is not permitted directly to engage in political activity or form political parties on the basis of religion or division due to race or origin.

Article 5: The economy in the Arab Republic of Egypt is based on developing economic activity and social justice and guaranteeing different forms of property and preserving the rights of workers.

Article 6: Public property is protected, and its defense and support is a duty incumbent on every citizen, according to the law. Private property is safeguarded, and it is not permitted to impose guardianship over it except through the means stated in law and the judiciary. Property cannot be removed except for the public benefit and in exchange for compensation according to the law, and the right of inheritance is guaranteed.

Article 7: Law applies equally to all citizens, and they are equal in rights and general duties. They may not be discriminated against due to race, origin, language, religion, or creed.

Article 8: Personal freedom is a natural right, safeguarded and unviolated, and except in the case of being caught in the act of a violation, it is not permitted for anyone to be detained or searched or for his/her freedom to be restricted or for movement to be prevented, except by a warrant order compelling the necessity of investigation or to safeguard the security of society. This warrant order will be issued by a specialized judge or the general prosecutor, according to the law. The law also determines the period for which one may be detained.

Article 9: Every citizen who is arrested or detained must be treated in a way that preserves his/her human dignity. It is forbidden for him/her to be abused in body or mind, as it is forbidden to detain him/her in places outside of those designated by the prisons law. Any statement proven to be extracted from a citizen under duress or threat will not be counted and is unreliable.

Article 10: Homes are protected and it is not permitted to enter or search them without a warrant according to the law.

Article 11: The life of citizens has special sanctity protected by law, as do messages sent by post, fax, telephone or other forms of communication, whose secrecy is guaranteed. It is not permitted to confiscate, read, or censor these, except by judicial order and for a limited time, according to the law.

Article 12: The state guarantees the freedom of creed, and the freedom to practice religious rites. Freedom of opinion is also guaranteed, and every person has the right to express his opinion and publish it in spoken, written, photographed, or other form within the confines of the law. Personal criticism and constructive criticism are a guarantee for the safety of national development.

Article 13: Freedom of the press, printing, publication and media are guaranteed, and censorship is forbidden, as are giving ultimatums and stopping or canceling publication from an administrative channel. Exception may be made in the case of national emergency or time of war, allowing limited censorship of newspapers, publication, and media on matters related to general safety or the purposes of national security, all according to the law.

Article 14: It is not permitted for any citizen to be denied residence in a particular area, nor requiring him/her to reside in a particular place, except in cases designated by law.

Article 15: It is not permitted to expel a citizen from the country or forbid him/her from returning, or to give up political refugees.

Article 16: Citizens have the right of private assembly in peace without bearing arms without the need for prior notice. It is not permitted for security forces to attend these private meetings. Public meetings, processions and gatherings are permitted within the confines of the law.

Article 17: Any attack on the personal freedom or sanctity of life of citizens or other rights and general freedoms which are guaranteed by the constitution and law is a crime, which will be followed by a criminal or civil suit according to the statute of limitations. The state guarantees fair compensation for whoever experiences such an aggression.

Article 18: Public taxes will be instituted and their amendment or cancelation will take place by law. No one will be excluded from taxation except in cases stated in law. It is not permitted for anyone to charge another to pay taxes or fees except within the bounds of law.

Article 19: Personal penalty. There will be no crime or penalty except according to the law. Punishment will not take place except by judicial ruling, nor will punishment occur for acts that take place before enactment of the relevant law.

Article 20: The accused is innocent until proven guilty in a court of law that guarantees for him/her defense. Every accused in a crime is required to have an attorney to defend him/her.

Article 21: Litigation is a safeguarded and guaranteed right for all people, and every citizen has the right to resort to his natural judge. The state guarantees close association of judicial apparatuses with litigants, in addition to a speedy trial of matters. The text of the law forbids any action or administrative decision from being absolved of judicial oversight.

Article 22: The right to defend one's self in person or by proxy is guaranteed. The law guarantees those unable monetarily to defend themselves to resort to the judiciary for means to defend their rights.

Article 23: Anyone arrested or detained will be notified of the reason for his/her detention immediately. He/she has the right to contact whomever he/she desires and inform them of the arrest and seek help, according to the law. It is necessary that accusations be announced with haste, and the detained has the right to appeal in front of the judiciary to determine the circumstances in which his/her personal freedom was suspended. The law organizes the right to present a grievance in order to guarantee a decision in a limited time period, or else the detainee's release is inevitably released.

Article 24: Laws are issued and executed in the name of the people, Suspension or avoidance of their execution on the part of public employees is a crime punishable by law. The plaintiff has the right to bring the criminal case directly to a specialized court.

Article 25: The president of the state is the president of the republic. He/She shall assert the sovereignty of the people, respect for the constitution and sovereignty of the law, and defense of national unity and social justice, according to means stipulated in this Announcement and the law. He/shall shall undertake upon assuming his/her position responsibilities referred to in Article 56 of this Announcement, except for what is stipulated in provisions 1 and 2 of the Article.

Article 26: It is required for whoever is elected president of the republic to be Egyptian, born of two Egyptian parents who do not have another citizenship, enjoying his/her political and civil rights, not married to a non-Egyptian, and not falling under the age of 40 years.

Article 27: The president will be elected directly by general secret ballot. To be nominated for the presidency of the republic, a candidate must be supported by 30 members at least of the elected members of the People's Assembly and Shura Council, or the candidate may obtain the support of at least 30,000 citizens, who have the right to vote, in 15 provinces at least, whereby the number of supporters in any of the provinces is at least 1,000. In all cases, it is impermissible for support to be for more than one candidate, and the law will stipulate the procedures for this matter. Every political party with members who have won at least one seat by way of election in either of the People's Assembly or Shura Council in the last elections may nominate one of its members for the presidency.

Article 28: A supreme judicial commission named the "Presidential Elections Commission" will supervise the election of the president of the republic beginning with the announcement of the opening of candidate nomination and ending with the announcement of the election result. The Commission will be composed of the president of the Supreme Constitutional Court as the head, and a membership made up of the president of the Cairo Appeals Court, the most senior deputies of the president of the Supreme Constitutional Court, the most senior deputies of the president of the Court of Cassation and the most senior deputies of the president of the State Council.

The Commission's decisions will be final and executed, without interjection of any side, in the same manner as it is forbidden for the decisions to be stopped or canceled. The purview of the Commission will be by law. The Commission will form committees to supervise voting and counting according to the stipulations in Article 39. Draft legislation for presidential elections will be shown to the Supreme Constitutional Court before being issued to determine the extent of compliance with the constitution.

The Supreme Constitutional Court will issue its decision on this matter within 15 days of receiving the draft legislation. If it decides that the text is unconstitutional, more work must be done before the law can be issued. In all cases, the decision of the Court will be obligatory for all authorities of the state, and will be published in the official gazette within three days of being released.

Article 29: The period of the presidency is four years beginning from the date of announcing the result of the election, and it is not permitted for the president of the republic to run again for the presidency except once more.

Article 30: The president will take the following oath before the People's Assembly before assuming his/her position: "I swear to God that I will faithfully preserve the republican order, that I will respect the constitution and the law, and look after the interests of the people comprehensively, and that I will preserve the independence of the nation and the safety of its land."

Article 31: The president of the republic will appoint within a maximum of 30 days after assuming his/her duties at least one vice president and determine his/her responsibilities, so that in the case of his/her stepping down from the position of president, another will be appointed in his/her place. The conditions that must be met by the president will apply, as will rules governing the accountability for vice presidents of the republic.

Article 32: The People's Assembly will be composed of a number of members determined by law to be at least 350, half of whom at least will be Workers and Peasants. The members of the People's Assembly will be elected by a direct, public and secret election. The law stipulates the definition of a Worker and Peasant, as well as the electoral districts that the state will be divided into. It is possible for the president of the republic to appoint in the People's Assembly a number of the members, not to exceed 10.

Article 33: Immediately upon election, the People's Assembly will assume the authority to legislate and determine the public policy of the state, the general plan for economic and social development, and the public budget of the state. It will also oversee the work of the executive branch.

Article 34: The People's Assembly's term will be 5 years starting from the date of its first assembly.

Article 35: The Shura Council will be composed of a number of members determined by law not to be fewer than 132 members, two-thirds of whom will be elected by direct, public and secret voting (at least half Workers and half Peasants), and one-third of whom will be appointed by the president of the republic.

The law determines the electoral districts for the Shura Council.

Article 36: The Shura Council's term of membership will be 6 years.

Article 37: The Shura Council will assume its responsibilities upon election. It will study and recommend what it views as necessary to preserve support for national unity and social peace and protect the foundational elements of society and its highest values, in addition to rights, freedoms and general obligations. The Council will consider the following:

- 1) The project of general planning for economic and social development
- 2) Draft laws it refers to the president of the republic
- 3) Whatever the president of the republic refers to the Council on subjects related to the state's public policy or policies related to Arab and foreign affairs

The Council will notify the president of the republic and the People's Assembly of its opinion on these matters.

Article 38: The law will govern the right of candidacy for the People's Assembly and Shura Council according to the determined electoral system, including at a minimum the participation of women in both assemblies.

Article 39: The law determines the conditions that must be met for members of the People's Assembly and the Shura Council, stipulating electoral and referenda provisions. A supreme commission made up entirely of judges will assume the responsibility of supervising elections and referenda, from the determination of electoral schedules to the announcing of election results, all as regulated by law. Voting and the counting of votes will take place under the supervision of members of judicial bodies nominated by their higher councils, and the decision in the process of choosing them will be undertaken by the supreme commission.

Article 40: The Court of Cassation will be designated to determine the integrity of the membership of the People's Assembly and Shura Council, and objections will be presented to the court within 30 days of the announcement of election results. The Court will rule on the objection within 90 days of receiving it. The membership is considered void on the date on which the two assemblies are informed of the Court's decision.

Article 41: Electoral procedures will begin within 6 months of the date of this Announcement. The Shura Council will assume its duties with elected members, and upon his/her election, the president of the republic will appoint the final third of the Council's membership, who will serve out the remainder of the term of the Council as regulated by law.

Article 42: Every member of the People's Assembly and Shura Council will swear to conduct work in accordance with the following oath in front of his/her legislative body: "I swear to God that I will faithfully preserve the safety of the nation and the republican order, that I will look after the interests of the people and respect the constitution and the law."

Article 43: It is not permissible for any member of the People's Assembly or the Shura Council during his/her tenure to buy or rent anything using state money, or to rent out or sell anything with said money, or barter with it or enter into a contract with the state as an entrepreneur, importer, or contractor.

Article 44: It is not permissible to remove the membership of any members of the People's Assembly or Shura Council unless he/she has lost confidence and esteem, or any of the conditions of membership, or his/her position as Worker or Peasant on the basis of which he/she was elected, or if he/she has breached any of the

responsibilities of membership. A decision to remove membership must be issued by a two-thirds majority of the respective assembly.

Article 45: It is not permissible in any case except that of flagrant violation to take any criminal proceedings against a member of the People's Assembly or Shura Council, except with prior permission from his/her assembly. In the case of the assembly's recess, permission will be taken from the head of the assembly and will be subsequently presented to the assembly upon resumption of work.

Article 46: Judicial authority is independent and invested in courts of different varieties and degrees. Rulings will be issued according to the law.

Article 47: Judges are independent and not subject to removal. The law regulates disciplinary actions against them. There is no authority over them except that of the law, and it is not permissible for any authority to interfere in their issues or matters of justice.

Article 48: the Council of the State is an independent judicial body that specializes in adjudication of administrative disputes and disciplinary claims. The law determines its other responsibilities.

Article 49: The Supreme Constitutional Court is an independent and autonomous judicial body, uniquely tasked with judicial oversight over the constitutionality of laws and regulations. It deals with the interpretation of legislative texts, all as stipulated in the law. The law also designates other responsibilities for the Court and regulates the procedures followed in front of it.

Article 50: The law determines judicial bodies and their responsibilities and regulates their formation, in addition to stipulating conditions and procedures for appointing their members and their transfer.

Article 51: The law regulates the military judicial system and stipulates its responsibilities in line with constitutional principles.

Article 52: Court sessions are to be public except in the case that the court decides to make them secret in the interest of public order or morals. In all cases, the verdict is announced in a public session.

Article 53: The armed forces are the property of the people. Their mission is the protection of the country and the safety and security of its lands. It is not permissible for any body or group to establish military or paramilitary formations. The defense of the country and its land is a sacred responsibility, and conscription is mandatory according to the law. The law stipulates the conditions for military service and promotion in the armed services.

Article 54: A council entitles "The National Defense Council" will be established. It will be headed by the president of the republic and tasked with evaluating affairs concerned with means of securing the country and its safety. The law will stipulate its other responsibilities.

Article 55: The police are a civil order body whose responsibility it is to serve the people. The police guarantee for the people tranquility and security and provide for the maintenance of order, public security and morals, according to the law.

Article 56: The Supreme Council of the Armed Forces deals with the administration of the affairs of the country. To achieve this, it has directly the following authorities:

- 1) Legislation
- 2) Issuing public policy for the state and the public budget and ensuring its implementation
- 3) Appointing the appointed members of the People's Assembly
- 4) Calling the People's Assembly and the Shura Council to enter into normal session, adjourn, or hold an extraordinary session, and adjourn said session.

- 5) The right to promulgate laws or object to them.
- 6) Represent the state domestically and abroad, sign international treaties and agreements, and be considered a part of the legal system of the state.
- 7) Appoint the head of the cabinet and his/her deputies and ministers and their deputies, as well as relieve them of their duties.
- 8) Appoint civilian and military employees and political representatives, as well as dismiss them according to the law; accredit foreign political representatives.
- 9) Pardon or reduce punishment, though blanket amnesty is granted only by law.
- 10) Other authorities and responsibilities as determined by the president of the republic pursuant to laws and regulations. The Council shall have the power to delegate its head or one of its members to take on its responsibilities.

Article 57: The Cabinet shall assume executive authority in all that pertains to it, and will undertake the following responsibilities in particular:

- 1) Participate with the Supreme Council of the Armed Forces to put in place public policies of the state and supervise their implementation, according to the laws and resolutions of the republic
- 2) Direct, coordinate, and follow the work of the ministries and their related fronts, in addition to public institutions and bodies.
- 3) Issue administrative and executive orders according to laws, regulations, and decisions, and see to their implementation.
- 4) Prepare draft legislation, regulations, and decisions.
- 5) Prepare a draft public budget for the state.
- 6) Prepare a draft public plan for the state.
- 7) Contract and grant loans according to constitutional principles
- 8) Note the implementation of laws, preservation of state security, and protection of citizen rights and state interests

Article 58: It is not permissible for a minister during his/her tenure to engage in an independent profession, buy or rent anything using state money, rent out or sell anything with state money, barter with state money.

Article 59: The president of the republic, after taking into account the opinion of the cabinet, can announce a state of emergency as stipulated in law. He/she must present this announcement to the People's Assembly within the seven subsequent days to decide its view on this matter. If the state of emergency is announced in a period of recess, the Assembly must be called back to session immediately to review the matter, taking into account the time limit mentioned above. If the People's Assembly is dissolved, the matter will be reviewed by the new Assembly at its first meeting. A majority of the members of the People's Assembly must agree to the announcement of a state of emergency. In all cases, the announcement of a state of emergency will be for a limited time period not exceeding 6 months. It is not permissible to extend it, except after a people's referendum on the matter and their agreement to an extension.

Article 60: The members of the first People's Assembly and Shura Council (except the appointed members) will meet in a joint session following an invitation from the Supreme Council of the Armed Forces within 6 months of their election to elect a provisional assembly composed of 100 members which will prepare a new draft constitution for the country to be completed within 6 months of the formation of this assembly. The draft

constitution will be presented within 15 days of its preparation to the people who will vote in a referendum on the matter. The constitution will take effect from the date on which the people approve the referendum.

Article 61: The Supreme Council of the Armed Forces will continue directly with its limited responsibilities following this Announcement, until a time at which the People's Assembly and the Shura Council assume their responsibilities and the president of the republic is elected and assumes his/her position.

Article 62: All laws and regulations decided upon before the publication of this Announcement remains valid and implemented; however, it is possible to cancel laws or amend them according to the rules and procedures adopted in this Announcement.

Article 63: This Announcement will be published in the official gazette and will be in effect on the day following its publication.
