

# The day after: A constitutional roadmap for Egypt

Ahram - Chibli Mallat, Monday 25 Jun 2012

The Electoral Commission's announcement of the Muslim Brotherhood's Morsi as president elect has staved off a full-scale counter-revolution. How Egyptian political forces build on this is crucial for the whole region

Last month Egypt saw the full blooming of the counterrevolution. Rolling back the spirit of early 2011, Tahrir took the shape of a stream of counter-revolutionary measures – the military group known as SCAF self-enhancing its role further with another arbitrary ‘constitutional declaration’, augmented by an ‘addendum’, the criminal court in Cairo exonerating Mubarak’s chief security men and sons, the High Constitutional Court’s (HCC) dismissing a freely elected parliament and allowing the prime minister of the old regime to run for the presidency.

It looked like the non-violent January 25 Revolution.

The process was halted yesterday when the Supreme Presidential Electoral Committee (SPEC) declared for the Muslim Brotherhood’s (MB) candidate, Dr Mohamed Morsi. Any other outcome would have driven Egypt closer to civil war, notwithstanding announcements by Khairat El-Shater, a Muslim Brotherhood leader, that their opposition to authoritarianism would remain nonviolent.

Can the revolution build on this respite?

Egypt, like the rest of the region, is at the beginning of a long road. The key to preserving the spirit of the January 25 Revolution is to work with the largest front comprising the fullest possible spectrum of its revolutionary forces.

The next step in this spirit is for the president to appoint a comprehensive cabinet that includes a prime minister and a majority of participants from the non-religious sector of the revolution: women, youth representatives, liberal traditionalists, the democratic left, and a significant number of Christian leaders – for instance those who showed the way to the revolution in 2005 inside the original Kefaya movement. The SCAF has dramatically hemmed in democracy, and their exit from political domination must be completed as they themselves promised time and again. A concession may be considered for military representation in the cabinet, perhaps for the portfolio of defense and the military industries, which should not be lightly dismantled because of the reliance of thousands of families on a poorly conceived, but long-established safety net.

This broad front is even more necessary to preserve the Constituent Assembly. The Constituent Assembly has not been affected by the dissolution of parliament. An established jurisprudence of the HCC if that acts of parliament passed before it was disbanded remain effective. The

Assembly has already met twice, but the voice emerging from the deliberations is faint. Mechanisms for citizen and expert participation have not been set up clearly enough. The Assembly needs to strive to involve and share a founding document with 80 million people, most of whom were sidelined during over fifty years of dictatorship. The mechanisms must therefore be transparent, and committee and general meetings made public, documented and possibly televised.

Constitution-making is not rocket science, and the Constitution of 1971 is a good enough document if the necessary clauses are modified. Judge Tarek al-Bishri's Commission achieved good work last year. That text, except for one poor clause preventing candidates married to foreigners from running, should be the starting point for the drafters of the new constitution. The Constitution of 1971 with the Bishri amendments, which received the support of a massive majority in the March 2011 referendum, is a functional text. There is no hurry to complete the new Constitution: serious, extended, inclusive deliberations over two or more years will secure a better text than a quickly-fixed document.

Sooner or later, a new parliament will be needed. Until elections are carried out, on an altogether different basis than the mediocre electoral law struck down by the HCC, the Constituent Assembly can fill the gap for key legislation. With all the mistakes of the HCC 14 June decisions, the Court was right when it took the defense of the majority of voters not belonging to any political party. Political parties did not make the January 25 Revolution. Nor are political parties the necessary or exclusive way to participate. This is true regarding the Brotherhood as well.

Until the new Parliament is elected, the Constituent Assembly can build the central blocks for electoral legislation urgently needed, while keeping a check on the government for the pressing needs of the country: reviving the economy, revamping the police and the judiciary, restoring tourism, and projecting the January 25 Revolution onto the whole region with its hopes and the nonviolence that animated it. All these urgent matters are premised on the development of the rule of law, including reversing the shameful military trials of 2011-12, and correcting the poor performance of the courts in protecting the citizen's basic rights, and in seeking accountability as in the bungled trial of Mubarak and his aides. Reforming and consolidating the judiciary is a pressing task.

The people of Egypt have turned a small but important corner. We need their leadership for the wider Middle East revolution, including support to ensure its success in Syria, Bahrain and Sudan. The first visit to Cairo of a foreign president after the January 25 Revolution was that of Sudan's Omar Bashir. It should be the last visit of a non-democratically elected Middle East leader to revolutionary Egypt.

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