



The Trials of Ayman Nour

By Joshua Muravchik

The trials of Egyptian opposition candidate Ayman Nour demonstrates the difficulty of achieving genuine democratic reform in the Middle East.

While the million marchers in Beirut demanding Syrian exit from their country were the most dramatic symbol of last year's hopeful "Arab Spring," it was the promise of presidential elections in Egypt—the political, cultural, and demographic center of the Arab world—that gave the moment its weight. The year 2006, alas, has reverberated with sobering reminders—Iraq, Lebanon, the Palestinian Authority—that democracy's progress in the region will be no easy thing. None of the setbacks echoes more loudly than President Hosni Mubarak's decision to jail the one truly independent candidate who had the temerity to run against him.

That candidate was Ayman Nour, a longtime advocate of human rights and a maverick parliamentarian. Mr. Nour pried a small opening in Egyptian politics late in 2004 when he succeeded in securing legal status for his al-Ghad (Tomorrow) Party. One of the hallmarks of Egypt's authoritarianism has been its peculiar party system. A plethora of official "opposition" parties—all of them long since suborned or neutered by the government—are formally licensed, a status which genuinely independent parties are consistently denied.

Such was the initial fate of al-Ghad, but Mr. Nour was unusually persistent. Another hallmark of Egypt's system—which is authoritarian but not totalitarian—is that the judiciary, particularly at its highest levels, has always retained some independence. So Mr. Nour doggedly used the

courts to force the regime to finally grant the license. No sooner had the regime bent to Mr. Nour's legal tactics, however, than it announced his arrest.

The charge? Forgery. Its plausibility? Nil. The government alleged that Mr. Nour had faked some of the signatures on the petitions submitted to license his party. But the legally required number of signatures was fifty, and al-Ghad had submitted 2,000. The government never claimed that he had faked all of them. Why would he, a lawyer by profession, have committed forgery just to boast an excess of signatures? More curious still, the government did not allege that he had carried out the forgeries himself, but rather that he had ordered them carried out by a handful of al-Ghad volunteers whom he barely knew. These men, all with shady pasts, came forward to accuse Mr. Nour.

When the case came for first hearing, one of the accusers recanted on the witness stand, declaring that he had never received or carried out any such instructions. He said he had been fed the whole story by state security agents who coerced him, by threatening to harm his family, to make false accusations. This would have been more than enough to have the case thrown out of any American court, but instead it was carried over, enabling Mr. Nour to run in the election.

It was scarcely a level playing field. No campaigning was allowed outside of the specified period of nineteen days before election day. Meanwhile, and naturally, the news media—mostly government-run—were replete with daily paeans to President Mubarak. Moreover, to be eligible to

Joshua Muravchik is a resident fellow at AEI. A version of this article appeared in the *Wall Street Journal* on May 8, 2006.

vote, a citizen had to have registered almost a year in advance, before it was announced that there would be a presidential election.

Thus, Mr. Mubarak's victory was assured. But the regime was desperately eager for Mr. Nour to not even come in second, perhaps fearing that this would position him to effectively challenge Mr. Mubarak's son, Gamal, as his successor. Mr. Nour's campaign faced all manner of harassment; and Noman Gomaa, the well-known head of the Wafd Party, entered the race to divide the liberal vote. When asked why he ran, the seventy-two-year old Mr. Gomaa responded with disarming frankness—the government had asked him to. But Mr. Nour was clearly Mr. Mubarak's main opponent, and he managed to run second even in the official count, which gave him 7 percent. (His supporters claim it was much more.)

Soon, he was hauled back before the court and convicted. The penalty for this first “offense,” a “forgery” from which it was not alleged that he reaped any benefit? Five years at hard labor—an ominous sentence for a diabetic dependent on daily insulin.

Mr. Nour, however, has appealed to the court of cassation, which is known for its independence. It was this court that threw out the conviction of dissident Saad Edin Ibrahim in 2003, albeit not before Mr. Ibrahim's health had been permanently damaged by prison conditions. Fearing that Mr. Nour's appeal will succeed, the regime has filed nineteen new charges against him. Several of these are for various forms of *lèse majesté*. It used to be a crime to insult the king; after the monarchy was overthrown, the law was changed to apply instead to the president. Mr. Nour, in short, faces prosecution for criticizing Mr. Mubarak while campaigning against him for president.

Judicial Independence

Clouds shadow Mr. Nour's appeal, which began in May. The presiding judge is deeply enmeshed in some related political battles. A majority of Egypt's judges are in rebellion against the regime, demanding full judicial independence. Although less widely noted outside the country, this may prove to be a more important landmark on the road to democracy than last year's elections. Following the parliamentary elections, which were under the supervision of the judiciary, several judges accused others of fixing results on behalf of the regime. No action has been taken against the accused, but the accusers have summarily been stripped of immunity and are facing

prosecution for “insulting” their colleagues. The judge appointed to “investigate” them (perhaps because of loyalty to the regime) is the same one who will preside at Mr. Nour's appeal. And two of his attorneys have been summoned for questioning and threatened with charges for insulting the president.

Nor is this all. Mr. Nour's most active defender and the person who keeps his party alive is his wife, Gamila Ismail. She, too, is now facing prosecution. Slender and pretty, she is accused of “assaulting” mammoth security officers on two different occasions. Last month she was also accused of writing a bad check, another tale that speaks volumes about the Egyptian system. When Mr. Nour was first imprisoned, Ismail sought to take out an ad in the popular government-owned newspaper, *Al Akhbar*, proclaiming his innocence. The paper refused the ad on the grounds of “security,” but also refused to return Ms. Ismail's check, promising to send a refund. The refund never came, and then, thirteen months later, when Ms. Ismail's account balance dipped below the amount of the check apparently for the first time, suddenly *Al Akhbar* put it through, and it bounced. Hence, the “bad check” charges. So much for the independence of government newspapers and the privacy of the banks.

The story gets worse. In May, Mr. Nour was transferred to the prison hospital where he was placed, with too little sanitary isolation, amid patients suffering from HIV and scabies. The deputy warden issued a statement claiming, without basis, that Mr. Nour was suicidal, which he takes as a veiled threat against his life. His writings have been confiscated, including political writings and legal memoranda arguing that many aspects of his treatment violate the Egyptian constitution (including, ironically, the confiscation of his writings). At one court appearance last month, his two teenage sons, who have joined their mother in campaigning on his behalf, were roughed up by state agents.

It is not only the Nour family that will have much at stake when his appeal is heard; so, too, will Egypt—where President Mubarak, contrary to his campaign promises, has just extended the repressive emergency law—and the whole Middle East. And so, too, will the United States, in terms of seeing democracy sprout in the region. The Egyptian government will claim that U.S. pressure regarding this case is inappropriate and pointless, on the grounds that the judicial process is independent. But if this were true, the judges would not be in rebellion. And were it true, Ayman Nour would never have been prosecuted.