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# After the Constitution, a New Battle in Egypt

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**ABSTRACT** *The approval of the new, controversial Egyptian constitution does not end the transition process that started with the overthrow of President Hosni Mubarak in February 2011. Rather, it moves the struggle for power between the country's new Islamist elite and the secularists that have ruled Egypt for decades into a new phase. New parliamentary elections will take place in the next two months. If secular parties obtain creditable results, even short of winning the majority, there is still hope that the transition will eventually lead to a democratic outcome. If secular parties suffer a resounding defeat, as they did in early 2012, the battle will probably move to the streets, with unpredictable results.*

**T**he approval of the new Egyptian constitution by a 64 percent majority in a referendum in which only a third of eligible voters bothered to participate foreshadows a protracted battle between the Islamists in power and the secularist opposition in the months to come. Far from putting an end to the transition period that started with the deposition of President Hosni Mubarak in February 2011, the approval of the constitution initiates a new battle that will determine whether Egypt can settle down into a normal political process approaching democracy, with a government whose actions are kept in check by a strong opposition and both sides abiding by the constitution

and the law. The alternative is a perpetuation of the chaos of the last few months, with large demonstrations and occasional violent street battles between two sides that deny each other's legitimacy, disregard the law, and take arbitrary steps in the name of their own concept of revolutionary necessity. The street confrontation, if it takes place, will not be a replay of the uprising that brought down former President Hosni Mubarak. It will not be a battle between idealistic demonstrators seeking democracy and dignity against an ossified authoritarian regime that has overstayed its welcome. There is no longer any unity of purpose among Egyptians, as there appeared to be in the first weeks

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of the Egyptian uprising. What is being fought now is a battle for power between Islamist and secular forces.

The newly approved constitution will not determine the outcome of the battle. From a democratic point of view, the constitution has flaws, but not as many—and above all not those—the secularist opposition denounces. It contains no articles that

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limit the rights of women, no articles that limit the freedom to form parties and civil society organizations, or to publish newspapers. There is nothing alarming about the articles on state institutions: on balance, the system the constitution creates is more of a presidential one than a hybrid in which executive power is shared by an elected president and a prime minister confirmed by the parliament. But the powers of the president are clearly defined and far from dictatorial—above all, he cannot tamper with the parliament and other institutions. To be sure, the political system could have been designed in a different way, but what the constitution outlines falls well within the parameters of democracy. And it is worth remembering that the opposition forces that now argue

the constitution creates a dictatorship were arguing a few months ago that Egypt could only be governed under a strong presidency.

There are some alarming articles in the constitution, but they are not discussed much by the opposition: labor rights are restricted, and while the constitution proclaims “freedom of belief” an inviolable right, it limits freedom to practice religious rites and establish places of worship to the “divine religions,” namely Islam, Christianity and Judaism; another article makes it clear that Islam means Sunni doctrines—it is the rights of Shi’ites and Baha’is to worship, to mention just the most significant minorities affected, that will be curtailed, but not those of Christians, and yet opposition parties focus on Christians. These and some other articles should have been the focus of intense efforts to amend them before the constitution was submitted to the referendum. But the blanket accusations that the constitution curbs civil and political rights and discriminates against women, or that it turns Egypt into a theocracy, simply do not stand up to a reading of the document.

The crux of the problem from the point of view of the secular opposition is an article that nobody could discuss openly. After proclaiming adherence to democratic principles in resounding words, Article 6 states that “No political party shall be formed that discriminates on the basis of gender, origin or religion,” certainly not an objectionable statement. But the equivalent article in the

abrogated 1971 constitution (Article 5) was far more restrictive and to the liking of secular forces: it declared that “it is prohibited... to exercise any political activity or to found any political party based on religious considerations or on discrimination on grounds of gender and race.” Under the 1971 constitution, the Muslim Brotherhood was an illegal organization, and the Freedom and Justice Party would have been denied registration. Even the abrogation of the 1971 constitution has not prevented attempts by secular forces to get the courts to disband the Freedom and Justice Party as an unconstitutional organization.

The approval of the new constitution makes those law suits moot and greatly reduces the hope of the secular opposition to continue using the courts to block the rise of Islamists as they have repeatedly done. The Supreme Constitutional Court ruled in June that the parliament had been elected on the basis of an unconstitutional law and dissolved the body, a move many observers denounced as a judicial coup. Another court had already disbanded the parliament-elected constituent assembly on tenuous legal grounds. A second constituent assembly formed in June after much political haggling among political forces was never accepted by the secularists and was on the verge of also being disbanded by the courts. It was President Morsi’s attempt to protect the constituent assembly from dissolution by putting it, and himself, above the courts that triggered the street clashes that preceded

the constitutional referendum. The overreach by the courts was matched by the overreach by the president.

With the constitution approved, the secular opposition can no longer count on the courts to reverse Islamist victories. Nor can it count on the support of the military, which since August has withdrawn from the political fray and appears determined to continue on that path, particularly since the new constitution does give it broad protection against civilian oversight. The secular opposition can only count on the political support it can garner in the forthcoming parliamentary elections and, if that fails, in the streets.

The opposition’s electoral performance has not been encouraging so far, but the situation now looks less hopeless than a few months ago. In the parliamentary elections that took place over a period of many weeks in late 2011 and early 2012, secular parties suffered a resounding defeat at the hands of the Freedom and Justice party and, most unexpectedly, of the Salafi parties, which together received about 70 percent of the vote. But the situation has been slowly improving since then. In the presidential elections, Islamist parties narrowly secured the presidency, although in the final round Mohammed Morsi ran against Ahmed Shafiq, a remnant of the old regime. And while the constitutional referendum gave the Islamists the victory they sought, the fact that two thirds of the electorate failed to participate makes the victory unconvincing.



A member of republican guard stands in front of wall of presidential palace that was drowen by protesters shows the new president Mohamed Mursi (L) and the Previous president Hosni Mubarak (R) in Cairo.

REUTERS/Mohamed Abd El Ghany



The performance of the secular parties in the forthcoming elections, which must take place within two months according to the constitution, will determine the political trajectory of Egypt for the foreseeable future. Should secular forces suffer an overwhelming defeat as they did a year ago, the country will have an Islamist president and an Islamist-dominated parliament, and Egypt will inevitably slide toward a new authoritarianism, no matter what the constitution states. It is thus crucial to the future of Egypt that the secular opposition make a convincing showing in the elections, even if they do not win.

Unfortunately, many obstacles hinder the opposition. It has been extremely fragmented, with efforts to form broader alliances failing repeatedly

because leaders of the different factions have appeared more interested in competing against each other than in being effective against the Islamists. In the final fight over the constitution, opposition forces finally succeeded in uniting in a National Salvation Front, but it remains to be seen whether the front will survive or whether the parties will start competing against each other in the elections, as they did in 2012. Even if unity prevails, the opposition is still handicapped by lack of organization on the ground. Since the overthrow of Mubarak, secular parties have complained bitterly that Islamists have an unfair advantage because of their superior organization, but have made little effort to create their own structures in order to compete successfully in elections. Secular political parties appear to

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operate mostly in Cairo and perhaps other large cities, surrendering the rest of the country to the Islamists. Another handicap is that secular parties have so far not been able to develop a clear message with popular appeal. Indeed, my recent conversations with secular leaders suggest that they are quite complacent, believing that Egyptians will become disillusioned with Islamist parties and automatically turn to secular parties. However, the referendum results suggest that the voters that do not support the Islamists may not accept the secular opposition either, and may simply abstain from voting. Finally, opposition parties, despite the official bravado of their leaders, appear to have little confidence in their capacity to compete and have devoted more efforts in getting to courts to annul election results than in preparing for the new polls that will take place shortly.

The Islamist parties have their own problems, however. The Morsi government has accomplished little since coming to power, devoting much more time to the politics of constitution-making than to de-

signing policies to start addressing the country's enormous social and economic problems. It is true that it has had no choice but to focus on politics, given the opposition's constant attack against the constituent assembly and its attempt to stop the writing of the new constitution, but the fact remains that most Egyptians have seen no concrete changes in the problems that affect their day-to-day lives. Morsi's edict that put his actions beyond the reach of the courts, furthermore, has led many Egyptians to worry about creeping authoritarianism. Finally, the Islamists are beginning to show signs of considerable internal dissension, not only between Muslim Brothers and the more radical Salafis, but also in the ranks of the Muslim Brotherhood and in Morsi's own entourage.

The election battle between Islamist and secular forces thus is beginning to look less lopsided than it was even two months ago. Secular parties are unlikely to win the elections, but they might get enough seats to have a real influence in the parliament and force President Morsi and the Freedom and Justice Party to respect the constitution. If that is the case, there is still hope that Egypt will evolve in a democratic direction. But secular parties will not do well in the elections if they do not maintain their unity, stop undermining each other, and take more seriously than they have so far the task of creating party structures. Unless that happens, Egypt may well slide into a new authoritarianism, punctuated by street protest and violence. ■



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