The Post Egyptian Revolution’s Constitutional Crisis: An Ongoing Anarchy with a Ray of Hope

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1 INTRODUCTION

Almost twelve months have now passed since the Egyptian revolution of the 25th of January 2011 first erupted. Throughout this period an amazing course of ongoing developments has been on the rise day after day at the Egyptian scene and beyond. It is certainly very interesting to observe these developments, but it is also equally strenuous to follow them up, due to their high rate of recurrence and change. As a result, and focusing on the constitutional law making process after the revolution, the following article is an attempt to analyze some, but not all, of such developments that are still in progress.

The recent developments in Egypt have shown us that although Egyptians have enjoyed a high sense of pride throughout the past twelve months due to their ability to throw out a tyrannical political regime; their efforts towards re-establishing a new system of government that is democratic and liberal, have continued to encounter a wide range of difficulties affecting their economy and future as well as the power of the ruling authorities to maintain law and order in the country. Day after day, the tone of dissatisfaction on how the Army rules the country during this interim period has become louder. In addition, the absence of a clear vision on how the constitutional structure of the new state should be formed, coupled with the initiation of a prolonged series of confusing constitutional and legal norms by the Supreme Council of the Armed Forces (SCAF) after the revolution, have indeed intensified the situation and extended their impact to what has suddenly evolved into a very vigorous political market. Alongside the youth, who are in fact the primary force behind the revolution, many other political forces have now emerged holding their own reform agendas at their hands and aiming at monopolizing a seemingly vacant political spectrum while laying down the foundations for a new constitutional and political order. Surprisingly, instead of collaborating with each other and working together towards achieving the objectives of the revolution, mostly each one of these forces has opted to establish itself as the sole and most deserving actor needed to introduce the revolutionary changes. Today, religious forces; whether those with radical or moderate views, seem to have gained a victory over liberal political forces as already seen from the results of the recent parliamentary elections. With the religious forces taking over the parliamentary elections, a significant potential of conflict between liberal and religious forces is now in increase more than ever before. Enforcing the universally representative democratic principles in this case would

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realistically allow religious forces not only to dominate the process of enactment of new legislation, but also to draw out public policies, influence the process of electing new head of the state, and more seriously, influence the drafting and promulgation process of the country’s new constitution. How liberal forces are going to react to this situation, and how far they are going to be successful in countering the influence of the religious forces during the upcoming periods are interesting questions that remain unanswered.

2 WHY EGYPTIANS REVOLTED?

Egyptians have sufffered a lot, unfortunately. Throughout their modern history, Egyptians have always experienced tyrannical systems of government that distanced them from democratic practices; repressed the notion of the rule of law and encouraged the ruling authorities to commit severe human rights violations against their own people. This has been the case, not only all the way through the affiliation of Egypt with the Ottoman Empire that extended for centuries, but also during the rule of Mohammad Ali’s family during the 19th and 20th Centuries (1805–1953) and the six decades that followed the 1952 revolution.

The existing constitutional frameworks subsequent to the 1952 revolution were all autocratic in spirit constructed in a way that supports the military nature of the governance. Though some of the state's constitutions were approved in public referendums, none of them, including the 1971 constitution, provided a real democratic system of government in a way that reflects people's aspirations.

Weakening the three branches of government in favor of the presidential power and consolidating the executive power over the other two branches of the government has always been the case in these constitutions. Even in cases when positive and liberal constitutional provisions existed, they were usually distorted by enabling legislation or emergency decrees.

It has been quite unfortunate but true that for so many decades, and until the 25th of January 2011, almost no one from my generation had any political ambitions in mind. All these years the fear of prevailing political pressures refrained everyone from my generation to even think of voicing an opinion in public life. A career in politics was considered to be an absolute unrealistic dream all this while. Suffocation, disappointment caused due to the political scenario reached such a stage, in the past so many years, that people had almost given up hope of seeing their country as one of those democratic nations where rights and freedom are respected and protected.

In fact, when people realized that the entire political system revolves around the ruler together with his close decision making circle, and that public participation in political life does not usually count, they lost hope, confidence and gradually became disinterested almost in everything, including their participation in running their country.

Prevailing corruption in politics, the economy, and all other aspects of life; a democratic regime in theory with a dominant tyrannical ruling power in practice; a decline in living conditions coupled with grave violations of human rights; a predominant sense of disappointment amongst the populace that their voice is not heard and there is no role for them to play in shaping the future of their country and children; these were just a few of the pressing causes that led Egyptians to go