

Mallat in Jurist: A Brief Guide to the Counterrevolution in Egypt

04/06/2012

JURIST Guest Columnist Chibli Mallat of the S.J. Quinney College of Law at the University of Utah says that the revolutionary organizations in Egypt should commit to a common political platform in order to undermine the current counterrevolutionary tendencies of the Egyptian government...

Hosni Mubarak's trial has just petered out into massive demonstrations. The tragic mistrial that saw six officers directly involved getting exonerated has also left his two sons unscathed. This adds to the constitutional mess sparked by bewildering presidential election results that have pitted Mubarak's former prime minister in a runoff election against a pale, second-choice candidate for the Muslim Brotherhood. Other than roughly 8 million people out of over 50 million voters, few are happy with the results of the first round of presidential elections in Egypt.

The extraordinary Nile Revolution, a first in the history of the Middle East, is not represented in the two candidates who received the highest vote counts for the final run. The heading of Ahram Online a few days ago is appropriate: the result of this first turn is the worst possible nightmare for the revolution. It could have been worse, though, if the two top candidates had pitted Islamists against universal human rights and democracy supporters.

It is too early to despair for it will take a decade to get things right in Egypt and the Middle East — the roots from a half-century of dictatorship run deep. As we continue to witness the ebb and flow of this democratic parturition, this article is meant to serve as both a quick guide to the most egregious actors and actions during the past year and a short suggestion for starting to get Egypt out of this mess.

Supreme Council of the Armed Forces (SCAF): After enjoying brief universal popularity when they finally decided to give up on Mubarak, SCAF turned itself, with no popular mandate and no active role in the revolution, into a dictatorship. Military trials of freedom fighters, including women subjected to vile humiliations, ad hoc constitutional

declarations issued with no consultation, open support for pre-revolutionary Mubarak cronies like Prime Minister Kamal Ganzouri, and wanton killings of nonviolent demonstrators on several occasions — the list of offenses is long. It is time to retire SCAF from the political scene and it might be useful for the revolution to start considering bringing some of them to trial.

The Muslim Brotherhood: They promised not to run for the presidency. They failed to uphold this basic promise, which would have allowed them to bring the rest of the revolutionaries on their side — similar to the way the Ennahda Movement put Tunisia on the right track against the always impending counterrevolution. It is not too late, and the Muslim Brotherhood controls the Egyptian Parliament. If they can temper their so-far-dominant hubris and request the help of Christian, women and non-religious groups to win the second round, the revolution could still be saved at relatively low cost.

The Judiciary: The current mess in the Egyptian judiciary is a grave threat to the least-tainted branch of Egyptian government. The Supreme Constitutional Court, Egypt's most respected court, is under threat of disappearance. This is, in part, the fault of the judges. The Iranian-style rejection of presidential candidates by a committee of judges before the presidential election was the jewel in the crown of an arbitrary policy which has included intervention in matters judges are ill-equipped to address. The judges should never have allowed military trials and the emergency laws to go on after the revolution defeated Mubarak. Mostly, what they omitted is gravest: they could have protected the citizens' basic rights, including the right to vote and run for elections unimpeded. The court could have been at the forefront of lustration laws and they could have made an effort to unify their scattered voice. They did none of the above.

The Revolutionaries: By which I mean those who started the Nile Revolution and kept it likeable — youth, women, non-sectarian groups like Kefaya and universalist figures who were jailed for standing up against Mubarak like Ayman Nour and Saadeddin Ibrahim. They failed

to organize, organize, organize. This was a sure route to their voices being drowned out by the machines of unpalatable actors.

It is not too late. Egypt's revolution is one of the greatest achievements in modern democratic history because of its dominantly nonviolent character. It succeeded in removing a dictator. Now it must undermine dictatorship, which is being reshaped by the inevitable counterrevolution that feeds on the military and extreme Islamist groups.

There will be many occasions over the coming months and years to redress this balance. For the moment, the priority should be to defeat the "Mubarak candidate" on a platform shared by the revolutionaries and the Muslim Brotherhood so that the demonstrations under way focus on: SCAF's return to the barracks and their permanent departure from politics.

The redress of the judiciary, such as correcting the Mubarak mistrial and providing constitutional protection to the citizenry (which is what the revolution is all about). Additionally, a new chief justice is needed on the Supreme Constitutional Court.

The Muslim Brotherhood being forced into a strong revolutionary coalition for the presidential elections in June, along with a firm program that includes the two points above and assures their partners that the prime ministry and half of the cabinet positions will be given to human rights partners associate with the revolution. This will ensure that the Muslim Brotherhood does not end up like the Iranian ayatollahs or their cousins in 1982 Syria and 1992 Algeria. It will also make sure that Egypt does not fall deeper into a counterrevolutionary mess in 2012.

Chibli Mallat is the Presidential Professor of Law at the S.J. Quinney College of Law at the University of Utah. Professor Mallat has litigated several international criminal law cases, and has advised governments, corporations and individuals in Middle Eastern and international law. He is the chairman of Right to Nonviolence, a non-governmental organization based out of Beirut.

Suggested citation: Chibli Mallat, A Brief Guide to the Counterrevolution in Egypt, JURIST - Forum, June 4, 2012,

<http://jurist.org/forum/2012/06/chibli-mallat-mubarak-sentencing.php>.

This article was prepared for publication by Caleb Pittman, head of JURIST's academic commentary service. Please direct any questions or comments to him at academiccommentary@jurist.org

June 4, 2012