

American Diplomacy
September 18, 2013
www.americandiplomacy.org

Title: Egypt's democracy benchmark in the 21th century: re-launching Direct Democracy
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Text:

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The miracle of direct democracy achieved by the Egyptian people on 30th June 30, 2013 in the greatest revolution of their history, has been confirmed by other mass gatherings on the July 3 and 26, 2013. However some governments and political scholars still denying this fact, calling it “a military coup”. Countering this argument can be accomplished by defining the term ‘democracy’, and clarifying some of the apparent paradoxes of constitution and legitimacy. According to a father of the French revolution, Jean Jacques Rousseau, the goal of any democracy is to fulfill the will of the people is. In this sense, therefore, Egypt is reviving “City State” Democracy.

Egypt demonstrates that Direct Democracy is possible more reliable

Egypt is evolving every day towards a genuinely free and democratic country. A broad popular and democratic movement has been mobilized and demonstrating in all constituencies formed from all sectors. The social and political currents of June 30 have been confirmed by gatherings on July 3rd and 26th 2013 to herald the relaunching of Direct Democracy in human history.

Democracy, H.L. Mencken said, is ‘the theory that the common people know what they want and deserve to get it good and hard’. This is exactly what the Egyptian people did when they decided to remove President Morsi, whom they had chosen by ballot last year (June 2012), but who had failed tremendously to fulfill or respond to their aspirations and demands. Egyptians have taken their will to the streets and declared “Enough of Morsi”, using their direct voice in mass demonstrations. Bypassing classical political thinking, Egyptians, didn’t wait for another 3 years to vote, but reacted just as the ancient Greeks in their first democratic “City State”.

There is no Democracy on the cheap

All active participants, inside and outside Egypt, had been watching the dangerous developments unfolding on in Egypt, but most hesitated to act inasmuch as the Muslim Brotherhood and President Morsi came to power in a “democratic way”. Those actors had forgotten that democracy is more than ballots. Democratic Government by ballot amounts to “democracy on the cheap”. It can succeed within a well-consolidated democracy during a normal period but not in a new democracy faced with a tyrannical attitude from those in power. In addition the Egyptian economy suffered greatly from the mismanagement of the administration of the state (appointing candidates who were unfit or of insufficient caliber on the basis of political affiliations in a patron-client relationship) and using the Egyptian State as a rent-seeking opportunity for those in power.

The firm grip on power of most State institutions left the Egyptian Army as the only means to exercise Egyptians’ desire to remove Morsi and the Muslim Brotherhood from power. The enormous support for this action was shown by possibly the largest manifestation of popular support in history (according to estimates, the events of the June 30th and July 3rd and 26th, saw 33 to 40 million demonstrators united in one political objective).

Not a Military coup; maybe a democratic or popular coup

First of all, it is important to remember that the call for removing Morsi was started by a civil movement called the “Tamarod” rebellion which started to collect signatures early this year from supporters in favor of ending Morsi’s rule. Aiming to collect 15 million supporters in 3 months, the Tamarod movement more than succeeded in achieving its target, collecting more than 22 million signatures before the anniversary of Morsi’s inauguration. The Egyptian people responded to the Tamarod movements appeal for mass demonstrations to demand that President Morsi abdicate power and to call for an early presidential election. They gathered in the streets to support Tamarod’s demands.

The wide diversity of those demonstrators from all political and social backgrounds should eliminate any illusion that a military coupe d’état happened in Egypt. It could well be termed a “popular coup” or, as other describe it, a “democratic coup”. In Egypt the army is the melting pot of Egyptian nationalism. It represents the people, and it is their hand. The Army showed it has no political aspirations from the moment it removed Morsi, by not taking power; I immediately instantly undertook procedures to transfer power to a civilian government, by means of a broader consultation process that Egypt had not seen within the last two years under a so-called “democratic government”.

The situation in Egypt, before June 30 was unique, not only because of the transitional period that Egypt is passing through but also because the total monopoly that President Morsi was trying to achieve for the Muslim brothers in Egypt. Therefore, there was fierce fighting over power in Egypt but no complete institutions. There was only an executive branch with no legislative power to balance or check it (i.e. the two chambers of the parliament have been dissolved and de-constitutionalized by Judicial decree). Additionally, there has been continuous contesting and contempt from the executive power towards judicial power. This state of super-dominant executive power forced the Army to step in and oust President Morsi, to achieve the will of the People in response to the massive protests that swept the nation with no response from the “official” powers. It is NOT A military COUP. The Army tried for a long time, during all the crises under Morsi’s rule, to hold itself out of the fray. However .as all analysts conclude, especially after Morsi’s last two and half hour speech to the Egyptian people in which he threatened

all his opponents with a bloodbath, developments were rapid and the arrogance and stubbornness of Morsi's regime was unsupportable. At that moment, the military sided with the people against Morsi and his fellow Muslim Brotherhood members. The Army sided with democracy over constitutional legitimacy. The military did not come with a mandate to suppress demonstrators, but to respond to and achieve the will of the majority (30 million) of demonstrators.

Achieving the will of the people is achieving Direct Democracy

Jean-Jacques Rousseau, who inspired the French revolution in the 18th century, was opposed to the idea that the people should exercise sovereignty via a representative assembly because this arrangement limits and restrains the citizens' "free will". Therefore he called for the notion of "General Will", coming from the people rather than their deputies. The kind of republican government of which Rousseau approved was that of the City State. Rousseau argued that "sovereignty" is the rule of law, ideally decided on by direct democracy via an assembly. France could not meet Rousseau's criteria for an ideal state because it was too large; clearly Egypt will not either. However, Egyptians have defied Rousseau's argument and proven him wrong. They were ready, despite the economic burden and high rate of illiteracy within their population, to seek the freedom and a democratic state. They gathered, in assembly, to make their "will" clear. Therefore there is reasonable question about the legitimacy of Morsi, who had been "elected" by the people (about 13 million voted for him in June 2012 out of 50 million who had the right to vote) when more than three times the number of those "people" (around 40 million Egyptians) have withdrawn their trust from him by raising their direct voices and demonstrating in street without any intermediary medium (polls or elections) which is open to question and doubt.

Deviation of Democracy under Morsi's rule

There are many reasons for the uprising of June 30: the Morsi administration's dismissive attitude toward its critics; its inability to mobilize the machinery of state to address basic concerns of an impatient citizenry for change; the opposition's reliance on

extra-institutional means to reverse unfavorable electoral outcomes; state institutions' disruptive foray into partisan politics; and a collective resort to street action to resolve differences. Social and ideological divisions were more pronounced, violence more normalized, a seemingly revanchist security apparatus more emboldened and a winner-takes-all approach more alluring than ever. What is more, all of this in context of a deteriorating fiscal, social and economic environment. As US House Foreign Relations Committee Chairman Royce and Ranking Member Engel note: "What the Brotherhood neglected to understand is that democracy means more than simply holding elections. Real democracy requires inclusiveness, compromise, respect for human and minority rights, and a commitment to the rule of law. Morsi and his inner circle did not embrace any of these principles and instead chose to consolidate power and rule by fiat"¹

What complicates the situation is that the Muslim Brothers realized that they were losing the support of the Egyptian people because of their hunger for power and their authoritarian regime. Morsi and his allies had been taking advantage of a favorable balance of power and rushing to create a new political order that essentially marginalized the losers. Thus they put the country's stability at risk and the hope of a return to normality out of reach. Democracy for them was a tool to achieve power, not a political choice or a way of life. The fate of the Muslim Brotherhood has come to occupy the center of the equation. Reeling from its dramatic loss of power and persecuted in ways unseen since the 1960s, it is reviving its traditional narratives of victimhood and injustice. Therefore the Muslim Brothers are depicting the struggle as a battle between defenders and opponents of both democracy and Islam. They are banking on a war of attrition to expose their opponents over time as a more repressive version of Mubarak's old regime; to exacerbate divisions among their opponents' backers; and to discredit them in the eyes of domestic and international public opinion through claiming that Morsi's regime came through democratic ballots and there is no way to remove him except by bullets (unlawful force).

Vaccinated against Dictatorships, Egypt Return to the Democratic path:

Egypt's recent history shows that it took 30 years to get rid of Mubarak, but only 1 year to rebel against Morsi. That said Egypt will no longer put up with another authoritarian regime. Ordinary Egyptians have reached a high level of political awareness, that even their elites have not yet reached. It is as if Egyptians have become vaccinated against any kind of dictatorship. Thus, the June 30th revolution was a popular outcry against Morsi and the Muslim Brotherhood. It was a popular uprising requiring action to remove Morsi by the army. In so doing, the armed forces are unquestionably relying on deep popular backing among the Brotherhoods opponents. Their support base consists of an eclectic and awkward alliance of simple ordinary citizen, liberals, leftists, businessmen, Mubarak-era conservatives and members of the establishment.

The Egyptian people are working now on achieving national reconciliation, forming a civil government and looking forward to progress towards democratic elections, launched by a roadmap that has been announced by consensus and endorsed by the religious, social and political icons in Egypt (including the Great Imam of AlAzhar, the Salafist "the right wing of Political Islam" and the Coptic Pope). The interim civilian President, according to constitutional procedure, has been nominated from the most respected institution in Egypt, which is the Supreme Court. To have the presidency in the hand of judges is in itself a guarantee of free and fair elections.

There is no exclusion in the new coalition. The Egyptian Army is there to ensure security and defend democracy in Egypt. They, together with the Egyptian Police, are responsible for ensuring stability, safeguarding the civilian population and preventing violence. Unfortunately, the Muslim brothers and their followers have started to use violence against their opponents or non-supporters. The obligation to prevent bloodshed and protect civilians applies to all state institutions which control violence. This is what is new in this wave of Egyptian revolution; the military and police forces are on the side of the people, NOT of the regime. Thus there is a clear illegality among Morsi's supporters as they attack innocent individuals, army and police, police stations, churches, public building, museums' and libraries and victimizing even women and children. The state of

Egypt and its institutions are sacred in spite of a heavy wave of attacks from the Muslim Brothers who disregard the national interest. In this atmosphere there is no one except the security forces to stand against this circle of violence.

The basics of the Egyptian revolution since 2011 are the same: Demanding dignity, freedom and social justice through peaceful demonstration. No call to violence is acceptable. "New Egypt" seeks to lay the foundations of a new life for all. There is a difference here between "January 25, 2011" and "June 30th and July 3rd and 26th , 2013, which is that in the latter there is no fear of the State institutions (even the institution of the presidency, no matter who is the President). It can be said now with certainty that while Egypt practiced "webocracy" through social media (especially Facebook) behind all forces in 2011, it then practiced "direct democracy" in 2013, safeguarded by its Army and Police.

Political legitimacy and the paradox of democracy

According to the most recent conference at the University of Leiden in the Netherlands, legitimacy is considered to be essential for peaceful and effective governance in a democracy – it is the lubricant that makes democracy work. Legitimacy is often defined as the popular compliance with and acceptance of political authority and as a systemic outcome of variations in the democratic performance of political parties in parliament and government. Central to democratic performance is the degree of 'responsiveness' of parties towards electors, and of 'responsible' (accountable) performance of parties in parliament towards government. The central issue is therefore to what extent parties, in or out government, enhance democratic performance to maintain legitimacy (popular consent) by representing the 'demos' (electorate) in a responsive manner and by directing governmental actions in a responsible (accountable) manner. Over the past century the rational-legal type of legitimacy seems to have become central to modern (liberal) democracies. Indeed, one could argue that the most crucial element of modern liberal states is that they are bound by the rule of law. This is what we

call the paradox of regulation: on the one hand rules and regulations are constitutive of political legitimacy; on the other hand they limit the freedom to act, which seems to impede the capacity of political regimes to foster political legitimacy.²

Popular legitimacy, the idea that power should be justified in the eyes of the people, is an important topic. The role of regulation in achieving legitimate rule has been and will remain an important research question in many academic disciplines. While the evidence for a decline of legitimacy is mixed at best – many measures of trust in public institutions, quality of political representation and support for democracy do not show a large decline – there is a growing feeling of discontent with the current political system in many liberal democracies.

All democracies have had some kind of crisis of legitimacy, even in the West where there is a long tradition of democracy. ‘Crisis of legitimacy’ is a term that is being heard more and more. In Western platforms, citizens are asking who is making the rules and who is governing their country. Although law and the legitimacy of institutions continue to form the cornerstones of regulation and conflict conciliation, the distinction between the public and private sectors has become diffuse. The economy, civil society, politics, public administration and law are becoming increasingly enmeshed. A banking crisis has consequences for how nation states perform, and vice versa. Political decision-making has been transferred increasingly beyond the direct control of presidents and parliaments: globalization, Europeanization and the growth of non-majoritarian institutions impact the way in which national authorities can decide on policies. European integration and globalisation mean that the borders between the national and international dimensions are becoming increasingly blurred. In many ways their hands are tied by the European Union, central banks and legal authorities. The margins of decision-making are getting smaller, and decision-making increasingly involves regulation. In particular, politicians create institutions and rules that limit their freedom to act later on.

While liberal democracies tend to create legitimacy via rules, authoritarian and semi-authoritarian systems such as modern-day Eastern countries including Russia and

China have historically attempted to create legitimacy via their policies and actions. In Eastern platforms where democracy has not been yet rooted and practiced for a long time, the crises of legitimacy are not about “who”, they are about “why”. Citizens are asking why the authorities are making the rules and why they are governing this country.

The paradox of politics is not central to deliberative democratic theory. The problem of how to identify or generate the general will is framed, instead, as the paradox of democratic legitimation, which is described by Seyla Benhabib: ‘Rousseau’s distinction between the ‘will of all’ and ‘the general will’, between what specific individuals under concrete circumstances believe to be in their best interest and what they would believe to be in their collective interest if they were properly enlightened, expresses the paradox of democratic legitimacy. Democratic rule, which views the will of the people as sovereign, is based upon the regulative fiction that the exercise of such sovereignty is legitimate, i.e., can be normatively justified, only insofar as such exercise of power also expresses a ‘general will’, that is, a collective good that is said to be equally in the interests of all. Democracy’s regulative fiction affirms the sovereignty of the people but also limits or shapes its actual manifestations by requiring that it aim toward a collective good. The regulative fiction motivates the quest for a ‘moral standpoint’ to guide or assess the popular will. Benhabib begins with Rousseau because she credits him with the clear articulation of the paradox of democratic legitimation.’³

The paradox of constitutional democracy; what if there is a questionable constitution?

For some, the paradox of constitutional democracy seems a variant of the paradox of democratic legitimation. However, this new paradox does raise many of the issues at play. Instead of ‘will of all’ versus ‘general will’, we have popular sovereignty versus constitutionalism. Recasting the conflict in this light divides the ruled (the people) from the ruler (law, the founders, or the constitution), and restages the paradox of politics in terms of generational tension. This problem was articulated most memorably by Thomas Jefferson when he asked: ‘Should the dead have rights?’

Thus, the paradox of constitutional democracy externalizes the conflict that the paradox of democratic legitimation, notwithstanding its flaws, subtly places at democracy's heart. The unwilled, constraining element of rule is now identified not with democracy per se, but with the constitution - which may be right or necessary. The paradox is now not inherent in democracy (which seeks impossibly to combine will of all and general will, rule and freedom); rather, it is a feature of one kind of democracy, *constitutional* democracy, which impossibly but necessarily combines written constraint with free popular sovereignty and then derives its legitimation from that impossible, tense combination. Noah Webster shared the concern and memorably characterized this temporal imposition in the clearest terms: 'The very attempt', he warned, 'to make perpetual constitutions, is the assumption of the right to control the opinions of future generations: and to legislate for those over whom we have as little authority as we have over a nation in Asia.'⁴

Still, Habermas braids together the two sources of liberal democratic legitimation (rule of law and popular sovereignty), casting them as mutually reinforcing rather than antagonistic and insisting that each is dependent on the other for eventual full realization: 'The allegedly paradoxical relation between democracy and the rule of law resolves itself in the dimension of historical time, provided one conceives of the constitution as a project that makes a founding act into an ongoing process of constitution-making that continues across generations.'⁵

The Egyptian constitution was endorsed in 15th December 2012 by a referendum which attracted 32% of the electoral voters, of which only 10.6 million voted approval. This unpopular constitution, suspended by the removal of Morsi, was considered by large body of opinion to be a questionable constitution that had been created, executed and approved by illegal and unconstitutional bodies. In this context, Frank Michelman makes a powerful observation: 'A truly democratic process is itself inescapably a legally conditioned and constituted process... Thus, in order to confer legitimacy on a set of laws

issuing from an actual set of discursive institutions and practice...those institutions and practices would themselves have to be legally constituted in the right way.’⁶

It is common for legitimacy to derive from the popular acceptance of an authority, usually a governing law; therefore, and in all cases, the logic of legitimacy cannot be abandoned in favor of regulative ideal conceptions of government. Therefore the objections to identifying the paradoxes inherent in the very idea of constitutional democracy must disappear. Moreover, as shown in Egypt’s case, there is no legitimacy at all for a questionable constitution.

Democracy is always on trial when it is practiced as in the case of Egypt: some say that Egypt has been marching in circles during the nearly two-and-a-half years since Hosni Mubarak’s overthrow. To the contrary, Egypt has embarked on a transition which nothing will hold back.

Footnotes:

1. <http://foreignaffairs.house.gov/press-release/chairman-royce-and-ranking-member-engel-release-joint-statement-ongoing-events->

2. See conference on 'Political Legitimacy and the Paradox of Regulation' 23-25 January 2013 in Leiden; <http://www.research.leiden.edu/research-profiles/political-legitimacy/news/20120206-call-workshop-proposals.html>

3. (Seyla Benhabib, ‘Deliberative Rationality and Models of Democratic Legitimacy’, *Constellations* 1 (April) 1994, p. 26-52, at p.p. 28-29).

4. (Quoted in Bonnie Honig, “Between Decision and Deliberation: Political Paradox in Democratic Theory, *American Political Science Review* Vol.101, No. 1. February 2007, p. 1-17. http://www.bjutijdschriften.nl/tijdschrift/rechtsfilosofieentheorie/2008/2/RenR_2008_038_002_002.pdf)

5. (Jurgen Habermas ‘Constitutional Democracy: A Paradoxical Union of Contradictory Principles?’, (Trans.) William Rehg. *Political Theory* (29) 2001, p. 766-781.)

6. (Frank I. Michelman, ‘Constitutional Authorship’, in: L. Alexander (ed.), *Constitutionalism: Philosophical Foundations*, Cambridge: Cambridge University Press 1998)

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