



Rule of Law, Human Rights, and Political Reform in Egypt

Moderator

- Mr. Ibrahim Khalifa, Vice Chairman, USEF

Speaker

- Ms. Mona Zulficar, Senior Managing Partner, Shalakany Law Office, Cairo, Egypt; Member of the National Council for Human Rights and the National Council for Women; Advisor to the Ministry of Economy, the Capital Market Authority, the Ministry of Housing and the Central Bank of Egypt

On 29 June 2005, the United States-Egypt Friendship Society (USEF) partnered with the American Bar Association (ABA) to host a seminar on the rule of law, human rights, and political reform in Egypt with Ms. Mona Zulficar.

After **Ms. Elizabeth Andersen** of the American Bar Association welcomed the participants, **Mr. Ibrahim Khalifa** introduced Ms. Zulficar and praised her for her pragmatism and her innovation in approaching challenges.

Ms. Mona Zulficar expounded on a series of key points in her prepared remarks. She began by highlighting the individuality and distinctiveness of Egypt compared to other countries in the region, and other countries, developing and developed. She cited ways in which Egypt is unique; its 7-8,000 year-old written history and its layered civilization with innumerable historical and modern influences.

Zulficar continued with a brief history of Egypt's long track record in building modern rule of law, focusing on the Egyptian Constitution, which was first issued in 1882. The 1923 Constitution established a democratic system, and in 1956 the Constitution was changed among others to give equal political rights to women. The present Constitution of 1971 reaffirms the rule of law, an independent judiciary, and guarantees personal liberty and human rights.

Egypt also has a unique cultural and historical tradition of a very strong central government, which Zulficar argued has been a challenge to democratic reforms. Furthermore, the role of Egypt's Supreme Constitutional Court sets the country apart from other countries in the region. The Court can declare laws that breach the Constitution to be null and void. To substantiate this point, Zulficar provided as a recent example the November 1999 annulment by the Supreme Constitutional Court of the Interior Minister's decree 3937 of 1996, which required that wives obtain the permission of their husbands before acquiring a passport, contrary to the principles of equality and freedom of mobility. She also cited the judgments of June 1984 and 1987 which ruled the election laws unconstitutional for breach of the principle of equal opportunity.

USEF DISCUSSION NOTES

29 June 2005

Zulficar moved on to discuss the progress of reforms in Egypt. She said that the first 50 years of the 20th century saw the growth of democracy, political parties, and a pluralistic society, while the second 50-year period saw a single party system within a socialist model. In 1977, President Anwar Sadat started economic and political reforms. However, the reform policies quickly died when President Sadat was assassinated in 1981. The State of Emergency law that was passed immediately after his assassination is still in effect. The National Council on Human Rights has recommended in its first annual report issued in April 2005 that this be lifted.

After President Sadat's assassination, Egyptian society started "moving." The women's movement, civil rights movement, and human rights movement became vibrant during the 1980's and 1990's. Though Zulficar spoke of progress, she stressed that change in Egypt has historically been gradual. Challenges to reform include 50 years of a one-party system and a power structure resistant to change, as well as religious extremism.

Zulficar continued by highlighting the constitutional amendment for presidential elections, which will introduce the concept of competitiveness for the first time. According to Zulficar, the presidential election law passed in accordance with this amendment guarantees equal opportunities for competing candidates, regulates fund raising and does not allow for religious symbols, discrimination, or violence. Zulficar views this amendment as an important step in the reform efforts and believes changes at the top of the "pyramid" will trickle down to lower levels of government. An independent election commission presided by the Chief Justice of the Supreme Constitutional Court and made up of 4 ex officio judges and five independent public personalities selected by the Peoples Assembly and the Shura Council will manage and supervise the presidential elections and its decisions are final..

Zulficar then turned to the entry of a new player in the reform effort in 2003: the National Council for Human Rights. She described the workings of the Council, saying it is made up of 25 independent individuals and was formed by law. The Council has the right to form a national plan for human rights, receive complaints, investigate them, and hold accountable those who violate human rights. The Council published its first annual report in April 2005 which registered positive actions by the government in the realm of human rights, but also registered the abuses of human rights with detailed records and accounts of the instances. The Council received 4,850 complaints in ten months, from political or civil rights violations which represented 27.5 %, to social and economic rights violations which represented 7 % and religious rights violations which represented 0.8%. Zulficar then talked about the government response to the report. Finally, Zulficar announced that the Council had just decided to observe the fall presidential and parliamentary elections. This will be the first precedent of its kind in Egypt.

To end her presentation, Zulficar acknowledged the challenges to reform efforts and highlighted the recent period of dynamism. "We are alive," she declared. Public opinion is for reform and democratization, and democratization is the prevailing trend. Zulficar has an optimistic view of the future, especially that the recent Constitutional reforms, the new presidential election law and the amendments to the current election and political

USEF DISCUSSION NOTES

29 June 2005

parties laws represent steps in the right direction. She is confident that further Constitutional and legislative reforms will take place in the near future in response to the dynamic advocacy of the Egyptian civil society.

Dr. Jennifer Bremer, Director of the Washington Center of the Kenan Institute of Private Enterprise, added to Zulficar's remarks by emphasizing Egypt's role as a linchpin in the Middle East. Not only is it the largest country in the Arab world but it has also historically been the regional leader. To advance its development, Bremer stressed the importance of strengthening the country's rule of law. She applauded the legal profession's efforts in trying to accomplish change in a positive way and highlighted the critical nature of leadership in Egypt's reform effort.

Question and Answer Highlights

Q: Why hasn't the State of Emergency law been challenged before the Supreme Court?

Zulficar: The president has the right to declare a state of emergency under the Constitution and it must be ratified by law for a period of three years. This cannot be challenged; Parliament needs to decide not to reinstate the law when it comes up for renewal in 2006.

Q: Egypt has been host to many refugees. They are not restricted to camps, but there are restrictions to their livelihoods. What are the avenues for changing this? Has anyone challenged this on constitutional grounds?

Zulficar: **I do not think any such challenge has been made.** Sometimes judges are not familiar with international human rights treaties or conventions. The Council has recommended that international human rights conventions should be made part of the law in black and white, rather than through incorporation by reference under the Constitution. Government and civil society are in different ways providing for the attention and care of more than four million Sudanese refugees in Egypt. More social and economic support is definitely required.

Q: Is American foreign policy to Egypt helpful or hurtful to the country?

A: The U.S. has a lot of influence on reforms happening anywhere in the world. However, it must exercise such influence with sensitivity and understanding in order not to be counterproductive. For example, if the U.S. were to congratulate the National Human Rights Council for deciding to observe the elections, it would produce negative effects because the people would think of the Council as an agent for the West. If the Egyptian Government cooperates fully with the Council however, and the U.S. commends the effort, then effects would be more positive.