



Monopolizing Power Egypt's Political Parties Law

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I. Introduction and Recommendations

On January 6, 2007, Abu al-`lla Madi, a 48-year-old activist from Cairo, will plead his case before Egypt's Supreme Administrative Court. He has appeared in the court dozens of times over the past 10 years. His purpose is to try once again to register the Wasat (Centrist) Party and begin campaigning under its name.

Registering a new political party should be a transparent and apolitical bureaucratic procedure, and in many countries it is.¹ In Egypt, however, in practice it is the government, and the party of government, that determine which other parties will be recognized and which will not. The result is the routine denial of applications for registration of new political parties through the use of criteria set forth in the political parties law² that are open to subjective and arbitrary application. Madi's struggle to gain legal recognition for the Wasat Party illustrates the deleterious effects of the law on prospective political parties, and the manner in which the government and the ruling National Democratic Party (NDP) exercise unfettered discretion to deny such parties their lawful participation in the country's political life.

If President Hosni Mubarak is to make good on his promise to "enshrine the liberties of the citizen and reinvigorate political parties,"³ the Egyptian government must reform the parties law and cease obstructing the establishment and effective participation of political parties. Such reforms are necessary for Egypt to come into compliance with relevant obligations under domestic and international law. Reforms are particularly imperative in light of the government's potential plans to reinstate party-list voting for parliamentary elections.⁴

¹ For a broad, comparative survey of party laws drawing on a study of 152 countries, see Kenneth Janda, "Adopting Party Law," *Political Parties and Democracy in Theoretical and Practical Perspectives* (Washington DC: National Democratic Institute for International Affairs, 2005).

² Law 40/1977, as amended by Law 177/2005.

³ President Hosni Mubarak, speech announcing beginning of presidential campaign, August 17, 2005, <http://www.mubarak2005.com/english/0speech.asp?pg=4&NewsID=19&Section=> (accessed December 22, 2006).

⁴ Following the Muslim Brotherhood's successes in Egypt's parliamentary elections in November-December 2005, senior members of Egypt's government have discussed returning to a system in which Egyptian voters would vote for parties rather than individuals. Most recently, in his November 2006 speech inaugurating the 2006 session of Parliament, President Mubarak hinted that he might propose changes to Egypt's electoral law that would reintroduce party-list voting. Such changes

The Egyptian government should take the following actions:

- Amend Law 177/2005 to disband the Political Parties Committee (PPC). The committee's broad powers have allowed the ruling party to control who may compete against it and under what terms, preventing the registration of new parties and placing unreasonable restrictions on existing ones.
- Amend Law 177/2005 to repeal overly broad stipulations such as those that prospective parties' platforms and goals should not "contradict the requirements of maintaining national unity [and] social peace;" that the proposed party should "constitute an addition to political life according to specific methods and goals;" and that allow the PPC and the State Council at the Supreme Administrative Court to suspend or dissolve parties "as may be required for the national interest and in the case of urgency." Such vague and subjective criteria invite government abuse. Alternatively, set out clear guidelines as to how these criteria should be applied so as not to impose unreasonable restrictions on the emergence and operation of new political parties.
- Establish a standing electoral commission to register new political parties, to regulate what parties are allowed to appear on the ballot, and to determine media access and what financial support, if any, they should receive from public funds. This body should be politically neutral and wholly independent of the government, political parties, and interest groups. Any decisions on restricting, suspending, or banning parties must be taken in accordance with the rights of political participation and with full respect for rights to assemble and associate under domestic and international law.
- Require all parties to submit regular, detailed reports on their income and their expenditures. These reports should be made part of the public record.

would exclude the Muslim Brotherhood, which is not a legal party, from the political process by preventing its members from running as independents. See "Egyptian PM Suggests Constitution Amendment," *The Daily Star Egypt*, June 1, 2006, <http://www.dailystaregypt.com/article.aspx?ArticleID=1731> (accessed December 22, 2006). Since the Muslim Brotherhood has never sought to register as a political party, it is not a focus of the present paper. But Human Rights Watch has repeatedly argued that membership in the Muslim Brotherhood should not be a criminal offense. See, for example, "Egypt: Crackdown on Muslim Brotherhood Deepens," Human Rights Watch news release, October 26, 2006, <http://hrw.org/english/docs/2006/10/24/egypt14433.htm>.

II. The Political Parties Law

The current political parties law has its roots in former President Anwar al-Sadat's efforts to consolidate his power. In 1962 al-Sadat's predecessor Gamal Abdel Nasser promulgated the National Charter, which established the Arab Socialist Union (ASU) as the country's sole political party. In 1974 al-Sadat, seeking to dismantle Abdel Nasser's single party, split the ASU into three wings, or "forums." Two years later, he elevated these forums to parties, establishing the NDP, the Tagammu` (National Progressive Unionist Grouping) Party, and the Ahrar (Liberal) Party. In June 1977 al-Sadat signed Egypt's first post-independence law governing political parties (Law No. 40/1977, "the political parties law," or "the parties law"), which stated that "Egyptians have the right to create political parties and every Egyptian has the right to belong to any political party."⁵

Many of the law's provisions are in fact uncontroversial. The 1977 law stipulates, for example, that parties "should not include or be based on any military or quasi-military methods," and "should not be founded upon being a branch of an external party or a political organization."⁶ It lays out basic requirements as to what sort of information—name, address, finances, and internal party bylaws, for example—should be included in prospective parties' applications for recognition.⁷ Other provisions, however, set out more problematic criteria or guidelines for political parties. In practice, these other provisions contained within the same law have provided the government with apparent overly broad discretion to restrict the rights to form and belong to a political party of choice.

Most systemically problematic is the creation, under the 1977 law, of the Political Parties Committee, which remains the president's and ruling party's primary lever for controlling Egypt's political landscape.⁸ The PPC has the power to refuse the

⁵ Law 40/1977, art. 1.

⁶ *Ibid.*, art. 4.4.

⁷ *Ibid.*, art. 5.

⁸ *Ibid.*, art. 8.

registration of new parties, to freeze existing parties' licenses, to close parties' newspapers, to reverse parties' decisions or halt parties' activities based on the "national interest," and to ask Cairo's Supreme Administrative Court to dissolve parties and redistribute their funds.

In its composition and powers, the PPC is a creature of the president and, in practice, the NDP. Under the 1977 law, the president appointed six out of the committee's seven members: the minister of justice, the minister of the interior, the minister of state for parliamentary affairs, and three former judges.⁹ The seventh member, the head of the Shura Council and the chair of the PPC, hardly can be considered independent: since the president appoints one-third of the Shura Council directly and the NDP dominates the rest of the body, the chair of the PPC is invariably a leading member of the ruling party and an ally of the president. Today, NDP Secretary General Sawfat al-Sharif occupies both posts.

The PPC is entrusted with "the competence to examine and consider notices of the establishment of parties"¹⁰ and is authorized to temporarily suspend the activities or leaders of any existing party, and to reverse any of their "delinquent decision[s] or act[s]" in consultation with the Interior Ministry's Socialist Attorney General "as may be required for the national interest and in the case of urgency."¹¹ The chair of the PPC may request the Socialist Attorney General to investigate whether a party has violated one of the criteria for a party's participation in public life. According to the 1977 law, a party's "founding pillars, principles, goals, programs, policies, or methods of the party in carrying out its activities" should not contradict: the principles of Islamic jurisprudence, "being as it is, the main source of legislation;" "the principles of both the July 23, 1952 and the May 15, 1971 revolutions;" or the requirements of "preserving national unity, social peace, the social democratic order and the socialist gains."¹² The law further specified the following in order for a party to be recognized:

⁹ Ibid.

¹⁰ Law 177/2005, art. 8.

¹¹ Ibid., art. 17.

¹² Law 40/1977, art. 4.1.1-3.

- “The uniqueness of the party’s programs, and policies or methods in achieving this program, in a manner clearly different from other political parties;”¹³
- “Its principles, programs, activities, and means of choosing its leaders and members” should not contradict “edicts ... concerned with the protection of the internal front and social peace, or [be based] on classicist, ethnic, factional, or geographical foundations, or on the basis of discrimination based on gender, origin, religion, or faith;”¹⁴
- The leaders or members of the party may “not be affiliated with, related to, or in cooperation with any party, organization, group, or political power” that has called for the abrogation of Egypt’s peace treaty with Israel;¹⁵ and
- The party may not be a reincarnation of a party the government had previously banned.¹⁶

If the PPC determines that an already recognized party has violated one of the principles for participating in public life, the chair may request the State Council (*Majlis al-Dawla*)¹⁷ at the first circuit of the Supreme Administrative Court (*al-Mahkama al-Idariyya al-`Ulya*) to dissolve a party, liquidate its funds, and determine which party will absorb the dissolved party’s members, elected officials, and assets.¹⁸ Parties may appeal an order of suspension, but only after three months have passed.¹⁹

¹³ Ibid., art. 4.2.

¹⁴ Ibid., art. 4.3.

¹⁵ Ibid., art. 4.5-7.

¹⁶ Ibid., art. 4.8.

¹⁷ The State Council is a quasi-judicial body comprised of 15 persons: seven of them judges of the first circuit (*al-Da’ira al-`Ulya*) of the Administrative Court (*al-Mahkama al-Idariyya al-`Ulya*) and eight “public figures known for their efficiency and good reputation.” These public figures are selected by the minister of justice, subject to the approval of the Supreme Judicial Council. The Ministry of Justice, in turn, determines the composition of the Supreme Judicial Council, the body that nominates, promotes, and gives judges their assignments. The Ministry of Justice may appoint anyone to occupy eight of the Supreme Judicial Council’s 15 seats. The seven other members—the attorney general, the minister of state for justice, the head of the Court of Cassation, two other justices from the Court of Cassation, the president of the Court of Appeal, and the chief justice from the Tribunal of First Instance in Cairo—occupy their seats by virtue of the job they hold. Since the executive appoints the attorney general, the minister of state for justice, and the head of the Court of Cassation, 11 of the 15 Supreme Judicial Council members are directly appointed by the executive. This makes it easy for the executive to determine which judges sit in key seats, such as those that result in appointment to the Supreme Judicial Council itself or the State Council—and thereby to determine who will hear appeals on failed attempts to register political parties.

¹⁸ Law 177/2005, art. 17.

¹⁹ Ibid., if its appeal fails, the suspended party may appeal again after three months.

The parties law also empowers the PPC to test a prospective or established party's permission to operate based on such criteria as whether "the party's platform shall constitute an addition to political life,"²⁰ and whether its establishment or existence would harm "national unity."²¹

III. The 2005 Amendments to the Law

The People's Assembly (the lower chamber of Parliament) in July 2005 passed much-awaited amendments to the political parties law, one of a series of touted political reforms the NDP introduced that year.²² The amendments could have been designed to ensure that the registration of political parties would not be subject to discretionary, political approval by the incumbent government, its political parties, or any agency controlled by the government or political parties. Indeed, Law No. 177/2005 ("the new law" or "the amendments") made many long-overdue improvements to the old parties law. However, the new law has not eliminated the vague, subjective, and unnecessarily restrictive criteria that allow the government and the PPC to continue to prevent the establishment of new political parties, such as the Wasat Party, and to restrict existing ones.

A potentially significant change is one that, while seemingly semantic, does reverse the balance of responsibility for determining whether a party should be allowed to operate. Whereas the old parties law required parties to apply for permission to operate, the new law requires parties merely to *notify* the PPC that they have started operating, putting the onus on the committee to object within 90 days. And whereas article 4 of the old law set out a tangled set of restrictions on the formation of political parties,²³ the new law radically streamlines the text of this article, removing, for example, requirements that a party's "founding pillars, principles, goals, programs, policies, or methods" should not contradict "the principles of both the July 23, 1952 and the May 15, 1971 revolutions" or Islamic jurisprudence. It also

²⁰ Law 177/2005, art. 4.3.

²¹ *Ibid.*, art. 4.2.

²² The People's Assembly approved the amendments on July 4, 2005, as Law No. 177/2005.

²³ Some of these are listed in the preceding section of this report.

removes stipulations that no members of a proposed party should have called for, or conspired to call for, the abrogation of Egypt's peace treaty with Israel.²⁴ The 2005 law also guarantees an approved party's rights to "promote by lawful means its ideals and disseminate information on its activities," participate in elections and referenda, and, importantly, to "use state-owned audiovisual mass media, particularly during the election campaign, according to regulating rules."²⁵

The amendments also made compositional but essentially cosmetic changes to the PPC, expanding its membership from seven to nine and reducing the Cabinet's share of seats. Yet the president still appoints all but one of the committee's members, including "three public figures ... not affiliated with any political party." The ninth is still the head of the Shura Council and the chair of the committee.²⁶

The new law also introduces regulations that impact on political parties' participation in public life. For example, the 2005 law limits to two the number of newspapers a party may publish without applying for a license (previously, the law set no limit on the number of newspapers parties could publish).²⁷ The new law also increases the number and broadens the constituency that a new party must establish it has in order to qualify as a political party: Law 40/1977 required that a petition to create a new political party had to be signed by 50 founding members, and that half of these had to be "peasants and farmers."²⁸ Law 177/2005 raises the number of "officially authenticated" signatures required to 1,000 and stipulates that these should be "drawn from at least ten governorates with no less than fifty members from each [of the ten governorates]," but drops the requirement that half of these be peasants and farmers.²⁹

²⁴ Law No. 40/1977, art. 4: "There must not be evidence that the founders and leadership of a party have called for, or participated in calling for, conspiring to commit or carrying out propaganda in any public manner concerned with principles, directions or activities contradictory to the principles stated in the previous clause," that is, Egypt's peace treaty with Israel.

²⁵ Law No. 177/2005, art. 9 (*bis*) leaves these "regulating rules" undefined.

²⁶ Law No. 177/2005, art. 8. The PPC is now comprised of the speaker of the Shura, the minister of the interior, the minister for People's Assembly affairs, "three former heads or deputy heads of the judiciary bodies who are not affiliated with any political party," and "three public figures who are not affiliated with any political party." The president appoints the three former heads or deputy heads of judiciary bodies and the three public figures for renewable, three-year terms.

²⁷ *Ibid.*, art. 15.

²⁸ Law No. 40/1977, art. 7.

²⁹ Law No. 177/2005, art. 7.

More troublingly, the new law leaves intact the old law's requirements that parties' platforms not contradict "the requirements of maintaining national unity [and] social peace" and that parties' platforms "constitute an addition to political life according to specific methods and goals."³⁰ Such vague requirements invite government abuse.

Moreover, the new law does not significantly curtail the broad powers of the PPC or the role it plays in placing unnecessary restrictions on prospective and existing parties. The new law still entrusts the PPC with "the competence to examine and consider notices of the establishment of parties,"³¹ and authorizes it to temporarily suspend the activities or leaders of any existing party and to reverse any of their "delinquent decision[s] or act[s]" in consultation with the Interior Ministry's Socialist Attorney General "as may be required for the national interest and in the case of urgency."³² The chair of the committee may still request the Socialist Attorney General to investigate whether a party has violated one of the criteria for a party's participation in public life (see above). Upon a finding of such violation, the chair may still request the State Council to dissolve a party, liquidate its funds, and determine which party will absorb the dissolved party's members, elected officials, and assets.³³ The parties law still empowers the PPC to test a party's license to operate based on such criteria as whether "the party's platform shall constitute an addition to political life,"³⁴ and whether its establishment would harm "national unity."³⁵

IV. The Political Parties Law in Practice

The PPC's partisan composition, its sweeping powers, and the subjective criteria upon which it makes decisions have been a recipe for abuse of power and the exclusion of legitimate political parties. Not surprisingly, between 1977 and the end of 2004, the PPC rejected 63 parties' applications and approved only two, those of

³⁰ Law 177/2005, article 4.2-3.

³¹ *Ibid.*, art. 8.

³² *Ibid.*, art. 17.

³³ *Ibid.*, art. 17.

³⁴ *Ibid.*, art. 4.3.

³⁵ *Ibid.*, art. 4.2.

the Wifaq al-Watani (National Accord) Party and the Gil al-Dimoqrati (Democratic Generation) Party.³⁶ It subsequently suspended the Wifaq al-Watani Party's activities in August 2001, however, citing a leadership dispute within the party. It was the sixth party the committee had suspended.³⁷

Reflecting on this record in an interview with Human Rights Watch, Hamdin Sabbahi, the leader of the unrecognized al-Karama (Dignity) Party, concluded, "Under the terms of the political parties law, the ruling party has the right to select its opposition, on its own terms."³⁸ His colleague Amin Iskandr was more blunt: "The Political Parties Committee is the NDP," he said. "The political parties law is a law to ban political parties."³⁹

Sabbahi and Iskandr have seen first-hand how the parties law works. Since they split from the Nasserist Party in March 1996,⁴⁰ Sabbahi and Iskandr have twice applied to register the Karama Party and have twice been rejected. After the PPC rejected their initial application on the grounds that their platform "was not sufficiently distinct from those of existing parties," Sabbahi and Iskandr appealed to the State Council, which in theory has the power to overrule the PPC. In March 2002 the State Council upheld the PPC's decision. On September 25, 2004, the Karama Party—which, Iskandr says, "seeks to modernize [former Egyptian president] Gamal Abdel Nasser's pan-Arab program with an increased emphasis on democracy and pluralism"—again applied to the PPC for permission to operate.⁴¹ On October 2 the PPC promptly rejected the application on the grounds that the party "espoused a radical ideology."⁴²

³⁶ Mona el-Nahas, "Changing Tactics," *Al-Ahram Weekly* (Cairo), December 2-8, 2004. The PPC has licensed few political parties. The PPC approved the Labor Party in 1977 but subsequently suspended its activities. The Young Egypt Party and the Social Justice Party were created by an order of the Supreme Administrative Court's State Council. The PPC has since suspended the Young Egypt Party, the Social Justice Party, the Populist Democratic Party, and the Liberal Party (one of the three established by President Sadat, see above). See Tamir Moustafa, "The Law Versus State: The Judicialization of Politics in Egypt," *Law and Social Inquiry* (Washington DC: American Bar Association, 2003), p. 14.

³⁷ "The Future of Political Parties in Danger," Egyptian Organization for Human Rights press release, August 22, 2001.

³⁸ Human Rights Watch interview with Hamdin Sabbahi, Cairo, November 24, 2006.

³⁹ Human Rights Watch interview with Amin Iskandr, Cairo, November 24, 2006.

⁴⁰ Sabbahi and Iskandr split from the Nasserist Party after a long association stretching back to their involvement in Cairo University's Club for Nasserist Thought in the 1970s.

⁴¹ Human Rights Watch interview with Amin Iskandr, Cairo, November 24, 2006.

⁴² Mona al-Nahas, "Tomorrow's Party Today," *Al-Ahram Weekly*, Cairo, November 4-10, 2004. <http://weekly.ahram.org.eg/2004/715/eg6.htm> (accessed December 22, 2006).

Al-Karama's founders appealed to the Supreme Administrative Court, challenging the allegation that theirs was a radical ideology. Before delivering verdicts, Egypt's administrative courts first refer cases to a panel of experts (*hayat al-mufawaddin*),⁴³ which prepares a report containing non-binding recommendations. In a report dated October 2006, the Supreme Administrative Court's panel of experts recommended that the court reject the application, again on the grounds that the Karama Party's platform was not sufficiently different from existing parties.

Sabbahi, who holds a seat in Parliament as an independent and who has published the weekly opposition *al-Karama* newspaper since September 2005, told Human Rights Watch that the Karama Party is now in talks with other unlicensed parties to decide whether they should announce that they will stop seeking the PPC's permission to operate. If the unlicensed parties agree on this course of action, Sabbahi said, their argument will be that they have legitimacy to operate derived from guarantees in the constitution of the right to form parties.⁴⁴

Whereas the Karama Party's Iskandr describes the political parties law as "a law to ban parties," Abu al-`Ila Madi, the founder of the unlicensed Wasat Party, describes it as "a law to torture parties."⁴⁵ Indeed, Madi's experience trying to register the Wasat Party is a case study of how the government uses the political parties law to prevent the emergence of political parties. On three separate occasions since its first application in January 1996, the PPC has denied the Wasat Party permission to operate. Madi initially started the Wasat Party with a group of former members of the Muslim Brotherhood who had left that banned organization because, in his words, they "wanted to see the Brotherhood choose between being a *da`wa* [proselytizing] organization and a political party."⁴⁶ He describes the Wasat Party as "a civil party informed by the ideals of Islam," and repeatedly has likened its philosophy to that of

⁴³ Article 6 of Law No. 47/1972 ("The State Council Law") stipulates that the panel of experts "Shall be chaired by one of the vice-presidents of the State Council, and shall include a sufficient number of senior judges (*mustasharin*) and deputy senior judges (*mustasharin musa`idin*)." As noted in footnote 17, above, these judges owe their seats to the Supreme Judicial Council, a body whose membership is determined by the Ministry of Justice.

⁴⁴ Human Rights Watch interview with Hamdin Sabbahi, Cairo, November 24, 2006. Article 5 of the Egyptian constitution reads: "The political regime of the Arab Republic of Egypt is based upon the multiparty system within the framework of the basic principles and components of the Egyptian society stipulated by the Constitution. Political parties shall be organized by law."

⁴⁵ Human Rights Watch interview with Abu al-`Ila Madi, Cairo, July 19, 2006.

⁴⁶ *Ibid.*

Germany's Christian Democratic Party.⁴⁷ The party emphasizes ideals of citizenship and has made efforts to emphasize and demonstrate that it represents Egyptians of all faiths.

Despite Madi's efforts, the PPC has denied the party legal recognition three times over the course of the past 10 years. In the first instance, Madi told Human Rights Watch, members of the Muslim Brotherhood successfully pressured some of the signatories to the Wasat Party's 1996 application for registration to withdraw their signatures.⁴⁸ As a result, the party's application no longer contained the requisite number of signatures, and the government rejected it on those grounds.

While the government does not appear to have abused its discretion in rejecting the Wasat Party's first application, it did take immediate steps following the rejection to arrest and detain the party's founders, with State Security officers arresting Madi, `Issam Hashish, and Magdi Faruq two days after the PPC decision. President Mubarak ordered their case transferred to the High Military Court, where they faced charges of "running, in violation of the law, an organization called the Muslim Brotherhood, the aim of which is to advocate undermining the constitution and the laws," and "recruiting new elements with the aim of inciting the masses against the present government." On August 15, 1996, the court acquitted Madi, Hashish, and Faruq and ordered them released.

Once freed, Madi and his associates continued to campaign to register their party. Finally, on May 9, 1998, after a long series of appeals, the State Council ruled that the Wasat Party was not sufficiently different from existing parties to warrant a license. Two days later, the party presented a new application with new founders, new supporting signatures, a slightly different platform, and a new name — Hizb al-

⁴⁷ Ibid. See also Omar Ahmed Omar, "'Government Officials Are Playing the Sectarian Card at the Expense of the National Interest': An Interview with Abu al-`Ila Madi," *Al-Ahali* (Cairo), July 19, 2006 [Arabic]:

Do the Christian Democrats in Germany use religion to differentiate between German citizens? Of course not. So why do we accept a Western experiment in which a party's values are based on Christianity, but are at the same time democratic and founded on the idea of citizenship but not accept that same experiment for ourselves?... What's the harm in taking a cultural authority that has served this region for more than 14 centuries and translating it into a civil program, one that still respects the rules of the political game, the foundation of which is the concept of citizenship on the national and party level and equality between all people, without practicing any kind of injustice or oppression of personal and religious freedoms?

⁴⁸ Human Rights Watch interview with Abu al-`Ila Madi, Cairo, July 19, 2006.

Wasat al-Misri (The Egyptian Centrist Party) — to the PPC, which again promptly rejected the application on the grounds that the party was not sufficiently different from existing parties. This time, the head of the State Council refused to hear the Wasat Party's appeal.

Five years later, in October 2004, Madi and the other founders of the Wasat Party “sensed an opportunity in the government's promises of political reform” and petitioned a third time for permission to register the party, this time under the name Hizb al-Wasat al-Gadid (The New Centrist Party). Again they submitted an application with a slightly different platform and a new list of founders. A leadership shuffle within the NDP and rumors that senior NDP members had begun to look more favorably on the Wasat Party buoyed their hopes.⁴⁹

Other parties also perceived an opportunity in the fall of 2004. The Karama (Dignity) Party and Ayman `Abd al-`Aziz Nur's Hizb al-Ghad (Party of Tomorrow) also sought the PPC's approval.

Despite the government's rhetoric of reform, though, the PPC denied two of the three applications, licensing only the Ghad Party.⁵⁰ The PPC rejected al-Wasat's application on the grounds that its platform was “not sufficiently distinct from existing political parties,” and al-Karama's application on the grounds that it advocated “a radical ideology.” Madi was disappointed: “It was hard to reconcile the government's rhetoric on reform before the elections with their decision to reject our request,” he told Human Rights Watch.⁵¹

In November 2004, the Wasat Party yet again appealed the PPC's rejection to the State Council at the Supreme Administrative Court. In June 2005 the panel of experts

⁴⁹ Human Rights Watch interview with Abu al-`Ila Madi, Cairo, July 19, 2006.

⁵⁰ The question of why the government approved al-Ghad's application but rejected those of al-Karama and al-Wasat remains the subject of speculation. Some local and international observers have theorized that the government approved al-Ghad's application in an attempt to weaken the Wafd Party by splitting away a faction of its supporters. Others have speculated that the government was trying to curry favor with the United States, which had been pressuring the ruling party to tolerate more opposition and was likely to approve of al-Ghad's liberal-democratic and neo-liberal platform. By contrast, approving either al-Karama, with its Arab nationalist, Nasserist platform, or al-Wasat, with its complicated relationship to the Muslim Brotherhood, were seen as unlikely to be popular with the United States.

⁵¹ Human Rights Watch interview with Abu al-`Ila Madi, Cairo, July 19, 2006.

returned its report on the merits of the Wasat Party's application, finding that the Wasat Party's program was sufficiently distinct and met all the criteria outlined in the political parties law. It therefore recommended that the court grant the Wasat Party a license. "That report was a surprise," Madi told a reporter from the opposition newspaper *al-Ahali* in July 2006. "Their decision was a product of the political climate at the time [June 2005]. The court is quite closely connected to the political and public atmosphere. We presented our case and asked for a court date, which was set for February 4, 2006."⁵²

While not bound by the panels' recommendations, the administrative courts in such cases usually abide by their recommendations. It seemed to Madi that the Wasat Party was destined for approval.

By February 2006, however, the political climate had changed again. Whereas in June 2005 leading members of the NDP and the president himself were talking about democratic reforms and revitalizing Egypt's political parties, by the winter of 2005-2006, the government had put the brakes on such reforms. The Ghad Party's Ayman `Abd al-`Aziz Nur, who had been released from jail following U.S. pressure just in time to run against Mubarak in the September 2005 presidential election, was back in prison on politically motivated charges.⁵³ After the Muslim Brotherhood's strong showing in the first round of voting in the November-December 2005 parliamentary elections, judicial and independent monitors reported outbreaks of state-sponsored violence and irregularities on a massive scale across the country in subsequent rounds of voting.⁵⁴

On February 4, 2006, the court said it needed more time to deliberate, and set itself an April 1 deadline. On April 1 the court decided to delay its decision until June 3, "based on a request from the government and some of the [party's] founders."⁵⁵ Madi told *al-Ahali's* reporter that he was "shocked" by news that seven of the

⁵² Omar, "An Interview with Abu al-`Ila Madi," *Al-Ahali*.

⁵³ See "Egypt: Ayman Nur Trial Badly Flawed," Human Rights Watch news release, December 7, 2005, <http://hrw.org/english/docs/2005/12/07/egypt12161.htm>.

⁵⁴ See Human Rights Watch letter to Secretary of State Condoleezza Rice about Department of State Comments on Egyptian Elections, December 2, 2005, <http://hrw.org/english/docs/2005/12/02/egypt12141.htm>.

⁵⁵ Omar, "An Interview with Abu al-`Ila Mad," *Al-Ahali*.

signatories to the Wasat Party's application had withdrawn their signatures. He told Human Rights Watch that he and other party leaders learned that the government had pressured seven of the signatories—all Coptic Christians—to retract their support.⁵⁶ He stated that the founders in question

had been exposed to severe political pressure, part of which had involved officers from a security institution. This pressure had been applied to the founders in secret, and forced them to retract their support for the party and to present these retractions to the Shura Council.⁵⁷

Madi said that the retractions had been presented on January 5, 2006, a month before the Wasat Party's court date, without his knowledge. The court, citing a breach of procedure, initially did not respond to the late withdrawal of the signatures, and so on March 8 the government requested that the names be removed from the party's list of signatories. On April 1, the Wasat Party again pled its case, submitting the names of four new prominent citizens as founders, and produced three prominent secular political activists from the Coptic community—George Ishaq, Amin Iskandr, and Dr. Hana Girgis—to appear in court to support the party's contention that it was not sectarian. The court again delayed its decision until September 16, then again until November 4, and most recently until January 6, 2007. Ten years after the Wasat Party first applied for permission to register as a political party, and after a positive recommendation from a panel of legal experts led by the chair of the State Council, the government has yet to license the party.

V. International Law and Egypt's Parties Law

By impeding and preventing the emergence and legal recognition of new political parties and placing unreasonable restrictions on existing ones, the government is failing to ensure that basic rights under Egyptian and international law are respected.

⁵⁶ Human Rights Watch interview with Abu al-`Ila Madi, Cairo, July 19, 2005.

⁵⁷ Omar, "An Interview with Abu al-`Ila Madi," *Al-Ahali*.

The Egyptian constitution sets out that the government of Egypt is based upon a multiparty system,⁵⁸ and that participation in public life is a national duty for each citizen.⁵⁹ The first article of Egypt’s political parties law affirms (as noted above) that “Egyptians have the right to create political parties, and [that] every Egyptian has the right to belong to any political party.” Yet the repeated and apparently often arbitrary rejection of applications from the Wasat Party, the Karama Party, and tens of others over the last three decades is at odds with the law and constitution. In addition, the government, acting through the PPC, has banned or placed unreasonable restrictions on existing parties.

Several provisions of Egypt’s political parties law, and in particular the way in which they operate in practice, are incompatible with Egypt’s international legal obligations. Egypt is a state party to the International Covenant on Civil and Political Rights (ICCPR),⁶⁰ which guarantees the right of peaceful assembly and the right of freedom of association with others (articles 21 and 22). The Egyptian government’s exclusions and restrictions on political parties effectively deny Egyptian citizens meaningful exercise of these rights in the context of their right to organize and associate according to their political beliefs.

The ICCPR also guarantees the right to take part in the conduct of public affairs either directly or through freely chosen representatives, and the right to vote and to be elected at genuine periodic elections (article 25). These rights entail participation in, and voting for, political parties. They are guaranteed “without unreasonable restrictions.” The broad power and unfettered discretion of the Political Parties Committee to exclude and restrict political parties, and the laws it relies on to do so (in particular article 4 of the political parties law and its vague and subjective criteria), are in Human Rights Watch’s opinion “unreasonable restrictions” and effectively gut the rights set forth in article 25.

⁵⁸ Article 5.

⁵⁹ Article 62.

⁶⁰ International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, ratified by Egypt on January 14, 1982.

Regulation of political parties by law can require that parties do not have a program that would be incompatible with core democratic principles and the rule of law. It is also the prerogative of a government, where evidence exists that a party or its members have engaged in illegal conduct—such as acts of, or incitement to violence—to prosecute them according to the law. However, plurality of parties and the opportunity of new and varied political parties to emerge is central to the right to take part in the conduct of public affairs either directly or through freely chosen representatives and the right to vote and to be elected in periodic and fair elections.