

Policy Brief:

Which type of government is best for Egypt?

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Executive Summary

After Egypt's president Hosni Mubarak resigned in February 2011, citizens sought a true democratic regime. However, as of 2012, Freedom House labels Egypt "as an autocracy with contested elections." The purpose of this brief is to recommend a new government system that will insure the emergence and survival of Egypt as a democracy. Because of recent civil liberties violations and tampered elections, Egypt requires many checks and balances within its government. In addition, Egypt also needs an electoral system that insures fair representation and clarity of responsibility. Considering these factors, I recommend that Egypt adopt a unitary president-parliamentary semi-presidential system with a unicameral legislature. The legislature should be elected through a single-member district plurality majoritarian vote. Because the president is not dependent upon a legislative majority, she would be elected through the same system, but on a national scale. Also, the country should have a higher law constitution with a decentralized abstract judicial review. This review can be either a priori or a posteriori. These recommendations will create a long lasting democracy in Egypt.

Statement of the Issue

Egypt is looking for a stable democracy. However, in order to ensure the strength of this new regime, citizens should be able to trust their government fully. While skepticism is necessary in a democracy, the culture cannot be fully entrenched in doubt. The new regime must promote trust and stability because "trust and social interconnectedness are the components of a democratic political culture" (Evans and Letki 2005, 517). Trust is a crucial factor in the survival of a democracy. All regime recommendations must take this into account.

Background

According to the CIA World Factbook, Egypt has a population of around 83.5 million, but its population is not very diverse. The country is 99.6 percent Egyptian and 90 percent are Muslim (Central Intelligence Agency 2012).

On February 11, 2011, President Mubarak “resigned...after 18 days of massive protests against his 30 year reign” (NBC News 2011). Control was then handed over to the Egyptian military. A provisional constitution was passed by referendum March 19, 2011 and was then adopted March 30 (Central Intelligence Agency 2012).

As stated in the CIA World Factbook, on June 14, 2012, Egypt’s Supreme Court dissolved the People’s Assembly, the lower house in Egypt’s bicameral legislature. A lawsuit to dissolve the Advisory Council, the higher house, is still pending (Central Intelligence Agency 2012).

On June 24 of the same year, Mohamed Morsi, a leader of the Muslim Brotherhood, was elected president (New York Times Topics 2012). In November, Morsi created “a presidential edict that gave him unchecked authority...[and] the president’s critics charged [this as] as return to autocracy” (New York Times 2012). Protests broke out in response to this edict. However, Morsi felt justified in establishing these new controls because “[the nation] needed to surrender the last checks on his power in order to save democracy from Mubarak-era judges” (New York Times 2012).

Recommendations

In order to successfully establish and maintain a successful democracy in Egypt, the country should keep its unitary system. A unitary system emphasizes “the neat and presumably more efficient organization of power,” which creates a smaller central government (Elazar 1997, 243). Egypt needs a smaller central government in order to prevent officials from overstepping their bounds and causing corruption, as when Mubarak tampered with election results (BBC News Africa 2012). The less power held by the central government, the better. Also, because the central government has less power, and is therefore less capable of corruption and abuse, the citizens have more reason to trust it. While a federal system more effectively encourages the dispersion of power, Egypt’s homogenous ethnic structure does not structurally support a federalist system (Elazar 1997, 243). A unitary system is the best alternative for Egypt.

In addition, a president-parliamentary semi-presidential system will encourage the longevity of Egypt’s democracy. Only 12.5% of mixed systems involve an interrupted democracy, but this statistic is higher within parliamentary and presidential systems, with 28% and 52%, respectively (Fink-Hafner and Hafner-Fink 2009, 1605). A mixed system also allows for more checks and balances within the government, especially the executive branch. Either the legislature or the president can dissolve the government. This also contributes to the stability of the democracy. The threat of disbandment forces the government to be more responsive to both the president and the legislature. It also insures that the government will help to pass policies that the legislature and the president favor. Because the legislature and the president are both elected, the voice of the people is assured importance. This, in turn, encourages trust in the government. Also, executive power is divided between the prime minister and the president. In France, during periods of cohabitation, the prime minister has “dominated domestic lawmaking,” while the

president has more control over foreign and defense policy (Martinez 2006, 2480). Although cohabitation is less likely to occur in Egypt because of the dominance of the Muslim Brotherhood, this division of power would be beneficial in maintaining a balance of power. Because recent leaders of Egypt have been prone to corruption, concentrating all executive power in one office is not an ideal situation. Distributing these powers also creates trust within the citizens. The dispersion of power allowed within the executive branch in a president-parliamentary semi-presidential system offers a counterweight to the proposed unitary system.

The adoption of a unicameral legislature in Egypt is preferable adopting a bicameral legislature. Given the country's homogenous ethnic and religious make up, the composition of both bicameral houses would be congruent (Central Intelligence Agency 2012). Also, the establishment of an asymmetric bicameralism would not lend to the fair distribution of power. A congruent and symmetric bicameral system creates "a second house to 'rehash' the work of a first, [which] is slow, wasteful, [and] ineffective" (Mather 1946, 237). Also, a unicameral system promotes clarity of responsibility and gives "direct responsibility to the voters" to reward or punish the elected legislature (Mather 1946, 238). Clarity of responsibility is especially important in establishing trust between constituents and elected officials.

In order to elect the unicameral legislature and the president, votes should be cast through a single-member district plurality majoritarian electoral system. This electoral system is simple and easy to understand, which allows smoother implementation. Also, a SMDP majoritarian electoral system creates more clarity of responsibility. When there is a higher level of clarity of responsibility, there is less corruption within the system (Tavits 2007, 227). Less corruption also increases trust in government. While a proportional system insures "less deformation of electoral results," proportionality not necessary if low levels of corruption are established within the

electoral system (Fink-Hafner and Hafner-Fink 2009, 1606). Essentially, the recommended electoral system will reduce corruption already present within Egypt's electoral system. Also, with the lower levels of corruption, the citizens have more reason to trust their representatives, and by extension, the state.

To protect the civil liberties of Egypt's citizens, a higher law constitution should be implemented. Also, the inclusion of a bill of rights can produce social change. According to Donnelly, "gradual social change is influenced by law," and can lead to the creation of civil rights (Donnelly 2006, 41). The creation and protection of civil rights would help to create more trust between the government and its citizens. A higher law constitution is a better alternative to a legislative supremacy constitution because a legislative supremacy constitution does not require the government to protect the rights of its citizens. Additionally, while the entrenchment of the constitution creates an obstacle to amending it, entrenchment also provides stability and promotes longevity of the constitution. Furthermore, entrenchment prevents drastic change to the constitution. If a constitution is unentrenched, it becomes much easier to add more dictatorial tendencies to the executive branch. Because entrenchment requires a separate – and sometimes more rigorous – process, it also insures that the will of the people is represented. If the will of the people is represented properly and fully, more trust in the state can be developed.

Another element of the higher law constitution is judicial review. Egypt should establish decentralized abstract judicial review, which can be either a priori or a posteriori. This suggestion allows easy refutation of future and current laws within all courts around the country. Decentralized judicial review promotes stability of the democracy. If citizens can calmly present their grievances to local courts, there is no need to riot for a change in government. When courts enforce the constitution, the "confidence of citizens in the courts and their willingness to bring

their disputes to court should increase” (Donnelly 2006, 44). Mass protests are no longer needed to refute problematic laws or treaties. Instead, there is a peaceful and orderly process to effect change. The availability of the courts also supports the prosperity and longevity of Egypt as a democratic country. An important internal factor that supports a democracy is the existence of “a free and lively civil society...that participates in public policy” (Fink-Hafner and Hafner-Fink 2009, 1605). Decentralized judicial review promotes participation in public policy through easy access to the courts. In a centralized judicial review system, there is only one court that hears grievances against laws. This severely limits the people’s ability to bring their complaints to the court and inhibits the creation of a free civil society. Overall, a higher law constitution preserves and protects the rights of the people while establishing trust in the state, both through existing laws and through the ability to refute laws in the courts.

While all of these institutions are the best choices for Egypt individually, they also combine to form an effective and stable democracy. The president-parliamentary semi-presidential system compensates for the unitary system’s lack of power dispersion. The unicameral legislature and the single-member district plurality majoritarian electoral system compliment each other by working to create clarity of responsibility. A higher law constitution and decentralized judicial review both insure the protection of civil liberties and the longevity of Egypt as a democratic country. While these balances and counterbalances are beneficial, the checks and balances of power between the different branches of government also help to create a stable and long-lasting and trusted democracy in Egypt.

Most recently, Egypt’s president, Mohamed Morsi, created an edict that gave him unchecked power in order to combat Mubarak-era judges (New York Times 2012). This caused an uprising within the Egyptian population. Because of this situation, emergency powers should

also be subject to checks and balances. In France's semi-presidential system, emergency powers "are limited insofar as they 'must stem from the desire to provide the constitutional public authorities, in the shortest possible time, with the means to carry out their duties'" (Martinez 2006, 2497). Still, other branches of government maintain their powers. Parliament still convenes and cannot "be dissolved during the exercise of the emergency powers" (Martinez 2006, 2497). Also, "[t]he Constitutional Council shall be consulted with regard to such measures" (Martinez 2006, 2497). With the adoption of all of the recommended institutions, these checks and balances will also exist within Egypt's branches of government. If these types of checks had already been in place, the Egyptian Supreme Court would not have been able to dissolve the People's Assembly (Central Intelligence Agency 2012). In addition, because of the Mubarak-era judges, Morsi might not have been able to fully enact his edict. Because of the decentralized judicial review suggested in this brief and the dispersion of power created by the president-parliamentary semi-presidential system, there would be more chances of refuting Morsi's edict. These checks and balances assure the citizens that even in desperate times, their state can still be trusted.

Considering the types of institutions recommended, Egypt would have many checks and balances within its branches of government that establish trust in its citizens. Decentralized judicial review would allow anyone to refute possible unconstitutional laws passed by the legislature. A higher law constitution insures that the citizens' rights are protected. Judicial review can also be used to refute laws that could infringe upon these rights. The unitary system keeps the central government small and efficient, while the president-parliamentary semi-presidential system disperses power throughout the executive branch. The executive branch is held back by its smaller power, but is also held accountable to the citizens and the legislature. The prime minister depends upon a legislative majority to stay in power, as well as presidential

support. The SMDP majoritarian electoral system establishes clarity of responsibility and ensures that the citizens hold the legislature and the president accountable. All of these institutions combined form a stable democracy with a high longevity, fulfilling Egypt's needs during its transition from authoritarian rule.

Conclusion

In order for Egypt to become a democracy, the people must trust the new government system. Every institutional choice reflects this idea. The citizens will always play an integral role in the strength of their state government. Although some level of skepticism is necessary in maintaining a democracy, citizens must always trust the government's institutions, even if the current leaders of these institutions are betraying the institutions' true purpose. Even if corruption is found within the country's rulers, the state government system in its entirety must always be trusted implicitly. The rules and laws are the high standard that government officials must always uphold in order to maintain the citizens' trust. This trust must be the first objective of any ruler and must always be maintained. Without the citizens' full support, a new democracy does not have a chance at survival.

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