



VII CEMOFPS SEMINAR:
The transition in the new Arab world: a
challenge for East and West



Debate on the Constitution and the Elections.

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Which comes first... the constitution or the elections? The question has been the core of the current controversy in Egypt. It is neither a debate on one of the issues raised after the January revolution or a conflict of priorities where people may or may not agree upon. This is a bigger and more comprehensive quest because it simply echoes the real dilemma facing this revolution in its transitional phase. It is the question confronting most Egyptians after the ousting of the former president and the race to build a new system.

If transitional phases are seen as the most difficult for peoples and societies, the scene in Egypt is even more complicated for several reasons. First: Since its inception, the revolution has been leaderless. It lacked the political leadership that unify and leads its factions through the transitional period according to clear and well- defined goals based on consensus developed among the different political groups, parties or trends that took part in the revolution. Recognizing the multiple political and partisan facets of the political powers would not compromise the importance of the symbolic significance of having a political leadership. That was not the case in Egypt and thus the revolution was in need to an authority that runs- on its behalf- the transitional period; a role that has been tackled by the military, which explains why the revolutionists have been unable to get rid of the old constitution and introduce new one that expresses their political legitimacy.

Besides the ousting of the former president as well as the economic and political elite, there was no clear vision or a similar agreement on the steps leading to the buildup of a new system. Contrary to that stance, the Higher Council of the Armed Forces has



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been moving since the very beginning according to a well-defined plane and a timetable that states its steps. The council started with the amendments of some constitutional terms then the referendum, which was followed by the constitutional declaration. Some laws were also amended like the ones that organize the party formation, the parliamentary elections, then the constitution and finally the presidential elections.

The already defined framework of action has thus been close to a 'step by step' reform process from within the system. There will be no shocks, no major changes and certainly no big bounces in the air. Such plan of action might not be the closest to the revolutionary logic or expectations in laying the basis of a new system thus giving rise to the ongoing debate of 'elections or constitution, which is first?'

Second: The political powers in the pre-revolution period were unified around a sole goal, which is the ousting of the regime's head. By the time the conflicting differences came to the fore. The nature and the form of the state were the major concern to many especially with the rise of the Islamists political powers that were given green light and the right to form their political parties. Many feared that the Islamists might be working indirectly on the establishment of an 'Islamic State'. Thus the political arena was divided between the supporters of a civil secular state and those defending the Islamic version of a civil state, which was also behind the quest of which comes first the constitution or the parliamentary elections.

Most of the old and the newly formed political parties in Egypt have been looking for the Islamists groups, especially the Moslem Brotherhood and its new party 'Justice and Freedom', as the most powerful, well- organized and capable of forming the majority at the coming parliament.

Meanwhile calls for the constitution to come first coincided with the formation of several alliances (like the one established among 17 of the old and the new parties with the Moslem Brothers). The major target of such alliance has been to agree on the basic constitutional terms that should be included in the new contract especially those with regard to public freedoms and citizenship. However, the possibility of reaching a compromise formula is the core of the quest which should also make the yet to be written constitution different from the previous ones.

Third: Despite of the changes that took place after the revolution and the amendments of several laws concerned with the political rights and the elections, the prevailing social, cultural, and political environment is not matured enough to produce the



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capable parliamentarians who are entitled to write the constitution. Talks about the use of money, violence and the religious slogans in the elections (like the ones used during the referendum) have still been the concern of many. Thus the elections are not the best way to secure balanced representation of all political powers within the Egyptian political elite.

But if the constitution is to come first then the question would be who is going to choose the constituent assembly to write the new social contract. Moreover, to what extent that assembly will be free to present a new constitution echoing the political and intellectual trends in the society and according to what sort of criteria and guarantees?