Viewpoints
No. 51

Egypt's Referendum:
The Constitution is not the Issue

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The Egyptian referendum was not about the content of the constitution, but about the popularity of the military. Thus, it is not the first step toward democracy in Egypt. The United States has nothing to gain by embracing this regime. It should not condemn it, preach to it, or try to change it, because it would not work. But it should not go to the opposite extreme of praising it for leading the country to democracy. Rather, it should keep its neutrality and its distance.

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The January 14 and 15 constitutional referendum in Egypt has produced no surprises. As expected, the constitution was approved by the overwhelming majority, with some 98 percent voting "yes." Turnout, however, was only about 38 percent, ahead of the 32.9 percent turnout in the vote for the Morsi constitution but still disappointing to the government: the referendum had little to do with the content of the constitution but was a test of the military's popularity and acceptance among Egyptians.

From the outset, it was a foregone conclusion that voters would approve the constitution, as they approved in December 2012 the one prepared by a constituent assembly dominated by the Muslim Brotherhood. In fact, Egyptians are not known for ever rejecting anything the authorities ask them to vote for, be it a new constitution or a presidential nominee selected by the parliament and the ruling party.

The approval of the constitution now allows Egypt to move toward presidential and parliamentary elections, in whatever order the government chooses to proceed. The specific provisions of the constitution have little relevance to how the government will function and politics will be conducted in Egypt, except for those that reflect the real distribution of power in the country. Articles that exempt the military from civilian oversight, protect its budget from scrutiny by the parliament, and allow military tribunals to try civilians deemed to have committed crimes affecting not only the military but also its far-flung economic interests will undoubtedly be respected, because they simply reflect the power the military already has. The article that bans parties with a religious platform will also be implemented, because it embodies the military's determination to crush the Muslim Brotherhood and, more broadly, Islamist organizations.

But the large number of articles safeguarding citizens' rights and liberties are dead on arrival. Since the military takeover in July 2013, media have been muzzled and protesters of all ideological stripes are receiving extraordinarily harsh sentences. Even individuals distributing leaflets or trying to put up posters urging a "no" vote in the referendum have been arrested as criminals. And it is extremely unlikely that the courts, which have become highly political and fully support the military-backed regime, will seek to enforce the liberal provisions of the constitution once it is approved. Although formally the constitutional referendum is the first step toward the restoration of a fully democratic process in Egypt, there should be no illusion that Egypt will move in the direction of democracy.

To be sure, elections will take place in 2014, reinforcing the military's narrative that its intervention to depose elected President Mohammed Morsi in July 2013 was not a coup d'état but an intervention to support the will expressed by the people in massive demonstrations. According to that narrative, the constitutional referendum and the forthcoming elections are now giving the people the opportunity to express their will in a formal, fully democratic process. In reality, the elections will not significantly decrease the political role of the military. They will certainly not be the beginning of democracy.

The question the elections will answer is not whether the military will remain a central factor in Egyptian politics, but how open its political role will be. The answer depends on whether General Abdel Fattah al-Sisi—commander-in-chief of the armed forces, head of the Supreme

Council of the Armed Forces, first deputy prime minister, and minister of defense—decides to run for president. So far, he has been cagey about his decision, claiming he is still weighing the option but also stating on several occasions that he will only run in response to popular demand and "a mandate from my army," or even that he "will succumb to the people's demand" if they want him to run for president. Leading politicians and organizations have been urging him to run. Members of the committee that wrote the constitution and its head Amr Moussa, himself a presidential candidate in 2012, have done so. So has the leadership of Tamarrod, the group that organized the June 2013 anti-Morsi demonstration with the help of the security forces, providing a cover for the military takeover. Important figures in the National Salvation Front, the Free Egyptian Party, and the social democratic party have joined the chorus. The low referendum turnout, however, may not offer sufficient incentive for the general to run.

If he does, it is inevitable that he will win. In fact, with al-Sisi as a candidate, the election will look more like a plebiscite. Other likely candidates, including Hamdeen Sabahi and Ahmed Shafiq, both of whom ran with creditable results in 2012, have declared that they will not compete against al-Sisi. Even if the general resigns his army position, his victory would openly restore the military to the central position in Egyptian politics it acquired with the 1952 coup d'état. If al-Sisi decides not to run, he and the military will remain key but less visible players.

No matter what al-Sisi decides, the elections will not represent a step toward democracy. The most important political force in the country, the Muslim Brotherhood, has been banned once again, so elections will at best be a competition among political organizations vetted and approved by the military and its civilian supporters. It is not clear whether Salafi parties will be allowed to run in some guise. Al-Nour, which in 2011 was hugely successful in the parliamentary elections, just behind the Muslim Brotherhood, has tried so far to gain the acceptance of the military to preserve its right to participate in the election. It has even accepted the constitution, although it does not reflect any of its beliefs. But Al-Nour is a party with a religious identity and should be banned under the new constitution. Even if it can spin off a party that passes muster under the new charter, it will not be allowed to get a large number of votes. The 2014 parliamentary elections will thus be a tame affair in which political parties play a minor role, creating a parliament dominated by the same elites that held office under President Hosni Mubarak.

The situation puts the United States in a difficult position. It is anxious to restore normal relations with Egypt, because of its continuing, though decreasing, importance in the region. The military is determined to respect the Camp David accord with Israel and is not only willing but anxious to cooperate with the United States and Israel in combating terrorist organizations, particularly active in the Sinai. From the point of view of U.S. security interests, the present Egyptian regime is a good partner for the United States. From the point of view of the democratic principles and values the United States stands for, it is an embarrassing partner—a de facto military regime that represses the opposition, seeks to control the media, does not accept expressions of dissent, and freely tags opponents as terrorists to justify violations of political and civil rights.

The Obama administration appears inclined to embrace this regime and to use the approval of the constitution and the elections as an excuse to declare that Egypt is returning to democracy in order to restore normal relations with the country. Since the military takeover last July, the administration has avoided being critical of Egypt. It refused to denounce military intervention

as a coup d'état, which would have required it to cut off all assistance, and only suspended some aid temporarily. It also started sending signals that it was anxious to restore normal relations and that it would readily accept any symbolic gesture toward democracy as genuine. During a visit to Cairo in early November, Secretary of State John Kerry praised the government for following its roadmap toward democracy, long before any change had taken place to justify such a statement.

The United States is thus returning to the old policy toward Egypt, the same it followed toward Mubarak: accept the regime in power as long as its foreign policy aligns with the United States' and turn a blind eye to the domestic shortcomings, in the tradeoff of stability for democracy that has characterized U.S. policy in the Middle East.

The policy sacrifices principles and values to security interests, as U.S. policy has done many times. There could even be a justification for it, because the United States cannot change the nature of the regime and even less the regime itself. Preaching democracy to a military establishment that controls all the cards and enjoys a high level of popular approval does indeed appear to be a waste of time. So-called liberal parties are siding with the military. The Muslim Brotherhood is on the run. Constructive engagement in the form of private, mild pressure on the government to be less repressive is not having any impact—there is no evidence that the frequent communications between al-Sisi and Secretary of Defense Chuck Hagel had any impact. Suspending aid is not an effective tool as long as Saudi Arabia and other oil-producing states in the Gulf are pouring billions into Egypt.

The flaw in the return to a policy that accepts a flawed status quo in the name of stability is that stability in Egypt is probably elusive. Discontent in Egypt remains high. Despite massive arrests, there are still millions of Muslim Brothers that do not accept the military. People who took to the streets in January 2011 to demand bread and dignity have seen very little of either. Life remains extremely difficult for the majority of Egyptians. The economic situation is worse than ever, with only the large subsidies from the Gulf keeping the country afloat. The present government is more repressive than Mubarak's because the situation is more unsettled.

The United States has nothing to gain by embracing this regime. It should not condemn it, preach to it, or try to change it, because it would not work. But it should not go to the opposite extreme of praising it for leading the country to democracy. Rather, it should keep its neutrality and its distance.

After the military takeover in July 2013, State Department lawyers decided that they did not have to determine whether a coup had taken place: they would not say it was a coup and would not say it was not a coup; they would simply not say. Such an ambiguous stance would serve the United States well in the coming months, as Egypt winds its way through a series of elections. Washington does not need to say that Egypt is returning to democracy. It does not need to say it is not. It should keep its distance and try to insulate itself from the next Egyptian crisis, whenever it unfolds.

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