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Political Structural Adjustment in Egypt:
A Precondition
for Rapid Economic Growth?

ROBERT SPRINGBORG

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A Precondition for Rapid Economic Growth?**

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Just as much of Egypt's economic infrastructure, including the still large public sector, is the legacy of a command economy, so, too, is the political infrastructure (the constitutional/legal framework within which politics is conducted, as well as the institutions and organizations through which public policies are demanded, contested, decided, implemented, and adjudicated) largely the residue of a command polity. The Egyptian constitutional/legal framework, for example, includes such throwbacks as an emergency law and a structural imbalance between the branches and levels of government. The ruling National Democratic Party (NDP) is the direct lineal descendant of the former Leninist-style Arab Socialist Union, while ministries of "information" and "social affairs," whose purposes during the earlier era were, respectively, to control the flow of information and the activities of voluntary associations, are still extant. A limited amount of new political infrastructure, such as weak opposition political parties, a more free press, and some advocacy NGOs, has emerged over the past quarter century or so, but it is still overshadowed by the much more robust edifices erected during the Nasser era.

Structural adjustment of this political infrastructure, whereby open political markets would be made possible, appears to be lagging behind structural adjustment of the economy. The government of Egypt implicitly recognizes this apparent disjunction, but dismisses its importance. Its trumpeting of progress on economic reform, as manifested, for example, by President Mubarak's claims for Egypt as a leading "emerging market" at the Davos World Economic Forum in January, 1999, is accompanied by what has become near silence about formerly heralded progress toward democratization. Whether in fact economic markets can emerge in the absence of open political ones is a vital question not only for Egypt, but for other countries also seeking to accelerate rates of economic growth while retaining political infrastructure inherited from command political economies of an earlier era.

In the discussion that follows of two illustrative components of that political infrastructure - the legal/judicial system and the executive branch - an attempt will be made to assess the state of that infrastructure and its direct impact on economic performance. The remainder of the paper will then be devoted to an examination of the apparent de-linkage between economic and political structural adjustment. Some conclusions will be offered on the connections that may in fact link the two and their impact on strategies that preference economic over political structural adjustment.

THE LEGAL/JUDICIAL SYSTEM

The Constitution

Issued in September, 1971, and slightly amended in 1980, Egypt's constitution reflects its origins in the very earliest stage of transition away from the command polity. It expressed various aspirations for a more liberal system than had been enshrined in the 1964 constitution it replaced, but it provided few institutional manifestations of a liberal order. It seems to suggest that the then President, having diagnosed widespread popular dissatisfaction with the preceding authoritarian order, was reaching out to the populace to assure it that the abuses of that order would no longer occur, but that it was still too soon to contemplate the full institutionalization of a liberal, constitutional order. It is not surprising, therefore, that the political opposition has over the past two decades repeatedly pointed out that the constitution is outdated, beholden to the earlier era, and unsuitable as a framework to support the growth of democracy.

The language of the Constitution regarding the economy reflects its origins. Article 4 provides that "The economic foundation of the Arab Republic of Egypt is the socialist democratic system based on sufficiency and justice, in a manner preventing exploitation. . ." Article 26 guarantees workers a "share in the management and profits of projects," two principles that were incorporated into the relevant legislation (i.e., Companies Law 159 of 1981 and Investment Law 230 of 1989).

The Constitution's anomalous provisions regarding the economy are mirrored by similarly anomalous provisions regarding the polity. The constitution subordinates the legislature to the executive by giving the latter power to appoint and dismiss the Prime Minister and Council of Ministers, to select the vice president, to dismiss parliament in the event that it blocks legislation and fails to win a referendum on that legislation, to convene and terminate parliamentary sessions, and to effectively legislate during parliamentary recesses. The President is also the head of state, supreme commander of the armed forces, and the head of the executive branch. The constitution subordinates local to central government by assigning to the President the power to appoint governors; by placing all local government officials, including *'umdahs* (traditional mayors) and the Heads of Village Units; under the central executive; and by reserving most taxation, police and other powers to the national government.

Possibly also reflecting the public mood at the time the Constitution was drafted, and the President's reaction to it, are its provisions regarding the judicial

branch. In 1969 President Nasser sought to subordinate judges to the executive by transferring control over them to the Minister of Justice and removing many of them, in a step that was widely known as the "massacre of the judges." In the event he overreached, for this was a highly unpopular step that underscored the government's apparent contempt for the rule of law, in turn stimulating widespread support for "a state of laws," a slogan that was in fact adopted by the new Sadat government. So while the Constitution created an imbalance between the legislative and executive branches in the latter's favor, it did not do so with regard to the judicial branch.

The language of the Constitution regarding personal rights is quite fulsome, although in most cases those rights are substantially diluted by inclusion of the phrase that they are "in accordance with" or "defined by" enabling legislation. This approach also seems to reflect the tenor of the times - a clear desire to move toward constitutional guarantees of human and civil rights, but a realization that this would be a very sudden and dramatic step that could have far-reaching consequences, hence a step that should be somewhat qualified and tentative.

But with regard to the law, judges and courts, the Constitution is yet bolder in seeking to guarantee freedom and autonomy. Part IV proclaims the "sovereignty of the Law" and that the state is subject to it. It further mandates the "independence and immunity of the judiciary" as "two basic guarantees to safeguard rights and liberties." Article 68 guarantees access to the courts for each citizen, who has "the right to refer to his competent judge." The Constitution requires that judges be independent, subject to no other authority than the law. It also enshrines judicial review by prohibiting any law or administrative decision from having immunity from such review.

In sum, although the Constitution is not entirely illiberal, it is also not "a living document," in the senses that it was either originally written in such a way or subsequently amended so as to provide for and reflect the evolution of the polity, or that all legislation has been brought in line with its provisions. The Constitution remains anchored in the past, having been amended only once, in 1980, for the purpose of creating a consultative upper house, apparently to further consolidate executive control over the lower house. Much legislation is clearly in violation of the Constitution, yet remains in effect. Noteworthy in this regard is the constitutional provision that all citizens of either gender have equal rights and obligations, yet legislation regulating citizenship that precludes it from being awarded to a person born of an Egyptian mother but a non-Egyptian father. Although the Constitution does not pose insurmountable obstacles to the steady development of participatory, accountable governance, its provisions that

regulate the balance between the legislative and executive branches, and between national and local government, as well as the implicit qualifications it places on civil rights, ultimately will require amendment if a liberal, constitutional order is to be both implemented and properly reflected in the organic document itself.

Substantive Law

Whereas law that regulates economic activity has been steadily revised as economic reform has progressed, laws governing political behavior, after some early efforts at reform in the 1970s, have been either untouched or in the 1990s made yet more restrictive of political participation. The gap has thus widened between substantive economic law, which is increasingly supportive of a free market economy, and substantive “political” law, which is more consistent with a closed, than an open polity.

- as regards the economy

According to John Bentley,

“Egypt’s 20-year experiment with socialism and central planning severely and adversely impacted on the ability of Egypt’s legal infrastructure to facilitate and encourage private sector economic development. . . Substantive laws were skewed against the free market economy and private sector activity. . . (and) older commercial laws and institutions which were left in force during the socialist period were ignored and never modernized. . . .”¹

Bentley himself actually played an instrumental role in commencing reform of substantive economic law, a process that has gathered momentum in recent years. He assisted in drafting Law 43 of 1974, the legal cornerstone of President Sadat’s *infitah*, or “opening.” Over the past quarter of a century the government of Egypt has addressed in reasonably systematic fashion the challenge of creating new substantive law to guide macro and micro economic policy reform. Some of the legal changes that are politically most difficult are yet to be completed, such as those that govern relations between owners and tenants of urban residential real estate and worker - management relations, but even in these areas progress has or appears about to be made. New landlord-tenant laws governing agricultural land and urban commercial real estate have already gone into effect, while the government has announced its intent to introduce into the 1998-99 legislative session a new labor law, one that apparently will provide for the right to strike as a tradeoff against management’s right to dismiss. Moreover, some of the difficulties that have arisen as a result of inadequate or conflicting laws are now being addressed, such as the proposed Unified Companies Law, which is to be introduced in the present legislative session and is intended to

consolidate and reconcile anomalies in the present eight laws governing the formation and operation of companies.

The pace and effectiveness of reform of substantive economic law has been hindered, however, by the manner in which that law is made. The process of making public policy, including enacting legislation into law, is narrow and hierarchical, thereby precluding adequate input by stakeholders into that process. Virtually all legislation is produced in the government itself, with individual ministries assuming primary responsibility for designing the content of proposed bills. Public hearings do not constitute part of the drafting process and only rarely are public hearings used when legislation is being considered in the standing committees of parliament. In the 1992 legislative session, for example, the 18 standing committees held a total of only 35 hearings, or less than two hearings for each committee. Five of these hearings were devoted to a single piece of legislation.²

Because many or most of the stakeholders who will be impacted by substantive law play little if any role in its formulation, the government is deprived of their information, insights, and reactions. Many of these stakeholders are in fact other units or levels of government. A ministry or agency may be seeking with a piece of legislation to address a specific problem, so it fails to realize that by addressing it in a particular way it will have an impact in other areas and on the functioning of other units of government. A common complaint about economic legislation that has been passed is that it creates more problems than it solves.

Mahmoud Fahmi, for example, Secretary General of the *Maglis al Dawla*, or State Council, and himself the architect of much of the legislation associated with economic reform, including that which formed the capital market authority and revived the stock exchange, has observed with regard to a key, recent piece of legislation that “it violates the constitution because it introduces articles with no legal precedents; its articles furthermore contradict other existing laws.” He sees a general problem of inconsistency in economic law having resulted from inadequate formulation of it.³ One of the principle recommendations of the Bentley report to the United States Agency for International Development (USAID) was to institutionalize procedures for “making, reviewing and revising laws and regulations” so that they are understood and supported by the public. In order to do so Bentley suggested that the policy process include

regular, broad-based review and input from the private sector and the public in a clear institutionalized manner regarding proposed draft laws and regulations affecting commerce and investment in Egypt by advance circulation of such laws to business organizations and the public, followed by public hearings.⁴

“Regular, broad-based review” is all the more important because Egypt follows the European civil law tradition, not Anglo-American common law. Substantive commercial law, for example, is embodied in the civil code of 1948, the forerunner of which was the Commercial Code of 1883, which in turn was inspired by the French *Code Napoleon*. Because judicial decisions under civil law do not constitute a formal source of law, as they do in common law (although precedents, especially the decisions of the administrative courts of the Council of State, are of some importance), evolution of law is necessarily slower than under common law. The greater relative importance of the substantive legal code and its more fixed nature imply that its content is of greater significance than is the case in a common law system. The formulation and reformulation of that law is, therefore, of particularly vital importance and places yet greater demands on policy making infrastructure than would be the case were Egypt to have a common law tradition, where judicial decisions could both update the law more quickly and deal more easily with shortcomings that arise in the legal code. Egypt’s economic reform, which to be successful must rest upon a constantly evolving body of substantive law, thus requires a more sophisticated infrastructure for the making of public policy than do many other emerging market countries, where judicial interpretation of common law acts to facilitate the legal and therefore the economic reform process.

In sum, the quality and possibly the quantity of substantive economic law enacted to support economic reform has suffered because of inadequate political infrastructure, a problem further aggravated by Egypt’s code based substantive law tradition. The policy making process, which culminates in the making of law, does permit of some limited, informal consultation, but broad based, institutionalized participation by numerous stakeholders is yet to become routinized.

- as regards the polity

The primary problem with regard to substantive law that regulates political activity is that it has not been progressively rewritten to support an expansion of participation or to bring about more accountable governance. The last major legislative initiative intended to broaden participation was the political parties law of 1977, which although legalizing political parties, nevertheless placed considerable restrictions on their formation and activities. Much legislation that restricts participation, including Law 32 of 1964, which strictly regulates the activities of voluntary associations, remains on the books. Further restrictive legislation, including that which converted the positions of ‘*umdah* and university faculty deans from elected to appointed ones; that which paved the

way for sequestration of professional syndicates on the rather spurious grounds of lack of quora at their general elections; that which substantially increased the penalties on journalists for libel and slander; and that which transferred the Central Auditing Agency from the *Maglis al Sha'b* (People's Assembly, or lower house of parliament) to the Presidency, was passed in the mid to late 1990s.

Thus while the constitution, a throwback to the earlier era, provides somewhat of a hindrance to expanded political participation and implementation of accountable governance, the substantive legal framework that has been erected is considerably more of an obstacle. That substantive economic law is moving in the opposite direction is both paradoxical and, ultimately, possibly non-sustainable. Not only is that economic law handicapped by the absence of a parallel evolution of "political" law that would provide for a more complex and competitive policy making environment, but that economic law may be creating the conditions that intensify demands for an open polity supported by an appropriate legal framework.

Courts and the Judiciary

Neither the courts nor the judiciary were ever converted into tools of "socialist transformation" in the same thoroughgoing manner in which most of the other political infrastructure was. It was only at almost the very end of that era that a full scale, frontal assault was made on the judiciary and its effect was less than total and was transitory in any case. This is not to say, however, that courts and the judiciary did not suffer in that era. While they were not converted into instruments to serve ideological ends, they were more or less ignored, so their capacities declined steadily for some two decades, leaving them as pale shadows of what they had been in 1952. The task of modernizing this component of the political infrastructure, therefore, is not that of dismantling inappropriate institutional legacies, but is one of upgrading badly decayed capacities.

The constitutional provisions which underlie the relative independence of the judiciary have already been cited. What needs to be added is the actual manner in which that relative independence is operationalized. Principally it is through the partial insulation of judges from the Ministry of Justice, a condition made possible by the limited self-governing capacity of the judges themselves. The principle vehicle of that self-government is the Supreme Judicial Council, a body within the Ministry of Justice empowered to make all decisions regarding the overall administration of the ordinary courts, including the appointment, promotion, and pay of judges (with the approval of the President). Article 173 of the Constitution requires that this Council must be consulted with regard to any

proposed legislation that would affect the judiciary. It consists of the president of the Cassation (Highest Appeals) Court, together with the two most senior judges on that court plus the three most senior judges of the courts of appeal and the Prosecutor General.

Judicial self government is further replicated at lower levels, for in each court judges are governed by that court's president and its general assembly, which is comprised of all its judges and a representative of General Prosecution, whose vote only counts on matters directly related to matters concerning prosecution. It is worth noting that President Mubarak substantially enhanced the independence of the judiciary when, in 1984 through Law 35, control of ordinary courts was returned to the Supreme Judicial Council, and through Law 136 administrative courts were placed under the self-governing Council of State, which, as its former head, Mahmoud Fahmi points out, "is one place where democracy has been retained to a large degree."⁵

The independence of the judiciary, however, is more limited than this somewhat idealized picture would suggest. In practice the Ministry of Justice influences the rotation of judges between courts by invoking special needs which it claims to be determined by case loads. It can thus in essence "assign" judges to deal with specific cases, as it did, for example, in the politically charged case of Professor Nasr Hamid Abu Zayd, who was accused of apostasy by fundamentalist colleagues, who sought to compel his divorce in court on the grounds that a non-Muslim male cannot be married to a Muslim female. The government sought to have overturned a politically awkward lower court decision that favored the fundamentalist interpretation in a higher court by assigning to that court a judge it thought to be sympathetic to its view. In addition to "assigning" judges to courts, the Ministry of Justice can also assign cases to specific courts, such as the notorious "Court Five" of the State Security Courts - notorious in the sense that it can be relied upon to hand down an extremely harsh sentence. The Ministry of Justice also affects remuneration and status, as it has the power to second judges to various governmental bodies, such as the National Center for Judicial Training or even the Cairo Opera House, where their salaries or bonuses may be considerable more than their base salary as a judge. The Ministry of Justice also has an Inspectorate of Judges that is responsible for detecting and prosecuting illegal behavior, a tool that can and possibly has been used to intimidate judges.

The capacity of courts to hold the executive accountable and in general to counterbalance its power is embodied in their organizational structure. The court system consists of three elements - ordinary courts of law, the Council of State's administrative courts, and the Supreme Constitutional Court, created in 1969.

This last court has sole authority to rule on the constitutionality of draft laws, legislation, and even presidential decrees. Possibly because its judges are appointed by the President, it was for the first decade of its existence not viewed as a true guarantor of constitutional rights, as it ostensibly was intended. But in 1979 it reversed the President's decision to dissolve the board of the Bar Association and appoint a new head, ruling that these measures were illegal and that the previous board had to be reinstated.

Since then the Supreme Constitutional Court has not been reluctant to overturn on constitutional grounds legislation with direct political ramifications. It has twice ruled that the electoral system was unconstitutional. In 1985 it deemed the Personal Status Law of 1979 unconstitutional on the grounds that the president had, according to the urgency provision, issued it by decree when the Assembly was not in session. Since it was not urgent business, however, that provision was inapplicable. More recently, in November, 1998, it commenced consideration of the Penal Code's provisions that provide harsh penalties, including up to a year's imprisonment, for libel in order to determine whether they contradict articles 48, 206, 207 and/or 208, which provide for the freedom and independence of the press and other media. In the preceding year the Court had deemed unconstitutional a provision of the Press Law that stipulated imprisonment of editors for publication by their newspapers of libellous material. The Supreme Constitutional Court, therefore, has demonstrated a capacity to act as an arbiter of the rules of the political game, seeking intermittently to ensure that they are consistent with constitutional provisions.

Probably because it has taken its task of judicial review seriously, the Supreme Constitutional Court has recently come into confrontation with the executive. The issue that apparently triggered the move by the President to curtail the powers of the court was a ruling in 1998 that obligated the government to repay to taxpayers significant amounts of money that the Court ruled had been illegally collected by the government. Citing the adverse effect this decision would have on the development efforts of the state, the executive responded by issuing a Presidential Decree on 11 July, amending Law 48 of 1979 that governs the Court. The effect of that amendment was to prevent the Court's decisions from being applied retroactively, thereby seriously reducing the scope and deterrent value of judicial review. Critics of the President's action claimed that it was both a serious violation of the independence of the judiciary and unconstitutional as there had been no urgent need to issue the decree, which should have been proposed as legislation when the parliamentary session commenced in November. Although the full ramifications of the Presidential Decree are not as yet clear, it does appear that the executive, essentially unwilling to have its actions subjected to judicial review, has now seriously

restricted the role of the Supreme Constitutional Court. It is worth adding that informed observers of this Court note that its independent spirit was due at least in part to the spirited leadership of its former President, Awad al Murr, and that this spirit may well not be manifested under its new leadership.

The Council of State and the administrative courts over which it presides have also acted independently, so they also provide venues within which individuals can seek legal redress for torts committed against them by the government. Created in 1946 and modelled on the French equivalent, the purpose of the Council of State, which offers legal opinions on points of law, is to ensure that governmental agencies respect the law. It has the power to annul administrative decisions and to grant compensation to parties, including corporations and other types of business enterprises, injured by wrongful acts of the government.

Independent of the Ministry of Justice and ordinary courts, the Council of State provides another legal avenue for political activists in their efforts to induce the government to comply with the formal rules of the political game. Opposition political parties have made particular use of the Council of State and its Supreme Administrative court in their efforts to resume or commence activities in the face of numerous restrictive provisions of the 1977 law of political parties, including those that require party platforms to "preserve national unity and social peace" and which ban parties based on class, sectarian, gender, doctrinal or geographic bases, or which contradict the principles of Islamic law. The Law further specifies that a new party cannot duplicate the program of an existing party, a vague phrase that has been employed frequently to deny licenses to applicants by the Committee on Political Parties, which enforces the law and is chaired by the speaker of the *Maglis al Shura* (Consultative Council) and dominated by NDP ministers. The very looseness of the language of the Law and the tendency of the Committee to abuse even the wide discretionary power it confers has been seized upon intermittently since 1983 by the Supreme Administrative Court of the Council of State in order to overturn decisions by the Committee. Indeed, of the 13 opposition political parties presently in existence, nine commenced or recommenced operations as a result of a ruling by that court. Had the Committee on Political Parties been the sole arbiter in this matter, only the four parties that existed in 1979 - the NDP, Liberal Labor, and Tagammu - would now be legally functioning.

Prosecutors can also be considered as part of the political infrastructure, for occasionally they become directly involved in political matters. The Administrative Prosecution is an independent authority under the overall supervision of the Minister of Justice. Its primary task is to investigate violations

of laws or regulations by government officials and agencies, which, if found to exist, are referred by it to the General Prosecution (i.e., the public prosecutor), known in Arabic as the *niyaba*. The *niyaba*, a branch of the Ministry of Justice, are expected to act impartially as judges when investigating cases, reviewing evidence that indicates both innocence and guilt before possibly formulating charges to be presented to a criminal court. Since it is the *niyaba* who have the responsibility to determine whether or not confessions have been extracted by torture or other illegal means, as well as to visit prisons to monitor treatment of detainees and hear grievances, they have been in a key position to restrain government abuses of power and occasionally have done so. In 1994, for example, the *niyaba* authorized the family of a lawyer who allegedly died while being tortured by State Security Investigations, to sue the police. The *niyaba*'s action in revealing the torture of defendants also resulted in the acquittal of those accused of assassinating the speaker of the People's Assembly in 1990 and in the trial of 60 security officers on charges of torturing the alleged assassins of President Sadat.

The courts and the judiciary, including the prosecutors, clearly provide a significant bulwark against unconstitutional and/or illegal behavior by the executive. Indeed, their very success has, to some extent, been their undoing. Confronted with independent judges and prosecutors working in a highly elaborated system of courts easily accessible to opposition political activists, executive authorities have adopted the expedient of circumventing those courts or not implementing their decisions. The Minister of Interior, for example, has frequently refused to release from prison detainees whose release has been ordered by the courts, while the government has utilized the state of emergency's provisions that permit reference of civil cases to military and emergency state security courts, where judgements are not subject to appeal to a higher court and where judges are much less autonomous of executive authority.

Permanent state security courts do not require reference to the state of emergency and have their own *niyaba* and appeals court system. Two of their three or five judges, depending on whether they are at the summary or appeal level, can be appointed from the military by the President. These courts have the power to try "political" crimes, such as establishing or organizing or directing an illegal group or an organization with the help of a foreign government; illegally resisting the state policy with the help of a foreign government; spreading lies or untrue stories with the intention to harm the country; to strike, etc. In the absence of these various means to circumvent the normal court system, the rule of law would be much more firmly established, assuming, of course, that the executive would not seek to undermine that system.

The firm establishment of the rule of law is also hindered by the inadequate capacities of the courts and judiciary. Having been seriously degraded during the previous era, they have not been adequately overhauled and upgraded since then. In the meantime, the case load of all courts has dramatically increased. In 1998, for example, some 32 million legal cases were filed, meaning that statistically speaking, virtually every Egyptian was involved in a new legal matter that year, for each case requires a plaintiff and defendant. The Bentley report, noting that justice delayed is justice denied, cites examples from the experience of his prestigious Cairo firm where cases have dragged on for twenty years without resolution. Partly because of overwhelming case loads, courts are not looked upon as arenas in which definitive decisions are issued. Rather, lodging cases in courts typically forms part of broader strategies of obtaining advantages in protracted conflicts involving family, business, or other matters.

Deterioration of the court system has caused potential litigants of higher status to seek to avoid those courts altogether, typically by resolving disputes through arbitration. Most foreign business enterprises operating in Egypt, for example, insist upon arbitration clauses in all contracts in order to avoid having to settle disputes before Egyptian courts. Nathan Brown has observed that the "most obvious loser is domestic business. Less able in constructing private arbitration systems, but equally repelled by slow litigation procedures, owners of small businesses have few attractive options. . .Egypt's court system, like the country's physical infrastructure, is over burdened and built to service the needs of a large and poor population."⁶

Severe as the problems are that bedevil the court system, their resolution would not necessarily profoundly impact the administration of justice, at least immediately. Implementation of court decisions remains as problematical, or even more so, than obtaining decisions in the first instance. While this problem is due in part to inadequate provisions for implementation by the courts, such as lack of well trained bailiffs or unwieldy procedures for notifying litigants of decisions and their consequences, it is due in larger measure to the lack of linkages between the judicial and executive branches.

A price of the relative autonomy and independence of the judiciary and the courts is that the executive is less than rigorous in its implementation of court decisions. The courts can decide, but they cannot enforce their decisions in the absence of support from the executive. While "stove piping" is a common problem throughout the government, it is particularly pronounced as regards relations between the judicial and executive branches, rendering all the more difficult the task of improving the administration of justice, for that task necessarily must involve improving coordination between those two branches of

government. That task, moreover, is rendered all the more difficult by the strong desire of the courts and judiciary to retain their autonomy, and of the executive not to reinforce the power of the judicial branch by rigorously implementing its decisions.

The Legal/Judicial System - Summary

This component of the political infrastructure presents a mixed picture. The constitution reflects much of the legacy of the command economy and polity of the earlier era. Substantive law regarding the economy has undergone steady revision to bring it in line with the imperatives of a free enterprise economy, but the quality and quantity of that law has been negatively affected by the policy making process, which remains rudimentary in comparison to those in more competitive, open polities. No serious effort has been made to revise substantive law to make it consistent with participatory, accountable governance, and those changes that have been made reflect a desire to restrict, rather than to expand participation and accountability. Finally, the judiciary and the courts are remarkably independent and autonomous and have made a major contribution to expanding the political space in which various stakeholders can express their views and even contest public policy. But their very success has contributed to their being circumvented or ignored by the executive, leaving them with both inadequate internal capacity and insufficient means to ensure implementation of decisions.

THE EXECUTIVE

The Legacy of the command political economy

Of the three branches of government, the executive was most impacted by the imposition of the command political economy. While the high status and legal standing of the judiciary and court systems protected them in part from the ravages of "democratic centralism," and while the political standing and potential utility of the Parliament also cushioned it from the heaviest blows, the executive, over which the government had direct, undisputed control, became its principle tool for achieving three major objectives - active control/surveillance of the population, mobilization of certain sectors of it, and cultivation of passive support through the distribution of patronage. Consequently, the nominal core purpose of this or any executive branch, namely, implementing public policy, was relegated to secondary importance. The inevitable result was that the quality of governance steadily deteriorated. Little has been done to rehabilitate the executive, to say nothing of modernizing it or redefining its mission from that assigned during the preceding era to one of supporting economic structural adjustment. It remains, therefore, a major obstacle to both more rapid economic growth and to the steady evolution of participatory, accountable governance.

The legacy of the control function remains more or less intact and is suffused throughout the executive branch. Although new, functionally specific administrative bodies were created during the Nasser era in order to control the population, including a vast array of domestic intelligence services and barracked police forces, chief of which is the Central Security Force, probably the more serious, residual problem is that posed by the redefinition of the mission of the normal civilian bureaucracy. The Ministry of Local Administration was assigned the task of controlling local politics and elections, as were, in some measure, the Ministries of Agriculture and Agrarian Reform. The Ministry of Social Affairs was made into an organization to oversee activities of voluntary associations, while the various public sector companies were given the task, among others, of mobilizing their labor forces for electoral purposes. A chief function of the ministries of Industry and Labor was to prevent worker unrest, while the Ministry of Education (and then Higher Education) had as a major objective the prevention of student demonstrations.

The Ministry of Information was placed in charge of monitoring and censoring the flow of information.

The radical Islamist insurrection that commenced in 1992 stimulated the further and rapid growth of internal security forces, whose primary task has been

to combat that insurrection. The accountability of such forces, as well as the normal police, has been eroded, probably both as a result of the severity of the security task itself, and as a result of inadequate training in appropriate police/security behavior in the first instance.

In sum, a vast bureaucracy and public sector was given over in part to ensuring that there be no autonomous, voluntary activity that might have negative implications for the political support of the regime. As a result, the structures of those organizations and the mentalities of those working within them were and for the most part remain inconsistent with a free market economy, to say nothing of a liberal polity. Although the government's preoccupation with control has abated, it still remains a consideration, constituting one of the principal, implicit "mission statements" of many arms of the public administration. Unless and until the executive's primary mission statement is made congruent with economic and political structural adjustment, little progress can be made in administrative reform.

A second function of the executive during the earlier era was to mobilize various sectors of the population, especially those that had been at least partially excluded from meaningful political and economic participation in the liberal, constitutional era, hence were important potential bases of support for the new regime. While the Leninist single party, the Arab Socialist Union and its various ancillary organizations, were the chief vehicles of this mobilization, the executive branch contributed its part. Agricultural Cooperative Societies, especially those in land reform areas, were utilized to mobilize the peasantry, and they were backed up by the new local government structure. The Ministry of Labor played a similar role vis a vis industrial workers.

Assumed by the executive during the Nasser era, this mobilization function was more or less jettisoned by his successor. President Sadat sought to build a new, different base of political support and had less interest in continuing to mobilize peasants and workers. As a result he converted the agricultural cooperative societies into the Agricultural Credit Bank, stripping it of the political mobilization task; increased the importance of parliament (in which, paradoxically, workers and peasants had little influence, despite the requirement that they constitute half the membership), and downgraded the importance of the single party; and allowed the mobilization capacities of the ministry of labor and its associated unions to wither.

The consequence of the dismantling of the mobilizational capacity of the Nasserist executive is that the sectors of the population which gained political representation through these channels have been left with few if any means to

engage with the political system. Although this infrastructure for mobilization was paternalistic and ultimately focused on control of the sectors it was responsible for mobilizing, it nevertheless did provide channels through which the economically deprived could both place demands and receive material rewards. It may be partially for this reason that the Nasser era was one of remarkable social and political quietude, given the magnitude of change that occurred.

Ultimately it is probably the third function - that of distributing patronage - that has been the most difficult for the contemporary executive to overcome, for the entire administrative structure was converted to this purpose, for in the first instance patronage means government jobs. The public administration rose from a few tens of thousands when Nasser took power, to some three million when he died, to over five million when President Mubarak assumed power. Although it has plateaued at that figure in recent years, the civil service and public sector to this day employ inordinately high percentages of the labor force (overall, about one third), which is presently some seventeen million. In the case of women with university degrees working in urban areas, about four fifths are so employed. In rural areas government employment typically accounts for more than half of employment outside agriculture, while in urban areas it accounts for somewhat less than one third of male employment. Although younger male Egyptians are less likely to be employed by government than older age cohorts, reflecting the fact that the government has been absorbing a declining percentage of those entering the labor market, the percentage is still high by world standards. The guarantee of a government job for graduates - although much watered down in practice as the annual number of new entrants has in the past few years dropped from about one quarter of a million to 100,000 - remains on the books. The Minister for Administrative Development, whose task it is to reform the executive bureaucracy, estimates that although "there are five million civil servants in Egypt, there are only two million jobs."⁷

The consequences of over employment are under work and low pay. Since patronage, not production, has been the purpose of government employment, output per worker is abysmal. It is in fact the dominance of government employment that causes Egyptian labor productivity to be so low by world and even developing world standards. A vast amount of labor power is simply wasted. Pay scales have not kept pace with inflation for more than two decades, an invitation to moonlighting, corruption and/or vocational disinterest. The former Secretary General of the People's Assembly estimated in 1997 that LE5 billion was spent in that year by citizens bribing public officials to perform administrative procedures, which is some 15 per cent of the total annual civil service wage bill.

Since none of these observations is news to any thoughtful Egyptian, or even to the man in the street, the obvious question is why has the government done so little to reform the executive branch? The answer is twofold. First, the government has not entirely abandon the control and patronage functions which the present structure was designed to serve. In the absence of political infrastructure adequate to the task of representing the population and producing public policy in response to its demands, the need for control and patronage remains. They are alternative, albeit very inefficient and costly means of securing compliance, which participatory, accountable governance does cheaply and efficiently.

The second reason why reform of the executive branch has been so dilatory is that gradual change is the watchword of the government in all areas, this one being no exception. Instead of attempting a sudden, root and branch overhaul of the executive, the government appears to have embarked on a more cautious, end run strategy. This approach leaves most of the present structure more or less as it is, presumably out of the calculation that it will be gradually downsized as a side effect of the human aging process and steadily marginalized as its jurisdiction is reduced both naturally and by act of government.

As is the case with the public sector, the strategy has the additional component of "growing" a new "private" sector (i.e., public administration) alongside the existing one. In this case the emerging parallel structure consists of new or "recycled" executive bodies that are intended to serve purposes consistent with a free market economy, such as the Capital Markets Authority, the Ministry of Public Enterprises (the purpose of which originally, at least, was to facilitate privatization), or the Ministry of Supply and its new portfolio partner, Trade, which are venerable bureaucratic satraps that have been assigned the task of seeking to facilitate Egypt's compliance with WTO and other international obligations pursuant to Egypt's attempt to globalize. Reform, in other words, is proceeding without a concentrated effort to dismantle the pre-existing system. It is based largely on adding new structures or modifying selected, pre-existing ones to perform those new functions associated with a more open economy or other newly discerned tasks, such as protecting the environment.

There is nothing fundamentally wrong with this approach, other than the fact that it will take a long time to implement. It also risks the danger, however, that the new components of the executive bureaucracy will be absorbed by the old, so that they, too, will become preoccupied by control and the distribution of patronage, rather than performing regulatory and other modern tasks in an efficient fashion. While it theoretically is also possible that the mentality and

organizational methods of the newly created or remade units of the bureaucracy will suffuse the old system, that seems an unlikely outcome unless a conscious, sustained effort is made to accomplish it. Such an effort would require considerable engagement by the political elite in order to guide the process, to say nothing of the need for a reasonably clear decision to downgrade the control and patronage functions and upgrade those functions associated with creating a modern and accountable regulatory framework.

Structure and its consequence for transparency and accountability

The principal structural characteristics of the executive bureaucracy are centralization and isolation of its components. Centralization has two manifestations. First, power is concentrated at the top. With regard to the executive branch as a whole, for example, the President has virtually unrestrained powers, as he appoints the prime minister and cabinet, is elected without opposition, is not subject to effective oversight by the parliament, and the office over which he directly presides, the Presidency, is a large, complex institution, employing many thousands and financed in part in an "off-budget" fashion. With regard to other units in the executive, the heads of those units typically exercise similarly unrestrained power, albeit only in their restricted domain. Ministers, for example, have extensive powers to issue decrees which have the force of law, to reward and punish employees, to personally issue permits, licenses, and, in the case of some ministries apparently, even contracts. The deleterious consequences of such concentration of power for the effective functioning of administrative units has been pointed out by virtually every study ever conducted of the Egyptian bureaucracy and remains as true today as it was when some of those first studies were conducted not long after World War II.

The other component of centralization refers to the concentration of power in the national bureaucracy based in Cairo. Virtually every unit of government in the country, other than the legislature or elected local popular councils, are within a hierarchy that terminates in a minister or equivalent in Cairo. Popular councils, typically controlled by their parallel executive council which does, in essence, report to Cairo, are in fact only a very partial exception to the general rule. There is no real local government in the sense of it being autonomous from the center. Officials of the local administration are employees of the Secretariat of Local Administration, a unit now in the Prime Minister's Office. The most powerful regional officials, governors, are appointed by the President. There are no autonomous, locally organized school districts, police forces, municipal services, or anything of the kind. Even the most widespread quasi-NGOs in the countryside, Community Development Associations, report up a chain of command to the Minister of Social Affairs. While governors have a considerable

degree of autonomy, they do not in fact directly control most of the staff in their governorates, for that staff is employed by the respective ministries.

Isolation of units of the bureaucracy refers to their “stove pipe” nature, i.e., that they are free standing, having few formal or informal linkages to other units. Intra-executive coordination and communication is notable in its absence, as each ministry, agency, department, governorate, etc., seeks to both protect and expand its “turf.” Many of these units, especially ministries, are worlds unto themselves, possessing their own supermarkets, holiday and retirement resorts, police forces, training institutes, and so on. They are constructed and operate in inward-looking fashion, with their employees rewarded for loyalty and perseverance within that unit. Staff transfers from one executive unit to another are highly unusual. Once a graduate is assigned to a ministry or agency, (s)he tends to remain there for life. Competition and rivalry between various ministries, such as that between agriculture and public works, supply and industry, economics and finance, etc., is legendary.

The centralized, internally autonomous nature of the executive bureaucracy renders not only efficiency, but transparency and accountability almost impossible to achieve. Because the implementation of virtually any aspect of public policy typically requires inputs from various units, and because there are few mechanisms to coordinate those inputs because no actors want to surrender any degree of autonomy, lest their turf be negatively affected, implementation suffers. In the bureaucratic maze through which virtually any public policy matter must pass, transparency vanishes and accountability becomes impossible to enforce. The buck is passed endlessly, for there is no superior unit at which it might stop and no unit will accept responsibility when some other unit is involved, however marginally.

With a bureaucratic structure inherently incompatible with efficiency, transparency and accountability, it might have been anticipated that some institutionalized efforts to cope with these problems, if not actually to remove them, would have been undertaken. Alas, this is not the case. With the exception of the administrative courts under the Council of State there are few if any mechanisms to ensure accountability, by which is inferred the ability of someone outside the system, or an inferior within it, to review the actions of and, if necessary, punish a superior. There is, for example, no legislation to protect whistle blowers. Supervision, on the other, which refers to top down control, there is aplenty, but it tends to be focussed on lower level officialdom. The Administrative Controls Authority, for example, has filed in 1998 over 6,000 cases of corruption, all of which have been below the level of assistant deputy minister. The Central Organization for Audit, which for some twenty years was

the chief means by which Parliament could hold individual members of the executive accountable, including high ranking ones, was transferred in June 1998 to the Presidency.

There are also inadequate means to effect coordination between units of the executive administration. The most common method is that of ad hoc inter-ministerial committees, of which there are many. The rarely meet, however, are only semi-formal, lack autonomous staff, have no significant binding powers and, as a result, have little overall impact. The Shrouk Project, for example, one of the purposes of which was to overcome the problem of lack of coordination in the delivery of services to villages, itself became an actor in this area and for all intents and purposes gave up any pretense of even seeking to coordinate between ministries, one manifestation of this surrender to the inevitable being the fate of its interministerial committee, which was allowed to lapse about a year after it was formed.

Unlike in Lebanon, where civil service reform gave rise to various agencies and programs almost thirty years ago, and which are now being resuscitated as part of an effort to overhaul that executive bureaucracy, Egypt has no equivalents in the form of autonomous bodies whose purpose is to oversee performance and enforce accountability on specific personnel and units. There are no ombudspersons who might provide opportunities for the public or employees to seek redress against the bureaucracy - only the courts which are clogged and increasingly ineffective themselves.

In sum, the executive branch is not efficient, transparent, nor accountable in its operations. Its very organization militates against these objectives, while few if any efforts of institutionalizing administrative reform have been undertaken.

Politicization

The executive bureaucracy is the main political arena in the country. Most public policy is made within and implemented by that bureaucracy. Most meaningful political contestation, if by that is meant contestation that results in policy outcomes measured by allocation of material resources, occurs between individuals and units within the executive bureaucracy. Those actively seeking to influence public policy, such as business persons, operate primarily within the executive, even if they are members of Parliament.⁸ The executive branch, in sum, both makes and implements most public policy, hence is the focal point for efforts to influence that policy.

This concentration of power over public policy by the executive has negative implications for participation, transparency and accountability. Since access to the executive is differential and even preferential, with “*wasta*” (influence) being far from equally distributed among sectors of the population, an executive-centered public policy system necessarily is inegalitarian. It also discourages formalized, group based participation in the making of policy, and encourages personal solutions to problems.

An ideal-typical bureaucracy, to the extent it is open to external interventions, is designed primarily to permit individual petitioners to seek redress against the manner in which policy is implemented. But when a bureaucracy is the main arena in which policy is made, it does it poorly because it lacks mechanisms for representation, for aggregating differing demands into policy options, and for proceeding in a public and open fashion. Unlike the legislature, the bureaucracy needs to be at least in part a “closed” institution, a condition that militates against the making of effective and legitimate public policy. Policy made in a bureaucracy is likely to be overly influenced by the concerns of the particular unit of that bureaucracy within which the policy is made. Separation of the policy making and policy implementation functions is a vital step forward in bringing about transparent, accountable, representative government. It is a step that has not been taken in Egypt, for most public policy continues to be made behind the largely closed doors of the executive bureaucracy.

A further negative consequence of the bureaucracy being the locus of policy making is that struggles for political influence tend to be opaque and personalized and result in public resources being utilized in those struggles. The principal business of legislatures is reaching agreement on issues of public policy, so those bodies are set up to convert contestation into policy outcomes without the contestants being able to draw upon external resources, such as public employees, in their efforts to gain advantage. But bureaucracies are organized to implement policy and do have direct control over resources. When they are utilized in the making of policy, they invite conflicts that quickly result in the mobilization of public resources by the parties to that conflict, thereby undermining effective policy implementation and eroding accountability, to say nothing of what might be called a misappropriation of public resources for political purposes.

The executive branch - summary

The executive branch is that part of the political infrastructure that was most transformed by the command political economy and least reformed since that

time. Its primary goals are yet to be redefined in such a way as to be supportive of an open market economy and polity. Its organization and operations, therefore, are for the most part inimical to economic and political structural adjustment, although some progress is being made to create new units and procedures. Because the executive remains the primary arena within which public policy is made, it both forestalls the institutionalization of political participation within interest groups and political parties, and encourages personalism and the seeking of individual solutions to what are largely policy problems. Neither transparent nor accountable, far too large and performing tasks for which it is not designed, the executive bureaucracy must be downsized and substantially overhauled if Egypt is to improve labor productivity, create a better climate for investment, have adequate participation in the making of public policy, and implement public policy efficiently. But key to any reform effort must be a redefinition of the primary purposes of the executive bureaucracy.

ECONOMIC AND POLITICAL STRUCTURAL ADJUSTMENT: PARADOXICAL RELATIONS?

An apparent paradox of the Egyptian political economy suggested by the almost completely unreformed state of the legal/judicial system and the executive branch, is that economic stabilization and structural adjustment have not given rise to equivalent measures of political liberalization. Several explanations of this paradox are possible, one of which is that it is not a paradox at all, for that relationship does not always obtain, as some readings of the East Asian experience suggest. A second explanation is that the polity has pluralized, in the sense that objective and even subjective political interests have become much more numerous, but that these potential new political actors, deterred by a political climate inhospitable to expanded participation and by their lack of political experience and skills, are yet to actively enter the political arena. In other words, there is an inevitable lag between economic structural adjustment and its political counterpart, for while the former creates new political interests and actors relatively quickly, a pluralistic political system in which they can compete for influence necessarily takes more time to evolve.

Other possible explanations of the paradox focus on the rate and nature of economic change. Some data suggest that the rate of economic growth in Egypt, which began to accelerate appreciably only in 1992 and has just recently reached what appears to be a sustainable rate in excess of five percent, is either too low and/or too recent to have had much of an impact on the polity. Closely related arguments are 1), that the nature of the economy, especially the sub-sector of

manufacturing industry, remains closer to the command than the market model, so there is insufficient economic diversification and liberalization to drive any political equivalent; or 2), that the command economy has fundamentally changed, but has become one based on rent-seeking by crony capitalists tied to the regime, so that newly generated private material resources serve to reinforce the political status quo, rather than to modify it.

A comprehensive explanation of the paradox should probably incorporate some elements from all of these perspectives. As regards skepticism about the relationship between economic and political structural adjustment, clearly there is no one-to-one relationship between them, as the East Asian empirical evidence may attest. On the other hand, it is also true to say that economic development led by private sectors in Latin America, Africa and even Asia has been associated with democratization, as Samuel P. Huntington and others have observed. In the Middle East/North Africa region the example of Morocco seems to confirm the relationship, for in the decade of the nineties it has been the Arab state that has made most progress in liberalizing both its economy and its polity, and in that order. Theoretically the argument seems compelling that greater availability of private material resources, combined with an increasingly diverse set of economic interests, will ultimately lead to contestation between those interests. Where and how that contestation occurs, however, is probably determined by a host of political factors, a point which will be returned to below.

That the Egyptian political economy is more pluralistic than it was in the early 1970s, in that there are now many more different types of economic interests, is certainly the case. And it is also true that some objective, categorical groups have become subjectively aware. Various strands of Islamism appear to represent, at least in part, different economic sectors or strata, while a host of associations have emerged to represent business interests in the political arena. But it is also the case that emerging economic categorical interests, such as those of private sector service and production workers, or middle class professionals, have yet to be transformed into subjective, manifest political actors. Political mobilization and organization, at least of a democratic, non-violent nature, have clearly lagged behind the sharper articulation and definition of different economic interests, a result no doubt in part of the legacy of the command economy and polity, where autonomy of all sorts was discouraged, and the relatively inhospitable environment for political organization that persists until this day.

But much of the explanation of lagging political structural adjustment probably does lie with the rate and nature of economic change. That change has created significant numbers of winners and losers, but it has not been rapid or

thoroughgoing enough to fundamentally alter the life chances and styles of vast numbers of Egyptians. Real GNP growth per capita has over the past decade amounted to a little more than one percent per annum, a rate at which it takes about a quarter of a century for the average Egyptian's income to double, probably too slow a pace to have a dramatic effect on life styles or politically relevant perceptions. During this period real wages have in fact remained constant or declined slightly. Growth of GDP fell below the average for Less Developed Countries in 1992 and, despite increasing since that time, remains below that average.⁹

At the macro economic level, a 1998 report by the Research Information Sector of the Ministry of Economy notes that "the underlying structure of industrial production in Egypt has yet to be substantially restructured and modernized," and that "the present condition of the Egyptian economy is a vestige of the former centrally planned approach to economic development."¹⁰ The IMF noted in 1998 that "The overall quantitative contribution of the public sector in GDP has remained virtually unchanged in the last decade."¹¹ Although the private sector's share of Gross Domestic Investment increased from 45 per cent in 1988 to 73 per cent in 1996, its share of Gross Domestic Output stagnated. This is because private sector investment has been concentrated in the service sector, whereas the commodity producing sectors, such as agriculture, manufacturing, petroleum and construction remain dominated by the public sector. The private sector's share of output in the commodity producing sectors has yet to reach one third, despite the fact that it stood at 32 per cent as long ago as 1983.¹² Slightly more than one in three participants in the civilian labor force are still employed by the government, a ratio that has not changed for two decades. 58% of governmental current expenditure is on wages or interest payments, reflecting the persistence of an overgrown state, but one that is financially incapable of maintaining adequate rates of investment. Public investment has over the past decade been declining at about 7 per cent per annum. Manufacturing's share of GDP has stagnated as industry's share of total fixed investment fell from more than one quarter to less than one fifth in the period 1988-1996.¹³

In sum, neither the rate of absolute growth, nor the rate at which private economic activity has supplanted that under direct state ownership, nor the rate of industrialization, is sufficiently rapid to dramatically impact the life styles or chances of the bulk of the population. Indeed, one of the Government of Egypt's stated objectives regarding economic reform, frequently repeated by the President, has been to avoid destabilizing changes and the negative experiences of some other countries that have undergone dramatic transitions from socialism to capitalism. The data suggest that this objective may well have been attained,

but at a heavy price in terms of forgone economic growth.

Another component of economic change that could have directly impacted large numbers of Egyptians, but which for the most part has not, is rapid and thoroughgoing integration into the global economy. Indeed, Egypt is in a small group of Less Developed Countries that is actually “de-globalizing.” “Openness, measured by the sum of real trade. . . as a share of real GDP is declining in Egypt. This decrease (from 34 percent to 23 percent over the period from 1981-83 to 1991-93), is pushing down the level of Egypt’s integration with the world economy.”¹⁴ The volume of Egypt’s exports has declined steadily since 1994. The ratio of total trade to GDP is now lower than it was a decade earlier. Egypt’s share of world exports has declined, from .2% in 1985 to .07% in 1995, while its share of world imports has declined from .5% to .2% over that same period. Egypt’s market share in the EU fell from 1% in 1985 to half that already low level a decade later.¹⁵ The IMF noted in 1988 that Egypt’s tariffs were “among the most restrictive in the region and higher than in other emerging markets.”¹⁶

Egypt is also not participating in the revolution in global communications at a level commensurate with its comparative stage of development. As the report of the Ministry of Economy previously cited notes, “Egypt lags behind a large number of the comparison countries with respect to most indicators” (of information sources.)¹⁷ It has fewer daily newspapers, televisions, mobile phones, fax machines, personal computers and Internet hosts per 1,000 inhabitants than almost all comparators among lower and middle income developing countries. Although more exposed to global communications than a decade ago, Egyptians are much less well integrated into global communication networks than many of their fellow Arabs, to say nothing of most Latin Americans and Asians.

Egypt’s economic growth and its rates of expansion of private economic activity and globalization are thus, in comparative perspective, not as dramatic as those in East Asia and are, for the most part, below the average for Less Developed Countries and those in its own Middle East/North Africa region. That political change has also been comparatively slow is thus not anomalous, for the economic forces driving it have been less profound than in many other, roughly comparable countries.

Moreover, the nature of the economic change that has occurred over the past two decades has mitigated its impact on the political system, something which was no doubt intended by those directing that change. While privatization has occurred, it has not led to substantial economic, hence political autonomy. Having relinquished direct control and ownership in some sectors, the state has

retained indirect control in virtually all of them. "Quasi-privatization" has spawned a group of "crony capitalists" rather than truly independent entrepreneurs, as is suggested by 1) anecdotal evidence of various sorts, including the presence of a few tens of businessmen at the head of most significant economic undertakings; 2) by the nature of most large business conglomerates, which are for the most part neither vertically nor horizontally integrated, but instead are almost random collections of different business undertakings, suggesting that they have been brought under the same ownership roof as a result of rent-seeking rather than comparative business advantage; 3) by the macroeconomic evidence that reveals the inward orientation of the economy, including the private sector, for rent-seeking and cronyism are antithetical to the production of goods and services for export; and 4) by the political logic that underlies the management of economic change, a subject to which we will now turn.

PARADOX RESOLVED?

That the rate of economic growth has been relatively low, that private economic activity has not expanded either more rapidly or into more sectors, especially commodity producing ones, and that Egypt has failed to take adequate advantage of the huge growth in trade and foreign private investment that has characterized the global economy over the past two decades, results at least partially from the subordination of economic to political logic by those directing economic policy. In other words the relationship between economic and political change should not be thought of as linear, for it is in fact circular, with political calculations impacting the rate and type of economic change, and that change then feeding back into the political system.

Viewed in this light the paradox of lagging political structural adjustment is better understood. The scope and depth of economic reform has been limited by an incumbent political elite that fears the economic and, more importantly, political consequences of what they consider to be too rapid, uncontrolled, unpredictable change. Among those fears, and probably the key one, is loss of incumbency. The strategy has thus been one intended to perpetuate state control, while divesting the state of at least some ownership and permitting a private sector, linked closely to the state, to grow up alongside it. Crony capitalism has been the inevitable result of this cautious reform, for the "cronies" pose, by definition, no immediate threat to the political status quo and, in fact, reinforce it.

But what are the economic and political futures of this emerging crony capitalism? Two quite diametrically opposed interpretations are possible. One is that crony capitalism is a stage in the process of development of a more competitive, more open free market system. In this view a more pluralistic capitalism will gradually suffuse the system for both economic and political reasons. Crony capitalists will spawn imitators, so competition will necessarily increase over time. The interests of the cronies themselves will cause them to seek reductions in state control over the economy and, ultimately, the polity. International pressures of various sorts that impinge on the domestic economy and force it to become more open to external influences will also enhance domestic competition and provide opportunities for new entrants to the system. Privatization will ultimately erode much of the economic power base of the state, including that of the military-industrial complex. Economic success and political stability will feed the confidence of incumbent political elites who will respond by permitting steadily greater latitude for investors. Rent seeking mentalities will steadily give way to the understanding that broadly based economic growth will pay the greatest economic and political benefits. In short, crony capitalism is a way station on the path to gradual economic reform of a command political economy in which the political elite is insufficiently confident to suddenly throw open the doors to rapid economic and political change. As such it will play a functional, transitional role for the further development of the political economy.

An alternative interpretation is much less benign. It is that crony capitalism is not a way station on the road to a more open, competitive free market system, but is an alternative and hindrance to other, more productive forms of capitalism and to accountable governance as well. The nexus between the political elite and crony capitalists is too central to the system, too institutionalized, and too remunerative to both sides for it easily to be broken. Neither side has an interest in modifying rent-seeking arrangements, and outsiders, whether Egyptians or foreigners, have insufficient leverage to do so. Entrenched in power and protected by purposeful lack of transparency, crony capitalists and their protectors in the state ensure that competitors do not arise. So, for example, they perpetuate tariff barriers to protect monopolized domestic markets secured through rent-seeking arrangements, or they lobby for an over valued currency in order to continue to access imports at lower prices, again in order to service protected markets. Thus crony capitalism retains domestic monopolistic and oligopolistic control and serves to insulate the economy from globalization, thereby perpetuating that cronyism while frustrating economic growth.

These alternative explanations lead to starkly differing interpretations of attendant political consequences. If crony capitalism is but a stage in the process

of gradually liberalizing the economy, then it is reasonable to anticipate that as the economy becomes more pluralistic, so too will the polity. Incumbent political elites will have steadily less reason to restrict the polity, for rent-seeking behavior will gradually be supplanted by that which encourages productive competition. As economic playing fields become more level, so too will associated political ones. Competition between crony and entrepreneurial capitalists will increase, and the state will gradually assume the role of referee rather than direct player. Resources for political mobilization and contestation will grow, making possible a competitive political order that is much more independent of the state and its allocation strategies.

If crony capitalism is not a way station, however, but the final destination of this particular type of economic change, then the political prognosis is very different. Retardation of economic growth, combined with frustration of rising expectations and widespread awareness of rent-seeking and cronyism, is bound to foster political discontent. The case of Indonesia illustrates the type of political backlash that can suddenly overwhelm a political economy beset by cronyism. Precisely because crony capitalism frustrated the rise of a viable political opposition there, direct transition to a more competitive, open political economy in the wake of Suharto's departure is virtually impossible, so the spectre of political breakdown and even widespread chaos hangs over that country.

Neither the empirical evidence nor any theoretical model is sufficiently clear and compelling to permit accurate assessment of the real role of crony capitalism in Egypt's development, to say nothing of predicting the future direction of economic and political structural adjustment. With regard to the latter, very divergent scenarios are equally possible. One is that the highly successful stabilization program that has been implemented since 1991 will have been demonstrated to have laid the basis for an equally successful economic structural adjustment and for sustained, increasingly rapid growth. Evidence in support of this scenario can be found. Labor costs have become steadily more competitive during this decade and appear now to be attracting some foreign direct investment. An increase in portfolio investment in Egyptian equities over the past couple of years has taken place, suggesting that flight capital from Asia, combined with competitive price/earnings ratios of Egyptian equities, as well as positive perceptions by investors of the stabilization program and future political stability - reinforced by favorable ratings of Egyptian bonds and equities by international agencies - all signal that the long awaited "take off" could be triggered by an inflow of much needed investment funds. Under this scenario the delayed privatizations in the financial sub-sectors would now accompany those in basic infrastructure, attracting yet more capital. External pressure resulting

from the Uruguay Round and from concluding a bilateral trade agreement with the EU would further reduce barriers to trade, and Egypt would finally be on the path to sustained integration into the global economy and attendant growth. Its crony capitalists, having developed their capacities in the protected domestic markets of the 1980s and 1990s, would reinvent themselves as dynamic, competitive entrepreneurs and be joined by many new aspirants. Unemployment would decline and as the political pressure that has accumulated as a result of inadequate economic growth dissipated, pluralization of the polity would progress. In sum, Egypt would demonstrate the case that political structural adjustment is not a precondition for its economic counterpart and that the optimal development strategy is one of delaying political structural adjustment until more rapid economic growth has been attained.

An alternative, pessimistic, "Indonesian" scenario, which would support the contention that political structural adjustment is necessary for sustained economic growth and should, therefore, precede or accompany economic structural adjustment, can also be supported by the available evidence. The long term, secular trends of low domestic savings rates and lack of integration into MNC global production chains (hence stagnant exports), combined with shorter term problems of an expanding current account deficit resulting from overdependence on raw materials exports (oil, oil products and raw cotton) and other volatile sources of foreign currency (i.e., tourism, Suez Canal receipts and worker remittances), as well as an overvalued currency, could at some stage result in an economic crisis that would wreak havoc with the stabilization program, thereby further de-globalizing the economy and delaying structural adjustment. Were such a crisis to occur, crony capitalists and others would likely "dollarize" and expatriate capital, bringing yet more pressure on the Egyptian Pound, possibly forcing a panicky devaluation which would in turn dramatically aggravate social and political problems and possibly have a significant impact on overall governmental legitimacy.

Of course it is also possible that growth rates will increase moderately and be accompanied either by incremental or virtually no political structural adjustment, thereby indicating that there is no necessary connection between economic and political structural adjustment.

CONCLUSION

Whether one of these or some other scenario eventuates, two developments are already clear. First, recent economic change, even though neither rapid nor comprehensive by global standards, has generated objective new economic interests, some of which have already taken on subjective importance in that those who share material interests have begun to act collectively in pursuit of them. This process is bound to continue to intensify and affect more social strata than heretofore. Second, socio-political pressures resulting from economic change have been met not by an expansion of political participation, but by containment of it. Associated with this containment has been retention of a political infrastructure that on the face of it appears not to be supportive of economic structural adjustment, and probably is inimical to it. The absence of political infrastructure capable of producing public policies and legitimating those making and implementing them, has encouraged the development of crony capitalism, for it promises economic growth, does not challenge political incumbents, and in fact provides them with patronage resources vital to their continued rule. The future of this Faustian bargain is not clear. It may contain the seeds of transition to a more entrepreneurial, free market capitalism, or to the collapse of the political economy altogether, bringing down all of those who joined in that bargain. While it is theoretically possible that the status quo could continue indefinitely, that seems unlikely given the non-sustainability of de-globalization coupled with a steadily deteriorating balance of payments. Ultimately economic logic, if subordinated systematically to political calculations, will have its revenge.

NOTES

1. John Bentley, *Egyptian Legal and Judicial Sector Assessment*, Cairo, USAID, 1994, vol. II, p. 6.
2. See *Assessment of the Legislative Sector*, Cairo, USAID, 1993, p. 29.
3. "The Letter of the Law," interview with Mahmoud Fahmy by Aziza Sami in *Al Ahram Weekly* (19-25 November 1998), p. 22.
4. Bentley, *Assessment*, vol. I, p. 4.
5. Fahmy, "The Letter of the Law."
6. Brown, *The Rule of Law in the Arab World*, Cambridge, Cambridge University Press, 1996, p. 234.
7. Muhamed Zaki Abu Amer, cited in *The Egyptian Gazette*, 5 December 1998, p. 2.
8. See for example Mohammed Mursi, "The Business of Parliament" in *The Cairo Times* (25 June-8 July 1998), p. 3.
9. Howard Handy, *Egypt: Beyond Stabilization, Toward a Dynamic Market Economy*, Washington, D.C., International Monetary Fund, May, 1998, p. 6.
10. *The International Competitiveness of Egypt in Perspective, First Report, 1998*, pp. 67, 73.
11. Handy, *op. cit.*, p. 46.
12. Research Information Sector, *op. cit.*, p. 23.
13. *Ibid.*, p. 23.
14. *Ibid.*, pp. xiv-xv.
15. Handy, *op. cit.*, p. 66.
16. Handy, *op. cit.*, p. 65.
17. Research Information Sector, *op. cit.*, p. 53.



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