

Egypt's Constitution Timing Debate

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Some believe governing principles must be put in place ahead of elections to ensure a stable democracy.

Before Egyptians cast their votes to choose their next parliament and president, a new political framework is necessary.

It needs to enforce the separation of the executive, legislative and judicial powers, guarantee freedom of belief, expression and assembly, as well as ensure the equality of all Egyptians regardless of their backgrounds.

This should not be the responsibility of one political group which might go on to dominate the next parliament and decide the principles that would run the country for decades to come.

Instead, this framework should represent all political groups and Egyptians from different backgrounds, regardless of their representation in parliament or their numbers. A democracy means that small minorities, whether political or ethnic, get the same rights as the majority.

Many people, including some political analysts, have recently said that those calling for a constitution to be drafted before the elections are just frightened.

They interpret their demands as ignoring the will of the people who voted in a referendum in March in favour of constitutional amendments, which included holding elections first to elect members of parliament, 100 of whom would then form a constitutional assembly to write a new constitution.

Omar Ashour, an Egyptian political scientist, is among those who has criticised calls for a constitution before elections.

"The liberals do have an alternative plan, but it is not a convincing one," he told the BBC. "They propose rejecting or ignoring the referendum's result (the choice of 77 per cent of Egyptian voters); a longer stay in power for the Supreme Council of Armed Forces (SCAF) and somehow forming a constitutional assembly without elections (there is no consensus on the mechanism). This is the so-called 'constitution first' plan."

But the constitution first plan is actually an important suggestion by pro-democracy activists to make sure people who are in power at any given time do not have the authority to draft a constitution according to their own political whims.

Egypt suffered from that under the rule of former president Hosni Mubarak when he used to play around with the constitution to make it fit exactly his own political goals and ambitions.

This was most noticeable in 2007 when amendments made to the constitution were quite obviously designed for Gamal Mubarak to succeed his father as the president of Egypt.

But elections are only a democratic process to choose rulers and representatives, and are not necessarily synonymous with democracy.

It is very possible, if not even likely, for undemocratic and discriminatory actions to take place as a result of a democratic process when no clear framework and no functioning system of checks and balances is in place.

"How can we trust that the next elections will be fair?" asks Wael Eskandar, an Egyptian journalist who supports a constitution first plan. "There are already signs that the elections might be rigged or bought. Therefore, the 100 people [who write the constitution may] not be representative of Egypt's population."

In which case, he says, the constitution will not reflect the will of the people.

"The constitution will have an appearance of legitimacy and that will be the end. If we talk about it now, there's room to really fight for something we all could agree to," Eskander continued.

Supporters of constitution first are also worried that those who gained election success under Mubarak could win a majority in parliament and decide the political fate of Egypt.

These include former members of Mubarak's now-banned National Democratic Party, NDP, and the Muslim

Brotherhood, MB; both groups are thought to have questionable democratic credentials.

The background of the NDP is well known, and political scientist Ashour has himself referred to the MB's history of halting democracy to make "personal" gains in the aftermath of the 1952 military coup.

So why should we not create a system that would prevent the possibility of this happening again, and why is it undemocratic to try to promote as much political diversity as possible and push for more civil liberties for everyone ahead of the elections?

Liberals and secularists are not afraid of people's votes. But they are afraid of not setting a framework that would enable them to hold to account those who abuse power or attempt to restrict freedoms hard-won during the 18-day revolution.

A possible way to overcome the objections of the 77 per cent who voted in favour of elections before the creation of a new constitution might be to issue a bill of supra-constitutional revolutionary principles to include the largest possible number of freedoms and stress the independence of the judicial and legislative branches from the executive.

This framework should be inspired by the Tahrir square demands written by widely trusted, non-partisan human rights figures. The next constitution should not in any way contradict any of the principles of this bill.

Finally, if we want the politics of the post-revolution era to be stable and sustainable, this cannot happen if the fate of the country - for maybe a few hundred years to come - is decided by one political group, no matter how popular it is at this given time.

If we allow that, we risk limiting any chance of a politically diverse future for Egypt.

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