

Sacrificing Mubarak to Save His Regime

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When deposed Egyptian president Hosni Mubarak and his sons were indicted in April 2011, legal observers cynically noted that the charges were not only politically motivated in order to quiet the massive demonstrations demanding their trial, but also that they were so weak that the trial might have been designed to end in acquittals.

Initially, eleven people were indicted on two sets of charges. The first batch included Mubarak, his two sons, and his old friend and former intelligence officer turned businessman, Hussein Salem. Salem came to prominence after the peace treaty with Israel was signed in 1979, when he became the point man in Egypt for the American aid that poured in as a result of the Camp David accords.

At the time, Hussein was acting as a private contractor, receiving tens of millions of dollars in commissions related to the American military and economic aid. By the mid 1980s, the Pentagon was so concerned with his financial corruption and over billing that it threatened to indict him unless he was removed from the process. He was subsequently barred from entering the U.S.

Hussein then focused on domestic business ventures, constructing massive tourist resorts on the Red Sea, especially at Sharm Al-Sheikh, attracting European and American tourists. In exchange for getting prime land from the state for his projects on the cheap, he gave Mubarak and his sons five villas at practically no cost. This transaction that took place in the 1990s was the basis of the first set of charges against the Mubarak family for corruption and exchanging influence for financial gain. It should also be mentioned that it was Hussein that owned the private company that bought Egyptian natural gas and sold it to Israel at significantly below market prices, pocketing tens of millions of dollars as a result. Several former Mubarak aids believe that his sons were also silent partners on this incredible deal. For many years the Mubarak regime protected this inequitable transaction before it was scrapped this year under public pressure.

Out of the billions of dollars illegally made by the Mubaraks over the years, the state prosecutor (who himself was also appointed by Mubarak) chose this rotten but insignificant deal from the 90s to indict the former ruling family, knowing fully well that in Egypt the statute of limitation is three years for misdemeanors and ten years for felonies.

The second set of charges were against Mubarak's security people led by former interior minister Gen. Habib Al-Adly and six of his most brutal senior assistants, including the heads of State Security, Central Security, as well as Cairo and Giza Security apparatuses. It was these security agencies, with over three hundred thousand officers, that cracked down on the protesters killing more than one thousand in the early days of the revolution in January 2011.

Although the two sets of charges on their face were unrelated, they were deliberately joined together in order to give the appearance that Mubarak and his sons were tried because of the security crackdown. But the revolutionary youth took to the streets in April and May of last year, forcing the state prosecutor to include Mubarak on the second set of charges of ordering and conspiring to kill the protesters.

Dating back to the nineteenth century, Egypt's judiciary is considered one of the oldest modern judiciary systems in the world, earning a fine reputation and an independent tradition. However, as in every authoritarian regime, senior judges were appointed for decades by a dictatorial president so that they could rule in favor of his regime at crucial times. During the past year the world has witnessed how Mubarak-appointed senior judges corrupted the judicial process for political purposes at crucial moments.

One example was manifested this year during the standoff between Egypt's state prosecutors and the United States after the indictment of 19 American pro-democracy workers. They were charged with operating several unregistered organizations that interfered in the Egyptian political process. In the midst of the pre-trial hearings and under tremendous pressure from the U.S. government, the head of Cairo's Appeals Court called the chief prosecutor and pressured him to grant the Americans bail. Within two hours of the Americans posting bail, they were smuggled outside Egypt on an American military plane, escaping their day in court. Interestingly, the Republican-led House of Representatives has subsequently deducted the \$5 million bail from this fiscal year's aid to Egypt.

Another example of compromised judges is the head of the Presidential Elections Commission (PEC). Constitutionally, the PEC in Egypt is made up of five senior judicial positions, and is headed by the Chief Justice of Egypt's Supreme Constitutional Court. That man is Justice Farouk Sultan. Traditionally the head of the highest court in the country is its most senior justice. But not this time. Sultan was a military judge for many years but Mubarak promoted him within a three-year period to first head a district court in 2006, and then appointed him as the head of the Supreme Court in 2009. Many legal and political experts believe that Mubarak chose him for that position in order to orchestrate the rise of his son, Gamal to the presidency that was supposed to have taken place in 2011 had Mubarak survived.

During the recent presidential elections, the PEC received some twenty appeals from various presidential candidates. But the only one accepted was the appeal of Gen. Ahmad Shafiq. As the last prime minister of the Mubarak regime, Shafiq was barred from politics for ten years by parliament in March of this year. However, Sultan and the PEC ruled that this law was unconstitutional although the commission did not have the legal authority to overturn the law, as it was administrative in nature and not judicial (despite being comprised of judges).

As Mubarak's trial (dubbed in Egypt as 'The Trial of the Century') was underway, the political charade became more transparent. The Mubarak-appointed judge Ahmad Rifaat, who chaired the 3-judge panel overseeing the trial, refused to transfer Mubarak to the prison hospital and instead kept him in a military hospital where he enjoyed the perks of a former president. He allowed several senior Mubarak officials to testify, including former Vice President Omar Suleiman, military chief and Egypt's effective ruler since Feb. 2011, Field Marshal Hussein Tantawi, as well as two former interior ministers.

All of these witnesses tried to absolve Mubarak from any culpability in the security crackdown on the peaceful protesters. Court records released recently show that whenever the frustrated prosecutors tried to get details by asking these senior officials probing questions or through demonstrating inconsistencies in their testimonies, the presiding judge would interrupt and not allow the questioning to proceed. As the trial ended last February, Judge Rifaat said he would announce his ruling on the trial on June 2, in the midst of the presidential elections.

Since the Supreme Council of the Armed Forces (SCAF) took over the reign of power in the country in February of last year promising a transition to democracy, the struggle has been between two conflicting visions for Egypt. The revolutionaries, who comprise large segments of Egyptian society including Islamic and secular groups, aspire to a new democratic Egypt, raising the slogans of freedom, dignity, and social justice. On the other hand those who benefited from the corruption of the Mubarak regime including influential politicians from the now-banned National Democratic Party (NDP), crooked businesspeople, and the beneficiaries of the security state, called in Egypt, the *fulool* or remnants of the former regime, long for the days when they ruled and ripped off the country with total impunity.

For most of last year, the *fulool* laid low waiting for a ripe opportunity for a comeback. They relied on the military council to ride the revolutionary spirit until the public became exhausted with a weary process that addressed little of their daily struggles. Meanwhile, the military allowed basically free and fair parliamentary elections, resulting in the Islamic parties gaining about 75 percent of the seats. But despite the decisive outcome, the military refused to change the government that comprised Mubarak-era ministers, while the state media relentlessly attacked the new parliament as being ineffective in solving people's daily hardships. In fact, the economic situation became much worse in recent months as basic goods became scarce including bread and cooking oil, while gas prices hit the roof. Furthermore, security became a major problem as crime rates in Egypt jumped significantly higher than any time in modern Egyptian history.

Enter Gen. Shafiq. In February, Mubarak's Prime Minister announced his candidacy as the person to restore security within 24 hours and return the Egyptian economy to stability and growth. Although denied by SCAF's spokesman, he then claimed that he sought and received the backing of the military for his candidacy. Shafiq has vocally said that Mubarak was his role model and openly regretted the success of the revolution.

He flagrantly tried to exploit the rift between the Islamists and the secularists vowing to fight the religious groups. He also sent plain signals to the Christian minority in Egypt by warning against the emergence of a "religious state." In an unmistakable message sent to the U.S. and Israel, Gen. Shafiq said that he wanted Cairo, not Palestine, to be the capital of Egypt, an implicit attack on his opponents, who publicly declared their support for the Palestinians in their struggle against Israeli occupation. In short, through Shafiq's candidacy the *fulool* found their man and consequently hundreds of former NDP politicians, corrupt businesspeople, and former security chiefs joined his campaign.

Those include his campaign manager, Gen. Mahmud Wagdy, who served as Mubarak's last interior minister under whose direction the infamous Battle of the Camel was waged on Feb. 2, 2011 by the armed goons in an effort to dislodge the revolutionary youth from Tahrir Square. Dozens of people were killed that day, while thousands were injured as a result of the vicious attacks. In addition, Shafiq's campaign directors in every major province are former security chiefs aided by former NDP officials in those regions.

During the Mubarak era, it was the task of the security chief in each province to secure the support and loyalty of the local mayors and officials to the regime. Meanwhile the businesspeople linked to the Mubarak system of state cronyism were happy to finance his campaign (and their comeback) by spending tens of millions of pounds. Since the first round of the elections, when Shafiq came in second at 24 percent (within one percent of Muslim Brotherhood candidate, Dr. Muhammad Mursi), much evidence has surfaced about the funding of his campaign. For instance, one Shafiq bankroller turned out to be the wife of convicted billionaire and corrupt politician and businessman, Ahmad Ezz, the mastermind of the 2010 elections fraud and Gamal Mubarak's scheme to succeed his father.

Egyptians, Arabs, and indeed the world waited for the fateful day on June 2 for the announcement of the judgment on Mubarak and his culprits. After a fifteen-minute rant by Judge Rifaat, in which he praised the revolution and condemned the former regime, he announced his appalling, but not so shocking, ruling. He sentenced Mubarak and his former interior minister Al-Adly to life sentences for the killing of the protesters. He then acquitted Mubarak, his sons, and Hussein Salem on the financial corruption charges because the statute of limitation had run out. He also acquitted the six security chiefs of all charges in regard to the killing of the protesters, citing a lack of evidence.

Western observers, including media outlets and human rights organizations such as Amnesty International, did not see the ruse and initially praised the ruling where for the first time in the history of the Arab World a head of state was tried, convicted, and sentenced to what is seemingly a harsh sentence (The trial of Saddam Hussein was not considered independent because it was conducted under the guise of the American military occupation.).

But Egyptians were not fooled. They immediately condemned the political nature of the rulings and took to the streets across Egypt by the hundreds of thousands, in scenes reminiscent of the early days of the revolution. The consensus and unity generated by these sentences within all the strands of the revolutionary groups, as well as the families of the fallen and injured, may have been the result of SCAF's and the fulool's gross miscalculation that the revolutionary spirit had waned or that their comeback was imminent.

It should also be noted that in anticipation of Mubarak sons' acquittals and the possibility of massive riots, the prosecutors indicted both sons last week on money laundering and insider trading on Egypt's stock market. They were charged with illegally gaining as much as 2 billion pounds (about \$330 million) over several years. Because of these charges Mubarak's sons were not released after their acquittal this week. But Mubarak's supporters still hope that when Shafiq wins the presidency in two weeks these charges would be dropped, as their dad would be pardoned.

But why are most Egyptians angry at the verdicts?

First, the political nature of the rulings cannot be overstated. Acquitting Mubarak and his sons on financial corruption should have been foreseen, as the prosecutors knew that the statute of limitation had run out. They had dozens of other criminal complaints on Mubarak and sons involving corrupt financial transactions and shady land deals worth billions of dollars over many years.

Secondly, the conviction of Mubarak and his interior minister was political because the judge declared in his ruling that he did not know how the protesters actually died since the

forensic evidence was inconclusive. But in actual fact there are direct declarations from former interior ministry officials that most of the evidence was shredded and destroyed shortly after the ouster of Mubarak under the guise of the military council by the same security chiefs that were acquitted.

Many legal experts believe that by acquitting these security chiefs, who would have essentially carried out Mubarak's orders, the conviction of their superiors would surely be ultimately overturned on appeal. In short, the judge may have sacrificed Mubarak momentarily as he saved his sons and the regime.

Moreover, during the past 16 months, not a single person, let alone any senior official, has been convicted on killing a single protester. All of the junior officers tried in Egypt during the past year have been acquitted. Even Mubarak and Al-Adly's convictions are now susceptible to be overturned on appeal, since Mubarak himself did not kill the protesters. If his underlings are innocent then how could he have carried out the murders? And of course if Shafiq becomes president not only would he pardon the deposed dictator, but he would possibly restore to him the status of a former president.

Since February, the political process underway in Egypt has been carefully manipulated by SCAF and the fulool. The tactic hinged on dividing the revolutionary groups, and gradually restoring power to the former regime elements by convincing the majority of Egyptian voters that their security, economic stability, and future could not be trusted with such divided, inexperienced, and novice political parties. In addition, regional countries led by the Gulf states such as Saudi Arabia, the United Arab Emirates, and Kuwait, as well as foreign international powers including the U.S, Israel, and some European countries sent unmistakable signals to the Egyptian electorate that voting for Shafiq would bring stability, security, and economic prosperity, in an effort to reproduce the old regime with a democratic façade.

But instead of bringing most Egyptians closer to choosing Shafiq, the plot has backfired. As a consequence of the verdicts, the exhausted Egyptians have been reinvigorated and their unity reestablished, in a display unseen since February 11, 2011, the day Mubarak was ousted from power. In essence, the pronouncement of the trial's outcome has sent a loud and unambiguous signal that all the gains of the revolution are now in jeopardy. Unless the revolutionary groups unite, convincingly win the second round of presidential elections to be held on June 16 and 17, and defeat Shafiq, the SCAF's and fulool's candidate, the Mubarak regime would indeed re-create itself and dash the hopes and aspirations of Egypt's youth and pro-democracy groups.

Meanwhile, the MB's candidate in the runoff, Dr. Mursi, announced that if he were elected president, he would form an independent investigative commission headed by a senior judge with impeccable credentials in order to gather evidence and retry Mubarak and his cronies. On the other hand, most Egyptian groups in support of the revolution see the imminent dangers that would result in a fulool comeback. They have announced their support for a presidential team to consist of the MB's Mursi as president, and Dr. Abdelmoneim Abol Fotouh and Hamdein Sabahi, the runner-ups in the first round, as vice presidents. There have also been strong calls to have Dr. Mohammad Elbaradei, the former head of the UN Atomic Agency included in this team and serve as Prime Minister.

The three candidates representing different constituencies within the revolutionary groups (Mursi, Sabahi, and Abol Fotouh) received more than 15 million votes in the first round or

about 65 percent of the total votes cast. It's now up to the MB to rise to the challenge and unite all pro-revolution Egyptians. If such a presidential slate can be formed, it would be next to impossible for the fulool candidate to win. Only through such unity and a firm determination to overcome the petty differences -compared to what is at stake- can the Egyptians claim back their popular revolt. One of the most remarkable and peaceful revolutions in the history of the world.

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