Egypt after Morsi: In Search for Political Legitimacy

https://www.e-ir.info/2013/08/14/egypt-after-morsi-in-search-for-political-legitimacy/

MARCO PINFARI, AUG 14 2013

Morsi's first (and only) year as a president was unsatisfactory on a number of levels. He refrained from taking any substantial decision in economic policy; his management of some international crises such as the one caused by Ethiopia's "Renaissance" dam was at best shambolic; and he lost many opportunities to involve government actors that, although defeated at the ballot box, played important roles in the 25th January revolution. Yet, bad government cannot justify the adoption of extra-legal measures for removing an elected official. Morsi's ousting will not result in Egypt plunging into a phase of civil war, as some have suggested, but casts serious doubts on the democratic credentials of his critics and now requires them to tread a thin line to set the transition back on track and avoid the sirens of authoritarianism.

The Procedures and Content of Egypt's Young Democracy

Morsi's removal from power spurred a number of debates among political analysts, academics and activists. One of the first issues to be discussed was whether or not Morsi's ousting amounted to a "coup d'etat". This debate is unlikely to settle soon, not least because of its substantive legal implications, but, as Ozan Varol argued, "under most definitions" what happened in Egypt was indeed a coup.

Yet, as a political scientist, I find it somehow more interesting to engage with another, closely related debate focusing on whether Morsi's removal represents a step forward or a step back in the context of Egypt's transition.

Those who argue for the former put forward two main sets of arguments. First, they highlight the un-democratic nature of Morsi's rule. Secondly, they claim that, either through the *Tamarrod* petition or by attending *en masse* popular demonstrations, the Egyptian people effectively withdrew the confidence that they had given to Morsi by electing him as president.

The suggestion that Morsi's rule was somehow un-democratic rests, in turn, on two main claims. Some commentators contested the validity of the rounds of elections in 2011 and 2012, for instance arguing that "religious manipulation and capitalizing on poverty were the main tools the Muslim Brotherhood used in all elections". Others pointed at the fact that the "legitimacy of the ballot box" is in itself not sufficient for a regime to call itself democratic if the elected authorities behave undemocratically, sometimes evoking parallels with the history of the Nazi regime in Germany.

The first argument is not particularly convincing. The 2012 presidential elections have been described by international think tanks like Freedom House (that has not spared criticism on Morsi's rule in other regards) as "imperfect" but also as "generally consistent with international standards", and behavior based on "capitalizing on poverty" – as unfortunate as it is – could be attributed to a variety of political actors and not just to the Muslim Brotherhood. Especially in a country that had just entered a phase of political transition, there can be little doubt that Morsi's election was *procedurally* legitimate. Also, at net of the eventual dismissal of the lower house of parliament by court order **[1]** and of any consideration on the "substantive" content of Egypt's democracy (that I am discussing below), Egypt could have been described as an "electoral democracy", or as a regime that "manages to hold (more or less) inclusive, clean and competitive elections but fails to uphold the political and civil freedoms essential for liberal democracy."**[2]** In the context of a democratic transition, electoral democracies are normally seen as a step

towards the attainment of full "consolidated" democracies, in which democracy is "the only game in town"**[3]** and whose trademark is the preparedness of the leadership democratically elected in the first free and fair elections to relinquish power peacefully to another elected leadership. This also implies that it is untimely to establish that a regime is "undemocratic" from a procedural perspective before at least the (natural) end of the first term in office of the first elected president or of the first legislature.

The second argument is more difficult to assess. Surely procedural legitimacy alone is not sufficient for a regime to be considered as a consolidated or substantive democracy, and to believe otherwise implies falling into what Schmitter and Karl referred to as "electoralism" – or "the faith that merely holding elections will channel political action into peaceful contests among elites and accord public legitimacy to the winners."**[4]** Yet Morsi's contribution to building a consolidated democracy in Egypt cannot be dismissed outright (all the more after one single year of mandate) and arguing that in Egypt "tangible democratic change does not exist yet" appears as too simplistic, especially if we use as a baseline Mubarak's regime. For instance, the 2012 constitution raised substantial concerns on areas such as freedom of expression and the rights of women and minorities, but as a whole its support for individual and collective rights was described as "mixed" by Human Rights Watch, which had been very critical of earlier drafts of that document. Furthermore, the 2012 constitution engineered a semi-presidential system that forced the president to share executive powers with a prime minister required to obtain confidence from parliament, whereas MPs did not have any substantive power over prime ministers under Mubarak's rule. Morsi's second decree also limited the role of the (unelected) Supreme Council of the Armed Forces vis-à-vis the (elected) presidency – again, hardly an anti-democratic measure. The third and most controversial decree, issued on 22 November 2012 and that "hugely expanded [Morsi's] powers", most likely averted the annulment of presidential elections which, as discussed above, are generally seen as "consistent with international standards" and its most problematic section, that put the president beyond the bounds of judicial supervision, was annulled in early December. On these grounds, any parallel with Hitler's Germany appears to be completely out of proportion and it seems more appropriate to describe the record of Morsi's regime in developing substantive and procedural democracy in Egypt at least as a mixed bag rather than as a complete failure.

Talking Numbers

Others conclude that the recent events in Egypt are a step forward in Egypt's transition by suggesting that the *Tamarrod* petition and the massive demonstrations that took place between June 30th and July 3rd amount to a "clear popular mandate" for Morsi's removal.

This position is deeply problematic. The *Tamarrod* petition reflected the deep frustration of the Egyptian population but its validity as a political instrument remains open to questions, considering that it has not been independently audited and that the frustration that it intercepted was partly due to an energy crisis most likely "created" by "different circles in the state" interested in undermining the power of the Muslim Brotherhood. Furthermore, even if its 22 million signatures were proven to be all authentic, grassroots petitions cannot be considered by any self-respecting democrat as a replacement for free and fair elections (although they may play a role in initiating or abrogating legislation) nor can they be used to automatically "claim back" confidence from an elected politician before the end of his or her mandate, lest the representative process fall into complete chaos.

Moreover, while the demonstrations that took place between June 30th and July 3rd did see the participation of a substantial number of Egyptians, the actual number of participants is (obviously) impossible to determine. The figures that have been circulated so far – estimating participation at 17 or even 33 million – are "grossly exaggerat[ed]" if we consider that Tahrir Square and its surrounding streets can contain between 250,000 and 400,000 people. This leads to estimates of the total numbers of demonstrators in Cairo at any single time at around one million and in Egypt as a whole at three to four million (in a country whose population possibly exceeds 90 million) **[5]**. These estimates would imply that the number of Egyptians that took to the streets in this crucial phase was lower than – or, in the best-case scenarios, comparable to – the 5.7 million voters who chose Morsi in the first round of the presidential elections in 2012 among 22 other candidates. Therefore, while there can be little doubt that, by the end of June, Morsi had become very unpopular across the country, it is surely incorrect to suggest that "all of Egypt" was involved in the anti-Morsi movement and it is debatable to conclude that the coup directly reflected "the

will of Egypt's people".

The Months Ahead

So where next for Egypt?

On the one hand, it seems highly unlikely that Egypt will descend into a civil war comparable to the conflicts in Syria and Libya. This is for two main reasons. First, neither the Muslim Brotherhood nor its allies and supporters are able to move a credible nation-wide military challenge to the Egyptian army. Some Islamist groups such as *Ansar al-Shari'a* are currently confronting Egyptian security forces in the Sinai but are able to do so because of the support they enjoy from local tribes, that have gradually carved out areas of *de facto* independence in the Sinai Peninsula over a period of ten to twenty years. The grievances of the Bedu tribes in the Sinai are a well-known issue in post-Camp David Egypt **[6]** and their roots lie in the peculiar ethnic composition of the region and the extreme socio-economic and demographic consequences of the exploitation of the Red Sea coast and the natural resources of its interior – a combination of factors that we do not see in other areas of the country.

Secondly, the Egyptian army enjoys almost unconditional support among most Egyptians, partly as a consequence of its reputation of being the true depositary of Egypt's "nationhood" and partly as the result of sixty years of capillary control of the public culture and educational system of the country. The Muslim Brotherhood, as well as any other movement that wishes not to alienate the vast majority of the Egyptian population, has therefore been careful not to openly antagonize the Egyptian army as an institution, focusing rather on criticizing individual figures, such as the its current leader Abdel Fattah al-Sisi, on complaining about individual incidents or on chanting against "military rule" (*hukm el-'askar*). This attitude is unlikely to change in the future.

What we are likely to witness in the coming months is a phase of entrenched confrontation marked by individual, although possibly very violent, episodes of conflict and repression whose eventual outcome will depend on how three key challenges will be dealt with by the transitional authorities.

They need, first of all, to clear as soon as possible all cases of political detention, including clarifying the position of Mohammed Morsi and any other elected official that has been detained without a clear criminal case being raised against them. Holding political prisoners is an unabashedly undemocratic practice and is incompatible with the development of an open and competitive political arena. Morsi was held incommunicado for three weeks and the charges eventually raised against him appear to relate exclusively to the circumstances of his escape from prison in 2011, that were known when he re-joined public life. Even if they were proven to be legally founded, the timing of these charges appears at least suspicious. The fact that, to the best of my knowledge, Morsi has to date not been formally charged for his alleged responsibility in the killing and kidnapping of Egyptian soldiers in the Sinai, for his alleged "spying" on behalf of the American administration or for inciting the killing of protesters also suggests that there is little or no evidence in support of these "charges", that are nevertheless very popular among Morsi's critics.

The transitional authorities also need to continue the process of reform of Egypt's security sector – especially its overgrown police forces. Their success in this arena and their ability to withstand the foreseeable resistances to these reforms will be the acid test of the role played by Mubarak's "deep state" in this phase of the transition. The evidence so far is not encouraging. For instance the Minister of Interior, Mohammed Ibrahim, recently announced his intention to reinstate departments of the infamous "state security" apparatus which were closed down after the 25th January revolution and re-hire officers that were excluded as part of the same process of reform. Such a reversal of fortunes would be deeply problematic and justify claims that the recent events should be described as a "counter-revolution". Also, the Egyptian presidency recently released a "vague" statement apparently suggesting that civilian authorities are not able to authorize visits to Morsi in the (secret) location in which he is currently detained – another episode that raises questions about the true role played by the army and other security forces in the current phase.

The transitional authorities finally need to ensure that the political system in the country remains reasonably inclusive. As things stand, it is unlikely that the Muslim Brotherhood and its allies will re-join the political process, partly because their leadership has been decimated by arrests and partly because they are currently the target of a

campaign aimed at branding them as an outright terrorist group. The grounds for describing the Muslim Brotherhood as a terrorist organization are at least tenuous and this process of "framing" – not different from the polarizing rhetoric of the "war on terror"**[7]** – is clearly at odds with the ambition of implementing any type of "national reconciliation". In this context, the prospect of legally banning religiously-orientated parties is unlikely to contribute to stabilizing the political scene. Some models of transition politics even suggest that, contrary to the common wisdom, the presence of ethnic or identity-based parties may in some conditions lead to a "spiral of moderation", for instance if their political bids tend to balance each other out while the institutionalization of crosscutting political cleavages is actively encouraged **[8]**.

The recent history of Egypt made us accustomed to sudden and often unexpected turns of events; even if the first signs are not reassuring, the hope remains that the new regime will steer away from authoritarianism and create the conditions for truly achieving the goals of the 25th January revolution.

—

Marco Pinfari *is Assistant Professor of International Relations at the Department of Political Science, American University in Cairo (Egypt). His work focuses on conflict resolution and peace negotiations, with a specific focus on the Middle East and Arab Africa. His recent publications include Peace Negotiations and Time: Deadline Diplomacy in Territorial Disputes (Routledge 2013).*

References

[1] The decision to dismiss the lower house of parliament was due to a technical dispute on Egypt's new electoral law. The practice that was contested – allowing party members to run for seats (assigned on a first-past-the-post basis) which were formally reserved for "independents" – was deemed unconstitutional in Egypt; however, it is obviously common practice among democracies around the world to allow parties to nominate candidates for the entire bulk of seats contested, and such "violation" took place across the political spectrum. Therefore this dismissal should not count as evidence that the elections themselves were not reasonably "free and fair".

[2] Philippe C. Schmitter and Terry Lynn Karl, "What Democracy Is… and Is Not", Journal of Democracy, Vol. 2, No. 3 (Summer 1991), p. 78.

[3] Andreas Schedler, "What Is Democratic Consolidation?", *Journal of Democracy*, Vol. 9, No. 2 (1998), p. 94.

[4] Juan Linz, 'Transitions to Democracy', *The Washington Quarterly*, Vol. 13, No. 3 (1990), p. 158.

[5] The lower estimate of three million protesters is an educated guess by the author. The figure for Cairo is based on suggesting the presence at the peak of each day of protest of 400,000 people in Tahrir Square and surrounding streets; 200,000 in other areas close to Tahrir Square (such as Qasr al-Nil bridge); 300,000 in the area of Ittihadiya palace and 100,000 in other areas of Cairo. The aggregate figure for Egypt is estimated assuming levels of participation in urban areas nationwide similar to those registered in Cairo; the population of Cairo (excluding cities included in "Greater Cairo") is approximately 11 million, or around one third of Egypt's urban population of 35 million. The number of demonstrators at Ittihadiya palace has been estimated by looking at satellite maps of the streets they occupied and estimating their surface at one third of the surface of the National Mall in Washington, D.C., that is reported to contain approximately one million people. The upper estimate of four million is based on adding a margin of error of approximately 30% to the estimate above.

[6] Cf. for instance Hilary Gilbert, "'This is Not Our Life, It's Just a Copu of Other People's': Bedu and the Price of 'Development' in South Sinai", Nomadic Peoples, Vol. 15, No. 2 (2011), 7-32.

[7] Cf. Aditi Bhatia, "The Discourses of Terrorism", Journal of Pragmatics, Vol. 41 (2009), pp. 279-289.

[8] Kanchan Chandra, "Ethnic Parties and Democratic Stability", Perspectives on Politics, Vol. 3, No. 2 (June 2005),

pp. 235-252.

About the author:

Marco Pinfari is Assistant Professor of International Relations at the Department of Political Science, American University in Cairo (Egypt). His work focuses on conflict resolution and peace negotiations, with a specific focus on the Middle East and Arab Africa. His recent publications include Peace Negotiations and Time: Deadline Diplomacy in Territorial Disputes (Routledge 2013).