



Egypt's unfolding transitional agenda

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I. Introduction

This working paper focuses on the political and economic situation in Egypt after the democratic revolution that began in Tahrir square on 25 January and which ended the 30-year rule of former Egyptian President Hosni Mubarak.

It is written six months into the transitional process during the Ramadan period, a moment at which the occupation of the iconic Tahrir square was forcefully ended by the security forces while the civil trial of indicted former president Hosni Mubarak, two of his sons and the former Minister of Justice has commenced in Cairo.

The analysis presented below is based on the debates during a recent conference hosted by the Cairo Institute for Human Rights Studies (CIHRS) on *Ways to strengthen the Democratic Transformation in Egypt*, which the author attended, as well as on discussions between the author and stakeholders in Egypt that took place before and after the conference in Cairo.

In a first step, the transitional agenda of the Supreme Council of the Armed Forces (SCAF) is analysed. The author then describes the three major cleavages in Egyptian society, namely military-civilian, Islamist-civil and generational, before stressing the importance of an economic reform programme for the chances of success of the overall democratic transition process. Furthermore, the sensitivities of the SCAF with regards to foreign funding for democracy assistance are highlighted. Finally, the paper presents the intricacies of introducing a new constitution in Egypt.

II. The transitional agenda

The pace and direction of change in Egypt are determined by the Supreme Council of Armed Forces (SCAF) under the leadership of Field Marshal Mohammed Hoessein Tantawi who took over the Presidency from Hosni Mubarak on February 11th. A government functions under Prime Minister Essam Sharaf, but few of the people interviewed referred to the government as a body managing the reform process. All analysis focuses on the role of the SCAF and since power is vested in the Presidency in Egypt, this is understandable. The irony is that one of the pillars of the detested Mubarak regime is now in charge of the process that should dismantle that regime.

On March 31st, SCAF set aside the 1971 Constitution while issuing a Constitutional Declaration which guides governance until the proclamation of a new constitution to be prepared under the mandate of a newly elected parliament in November of this year. Since the new parliament will form a committee to prepare the new constitution, the balance of pro-democracy vs. status quo forces is the most immediate concern of the democratic reformers in Egypt and beyond.

The stakes are high and hence, the representation in the new parliament is the dominating issue in the political discourse. The entry into parliament is regulated through the newly issued electoral law and the regulation on the registration and funding of political parties. Both texts have a large bearing on the outcome of this first legislative battle. They have rather hurriedly been issued by SCAF without popular consultations, which does not bode well for the outcome of the elections.

Of the 504 seats in the new parliament, half will be elected on a proportional basis with closed party lists. The other half will be elected on a first-past-the-post basis, with an allocation of two seats per constituency for individual candidates. There is a low threshold (2%) for parties to gain seats in parliament, but the 58 constituencies for 252 party seats mean that there are on average less than 5 seats for parties per district. There is also a provision that 50% of all parliamentary seats should be held by workers and farmers.

Since there are no affirmative provisions for women or minorities, it is not difficult to predict that their voices will be (heavily) underrepresented in the new parliament. A majority of the individual candidate seats are likely to be won by those individuals with the deepest financial pockets. These are often the persons either associated with business interests and mostly linked to the former regime, or persons with backing of external funders. The low number of party seats per constituency will favor the best organized parties over the new parties that emerged since the revolution. Hence, the composition of the new parliament may well send more of an echo of the past than giving a voice to the aspirations of Egypt's youths who drove the revolution.

The regulations for registering new political parties are cumbersome, making it difficult to register a new political party. In addition, there are no provisions for guaranteeing a level playing field in the media for political parties during the elections period, which plays in the hands of the established political forces that have strong links to the media. Both government and businesses have the dominating stakes in the media. Lately, the number of religious networks has proliferated fast, with little to no transparency on where the financial resources come from. The SCAF has ruled against international election observation because it considers this an intrusion on Egypt's sovereignty.

The funding of political parties has not been regulated well. Money politics is therefore expected to play an important role in the forthcoming elections. The lack of transparency in money flows for campaigning purposes, including those from counter-revolutionary forces within Saudi-Arabia and some conservative Gulf states, casts a shadow over the forthcoming elections.

Judges have been appointed to manage the election process while the role of the Ministry of the Interior has been reduced. This is a positive development since the judges are expected to guarantee greater integrity in the process. However, concerns exist about their professional capacity to administer the elections. Also, the elections shall be conducted in three stages across Egypt, with a one week-long interval between each stage. Are the results from the elections in the first part of the country locked up securely and will the outcome only be announced after all three stages are completed? Or will results be announced after each stage, thereby possibly influencing the electoral behavior of voters in the other parts of the country?

In discussing some of these aspects, the author got the impression that few people had given informed thought about the implications of the chosen electoral process given more immediate concerns, such as the use of military courts for the prosecution of civilians and the Mubarak trial. Some people expressed optimism that some of the provisions of the electoral law can still be changed under pressure from the democratic movement, although the author did not come across specific demands expressed on this subject. Perhaps the more realistic voices observed that this is only the first election of which not too much can be expected. In this perspective, for real change to occur, the second and third elections will become important. Yet, it is during the forthcoming elections in November that voters will choose the members of the new parliament. The parliament will in turn set up a committee to write a new Egyptian constitution, a constitution which shall determine the shape and quality of the future democratic governance in Egypt.

Time-lines for writing a new constitution are short (about a month) which means that it will not become a participatory process through which constitutional governance can be strengthened. Opinions are divided whether or not a substantial review is needed or if the 1971 Constitution continues to be a good template. With a new constitution adopted, presidential elections will be held, after which the SCAF promised to hand over power to the newly elected president. As for now, public opinion polls show no clear frontrunner from amongst the civilian presidential candidates leaving the option open that one of the SCAF members may change his military garb

for civilian clothes and enter the presidential race.

The transition is guided by a roadmap identifying a number of milestones (elections and constitution) towards restoring legitimate governance, but the content and direction in which the road is heading remains impalpable. While the road is built like a pyramid, namely stone by stone or step by step, unlike pyramids, the final shape of the outcome of the process is far from clear. The unique unity of Tahrir square, when Egyptians were united in their demands for dignity, jobs, justice and democratic governance, has since fractured and conflicts of interests between the different political, social and religious stakeholders within Egyptian society have come to the fore.

Restoring that unity becomes increasingly difficult with the election date nearing. Yet some unity about the basics of the democratic rules of the game is needed to make democracy work in the future and to assure the level of stability required for the much needed social and economic development that would address poverty and the dearth of jobs for the young generation.

In the new and more open Egypt, it is important that the different interest groups continue to meet at roundtables to seek consensus about the new democratic rules of the game. Inclusive dialogues are much needed to create acceptance of the democratic processes through which conflicts of interest can in future be peacefully resolved. With the prevailing focus on elections, democracy should not be reduced to a competition for power, but be extended to the accommodation of different interests and to the reconciliation of grievances. Approaching democracy in all its substantive dimensions will be an indispensable contribution to the unity of the Egyptian nation.

III. Cleavages in Egyptian society

One of the major divides in the Egyptian political arena is the **military – civilian divide**. In addition to controlling the security apparatus the military have obtained a stake in the economy that is estimated at 30% to 40%. They are a dominant force in many sectors of the Egyptian economy. From a democratic perspective, the first priority is to restore civilian governance and to bring the military under civilian control.

The military themselves may not be keen to continue being in charge of governance but will certainly demand safeguards for their position and economic interests. Where will the line be drawn in the future? In this context reference is often made to the position of the military in Turkey, guaranteeing the secular character of the Turkish State. However, in the past weeks, Turkish Prime Minister Recep Tayyip Erdogan effectively ended this special political role of the Turkish military, a demonstration of the maturity of Turkish democracy. The question is what lesson the Egyptian SCAF will draw from the evolution of the Turkish military-civilian relations.

Since the Egyptian military annually receive \$ 1,2 billion from the United States in the context of the Middle East peace process and the cooperation on the war on terrorism, the US Administration and the good relations between the SCAF and the Pentagon should weigh on the outcome of this equation.

The second divide running through politics in Egypt is the Islamist-secular cleavage, or as Egyptians prefer, the **Islamist – civil cleavage**. Secular is in the Egyptian context perceived to be anti-religion, hence the use of the word civil. The Islamists are traditionally organized in the Muslim Brotherhood (MB) but the new open political environment has resulted in a fragmentation within this section of the political spectrum. The fundamentalist Salafists have become a more vocal voice at the extreme conservative right, while more liberal Islamists have separated to the left of the MB. Hence there will probably be a number of Islamist parties (more like for example in Indonesia), the strength of which shall be tested in the elections.

Under the pressure of the new democratic spirit, the authoritarian MB has also been forced to introduce internal elections. Since it is well organized with a long track-record, the MB is expected to do well in the forthcoming

elections. It is interesting to follow the evolution of Islamism in Egypt now that Islamist organizations are engaged in open interactions with the other players in the political process, since they can no longer position themselves as the victims of the Mubarak regime.

The other important players are the civil or secular parties, which are organized in a spectrum from ultra left to liberal right. Hosni Mubarak's political party, the NDP, has been officially dismantled after its headquarters at Tahrir square was burned down during the revolution. A number of new parties have either registered or are in the process of doing so. Again, it is difficult to project how the map of secular parties will look like after the elections and how the individual candidates will be aligned along the political spectrum. The Sufis, who are considered to represent about one third of the Muslim population, are mostly inclined to vote for secular parties. Similar to Indonesia, the Egyptian elections are likely to result in a fairly high number of political parties represented in parliament.

The third divide running through the political arena in Egypt is **the generational cleavage**, opposing the mobile social network generation against the 'telegraph generation'. This cleavage cuts through the two previous divides. It is particularly strong in Egypt and will continue to play a major role because half of the population is below the age of 25. It was youth movements - in particular the 'April 6th' and Kifaya movements - that triggered the Tahrir revolution and which form the heart of the democracy movement. They expressed the aspirations for the new Egypt and showed extraordinary determination to work towards this goal. It may not be a streamlined movement and the political momentum may have been transferred to the leadership of the political parties and groupings, but the young generation of bloggers remains alert and continues to exert pressure on the SCAF to deliver on necessary reforms while they stand ready to return to Tahrir square when they feel that the military is not delivering on the demands for democratic reform and the hand-over to a legitimately elected civilian government.

The political dynamics in post-election Egypt will to a large extent be determined by how these cleavages will translate in seats in parliament; what combination of parties will be able to form the future government; and how the relationship between a civilian government and the military will shape up.

IV. Democracy and development

In Egypt a successful outcome of the transition to democracy depends on a parallel successful economic reform programme. Widespread corruption under the previous regime stymied the economic reforms necessary to widen the economic base and to create the much needed jobs for the new generation. Corruption is deeply ingrained in the genetic make-up of the Egyptian society. To give an example, by April of this year no less than 6000 probes in corruption cases were launched. Only accountable and transparent democratic governance can end this destructive practice. At the same time, the aspirations of the revolution for democracy will only come true if the government delivers on economic reforms. The close relationship between the two is tangible in Egypt's transitional process.

A recent joint report of the Carnegie Endowment for International Peace and the Legatum Institute on Egypt's democratic transition (available on their websites) offers five concrete suggestions on how international donors can meaningfully assist the economic reform process. These are as follows. 1) Focus on technical assistance to improve the business environment, including necessary reforms of the judiciary, commercial laws, bankruptcy proceedings, labour markets and media reform; 2) Reform of the subsidy system through introducing tested instruments that target those most in need of social assistance; 3) Private – public investments for slum development; 4) Assistance for Upper-Egypt targeting rural development by relaxing trade restrictions on fresh fruit and vegetables from Egypt; 5) Support for civil society, open public debate and independent journalism. The report also recommends the sharing and transfer of expertise from relevant transitions in countries and regions such as South America, Turkey and India, while Indonesia should be added due to its relevant successful transition.

V. Foreign Funding

The SCAF remains very sensitive to foreign funding for the democratic transition process, selectively criticizing funding from the West, in particular from USAID. The military is alleged to be anxious that foreign aid is strengthening the liberal organizations driving the revolution at the expense of the military's own vast powers. They have accused USAID of directly funding organizations without abiding by the Egyptian law for funding non-governmental organizations. This law was enacted under the Mubarak regime to control civil society development and has not been repealed since the January 25th revolution.

One of the military of the SCAF, Major-General Hassan el-Roweini, publicly attacked 'April 6th' and Kifaya for allegedly following a foreign agenda and receiving funding and training from abroad, a claim which suggests that both movements were plotting against the country with foreign help. Together with the ban on foreign election observation, which is highly unusual in today's world, these actions raise questions about the military's disposition towards the democratic reform process.

The actions and statements of the SCAF are selective in the sense that the military themselves are the beneficiary of an \$ 1,2 billion annual package from the US Administration which is not called into question. Also, no mention is made or criticism raised about foreign funding for Islamist groups, for example. Whereas the funding from US sources is generally transparent, the same is not true for the external funding of Islamist groups, organizations and media networks. Support from EU sources has not yet been the target of criticism by the military. For the moment, US support dwarfs EU democracy support which is why the latter will be considered less threatening. This provides an opportunity for the EU to rise to the occasion and provide much more substantial support to a transition which is of greatest strategic interest for Europe.

The above mentioned sensitivities, which some commentators qualify as xenophobia, make providing support to the transitional process difficult to say the least. Yet, it is essential that partnerships with Egyptian civil society organizations, political parties, the private sector, media and academia are established, intensified and deepened. The democratic forces need to have full access to relevant expertise from other transitions elsewhere. In all partnerships the authenticity of the Egyptian transition process needs to be respected and reform agendas have to be set by the Egyptians themselves. International support should be inclusive and non-partisan as the transition unfolds. Direct and regular engagement of Egyptian counterparts to open up communication channels at all levels of civil and political society, professional groups, academia, military and media is important and easy to do. Such openness would see Egypt joining the community of democracies and overcoming the relative isolation of the past. Finally, tourism is down by at least 20%. Yet, Egypt remains an attractive holiday destination.

VI. The constitutional debate

Over the past months, there has been extensive debate on whether or not Egypt should first engage in a constitutional review process and organize elections once a new constitution has been adopted, or proceed with elections and return to the constitution making process thereafter. The 'elections first' argument has won the day and the new parliament that is to be elected this November will choose a committee tasked to review the constitution. With this decision, the debate has shifted to the so-called supra-constitutional principles.

These are overarching principles that should form the frame within which the constitution shall be reviewed. The idea is that these principles should have wide endorsement by the Egyptians and can be used as a reference to overcome potential deadlock about specific provisions of a new constitution. In constitution making processes in other countries in transition, agreement on a set of commonly accepted principles at the outset of the process has been helpful to overcome disputes during the process. But opinions are divided in Egypt on this subject.

The secular forces within the democratic movement are in favor of an agreement on supra-constitutional principles before the elections. They see it as a guarantee that the new parliament will not open up the possibility of Egypt becoming an Islamic state. The democratic coalition around the MB on the other hand is opposed to such supra-constitutional principles because of the opposite fear that Egypt may become a secular liberal democracy.

A number of proposals for supra-constitutional principles have been submitted for discussion. It is an indication of the prevailing distrust between the different political forces, that the various proposals submitted are rather lengthy and detailed but not generic in nature. This appears to be a veiled attempt to restrict the mandate for a constitutional review before the constitutional review process can actually be launched by the newly elected parliament. Nevertheless, the government and SCAF are sensitive to the argument to adopt supra-constitutional principles before the elections and a decision on this matter is anticipated for the near future.

VII. Conclusions

It is important to keep in mind that the Tahrir revolution has not yet resulted in a transition of government in Egypt. The president has been removed and a number of his ministers. But the Military Council is still the same and has assumed the role of the president. Hence, the nature of governance has not changed yet. The military are firmly in control of the transitional process and are likely to have a major influence on its outcome. Any political contestation of their role is met with harsh repression.

What has fortunately changed is the open society in which people can talk and engage in political discourse and activity (almost) without fear. It is a new and welcome development which will take time to be internalized, especially by the older generation who grew up under decades of dictatorship and corruption. The youth has the advantage of their versatility in the internet age. They seized the political momentum to drive the transitional reform agenda and continue to do so. But among the young generation as well as among the older generations, a longer-term perspective on all the aspects of the reform agenda - political, economical and cultural - has still to emerge. The political battles fought - and understandably so at this point in time - are mostly over immediate short-term concerns.

The untested political arena, with so many new political parties or groups and new alliances, all preparing for elections under new electoral rules, has brought with it a high level of nervousness about the outcome of the forthcoming elections. Indeed, the importance of these elections cannot be overestimated. How reform minded will the new parliament be and will reforms tend towards a future Egyptian-style liberal democracy or towards a future Islamic state?

The military are in a position to balance between the two tendencies in order to consolidate their privileged position. They will continue to be a key factor in a transition to democracy in Egypt and will need to be engaged by peers from rising and established democracies to share experience about the role of the military during and after transitions to foster their commitment towards a genuine democratic transition.

One thing that appears to be obvious under the current electoral law provisions is that women will be losing out in the new parliament and, hence, their voices be underrepresented in the making of a new Egypt. That is a real missed opportunity.

Nervousness heightens the sensitivity about external influence on the process and on real or perceived infringement on Egypt's sovereignty. However, the selective manner in which this sensitivity is often applied, suggests particular political motives. Indeed, the authenticity of the Egyptian reform process is a hallmark of the revolution that should be cherished. Organizations supporting democratic reforms should genuinely respect this in their contacts with Egyptian counterparts. Outside agencies should be fully transparent about their support, a

principle that ought to be applied across the board to all external funding.

This does not mean that the government and SCAF should continue the practice of controlling external funding as happened under the Mubarak regime. Egyptian non-governmental organizations and political parties and groupings are well equipped to guard their own autonomy and would generally object to trade-offs between external funding and influence peddling. In fact, the profound Egyptian pride and self-esteem are assets for a more intensive international engagement to overcome the many years of relative isolation from other regions of the world.

The new political opening and ongoing transition process have made new interactions possible amongst Egyptians within and across the different cleavages. These interactions are necessary to reduce the high levels of distrust. They will contribute to a new democratic practice of dialogue, bridging differences and finding consensus about shared concerns. Trust is not only developed through such dialogues but also by learning to use the new levers of democracy at all governing levels to resolve conflicts of interests peacefully.

Reforms and a new democratic practice and culture will not only be realized through holding elections, but need to be nurtured through a sustained process of dialogue between the main political forces and between government at the various levels, civil society and the private sector. Facilitating and supporting such dialogues, for example by connecting Egyptians with peers from countries which transformed from autocracy to democracy, will be helpful and should be at the center of European support.

Assistance for democratic reform needs to take this longer-term perspective. It should prioritize the facilitation and ensuring the sustainability of inclusive dialogues at the levels indicated in the previous paragraph, beyond the forthcoming elections. This approach should not limit itself to applying standard dialogue platforms. It should be extended to include specifically the young generation and to utilize modern communication tools to widen the opportunities for dialogue beyond the traditional political and civil society organizations. Finally, in all supported activities, the voices of Egyptian women need to be heard and their equal participation assured.

No transition to democracy follows a beaten track. Egyptians are charting their own road with a map the contours of which are discovered step by step and agreed over time. It is a privilege to be able to witness this historic process unfold and to try to comprehend the dynamics of the process. Events are historic also in the sense that they have provided an opportunity for Europe to open a new chapter in the stained relations of the past with the Arab world. A chapter in which shared democratic values underpin and override all forms of future cooperation. Despite the sovereign debt crises which is occupying the attention of European policy-makers this Fall, the momentum created by the Arab Spring to build new relationships between Europe and the Arab world calls for sustained and intensified support, both for the democratic and for the economic reform process.

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