## **RELEASE IN PART B5**

From:

Sullivan, Jacob J < SullivanJJ@state.gov>

Sent:

Thursday, June 14, 2012 12:31 PM

To:

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Subject:

FW: Nathan Brown

FYI

From: Benaim, Daniel

Sent: Thursday, June 14, 2012 11:45 AM

To: Sullivan, Jacob J

Subject: FW: Nathan Brown

From one of most knowledgeable US Egypt-watchers.

From: Hawthorne, Amy W

Sent: Thursday, June 14, 2012 11:42 AM

To: Rand, Dafna; Benaim, Daniel; Ash, Nazanin S; Hutchings, Jill

Subject: Nathan Brown

I just spoke to Nathan Brown. His analysis/understanding so far (and he's still analyzing this obviously) useful in terms of piecing this together:

- --PA dissolved immediately
- --obviously, constituent assembly (and clearly the constitutional process), in jeopardy, if not already OBE'ed
- --SCAF has legislative/decree authority till a new parliament elected
- --when a new president comes into office, he rules by decree, using powers either of constitutional declaration (see below) or a renewal of the 1971 constitution with the articles approved in the March 2011 referendum patched in
- --constitutional declaration stays in force till a new constitution is issued (the process is unclear given today's ruling); no provisions in constit declaration on process for re-running parliamentary elections, so timing, etc. not clear
- --the key point is that both the 1971 constitution and the constitutional declaration have very few checks on executive power (the central problem in the Egyptian political system for decades)
- --without a parliament in place, there is no way for parliament to challenge the validity of the Ministry of Justice decree on military powers (the soft introduction of martial law)

Democratic transition is over for now. Could be revived if Morsy wins, but he'd have excessive powers, so the democratic framework of his rule at the outset would be lacking. Could be revived if there is a fair parliamentary elections process – but what mechanisms would guarantee that when there would be no opposition or pluralism with the state structures and no mechanism to create a democratic election law except by decree? He's dubious.

- --Even if Shafiq wins and appoints a diverse cabinet, there is no (apparent) check on executive power if the above documents are used as the legal framework.
- --MB's reaction seems very passive so far, they seem to be negotiating with the SCAF and Shafik and seem extremely worried about avoiding a mass crackdown, so may just hunker down and try to avoid an confrontation (this would also take the wind out of any democratization sails, as where would the organized pressure for change come from?)

Our messages should be:			

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