

Reflections on the Revolution in Egypt, Part II

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Testimony by

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Thank you, Mr. Chairman, for the honor of testifying before the subcommittee.

With the conclusion of their first post-revolution presidential election, Egyptians should have been celebrating this week the transition from interim military rule to government by elected civilians. Instead, they are demonstrating in Tahrir Square again. The question, Mr. Chairman, is whether the democratic transition in Egypt has gone irretrievably off the rails or can get back on track.

The Supreme Council of the Armed Forces (SCAF) promised in February 2011 that they “would not go back on their promise to surrender the country to civilian authorities within six months” and that “the pre-January 25 status quo will never return.”¹ Sixteen months after making that promise, the SCAF was on the verge of finally surrendering executive powers to an elected president, having given over legislative powers six months ago to an elected parliament. But at the eleventh hour, the SCAF acted in concert with the Supreme Constitutional Court to reclaim legislative powers from the “Parliament of the Revolution” in which Islamists held a majority, as well as to limit the new president’s powers. After the court declared the parliamentary elections law invalid on June 14, thereby requiring the assembly’s dissolution, the SCAF issued a supplementary constitutional declaration that allows it to:

- control the writing of a new constitution, having arrogated the power to appoint the constituent assembly and set the timetable for writing the document, as well as to object to any article;
- retain legislative powers for at least four months more, or until after a new constitution is in place (new parliamentary elections will not take place until one month after the constitution is approved in a popular referendum); and

¹ “SCAF: We will return authority to civilians and the constitutional committee will complete work within 10 days” (report of SCAF meeting with editors of major newspapers), *al-Masry al-Youm* (Arabic), February 15, 2011.

- remain free from control by the new president, who will be unable to appoint a new defense minister, hire or fire any military officer, or make any decision on military matters.

In sum, the declaration positions the military as a power separate from and above elected civilian authorities, and forces the writing of a new constitution in haste and under the pressure of military rule.

SCAF officials have said repeatedly in public and in private that they do not want to rule Egypt. That might be true, but what these developments show is that they want even less to allow anyone else, including democratically elected representatives, to rule the country. While there is a fig leaf of judicial legitimacy to the decision invalidating the parliament, it is difficult to escape the conclusion that the military leadership saw that Mohammad Morsy, candidate of the Freedom and Justice Party (formed by the Muslim Brotherhood), was about to win the presidency and acted preemptively to deprive the Brotherhood of its parliamentary majority.

Even if the invalidation of parliament was the result of an impartial judicial ruling, there would be no justification for the SCAF's recent declaration. The SCAF could have simply called for new parliamentary elections to be held as quickly as possible, without seizing powers from the president and forcing the writing of a constitution before a new parliament could be chosen.

It seems likely, however, that senior members of the Egyptian judiciary (one of the few institutions that enjoyed credibility with the public) have decided to take sides in this power struggle. The June 14 ruling came on the heels of a number of other judicial moves that served SCAF interests, including:

- a Ministry of Justice decree granting military police and intelligence officers the authority to arrest civilians, in effect resurrecting the hated state of emergency that expired on May 31 and could not be renewed without parliamentary approval;
- the legally-weak June 2 conviction of former President Mubarak on charges of failing to prevent the use of violence, which is likely to be overturned on appeal, while acquitting all six of the high-ranking security officers in the case. This continues a pattern established by the SCAF, in which a couple of top level officials will be sacrificed while those likely to have had real responsibility for violence against protesters are protected.
- public statements by Judges Club President Ahmad al-Zend, who said during a June 7 press conference that he and other members of the judiciary would not have agreed to supervise parliamentary elections had they known what the outcome would be, and warned that, "From this day forward, judges will have a say in determining the future of this country and its fate. We will not leave it to you to do with it what you want."

This disruption and manipulation of the political transition to serve military interests also comes at the expense of Egypt's economy and national security, which will suffer as a result of the ongoing struggle between the military and the Brotherhood. The economy is teetering on the brink of disaster, and the new developments will push off for months the time when international financial institutions and donors feel confident enough to make loans and grants to a new Egyptian government. Meanwhile the lawless atmosphere in the Sinai continues to present threats to Israel (as seen in the June 18 incursion in which one worker was killed) and to inhibit a return of tourists to Egypt; it will be difficult for the new president and military to impose order there amidst this political chaos.

The US administration has chosen until now to place its bet with the SCAF, showing consistent support for the Egyptian military despite pervasive human rights abuses and even a campaign against American

non-governmental organizations carried out under military rule (which still continues). It is time to reconsider that bet, and to apply the conditions that the Congress placed on future military assistance, which the administration chose to waive in May. The United States might not be able to control or change the behavior of Egypt's generals, who appear willing to pay any price to avoid bowing to the choices of Egyptian voters. But the United States can and should decline to use its taxpayers' funds to support such leaders. The United States should withhold assistance for now, while articulating a desire to build a new partnership with Egypt once it is on the road to becoming truly democratic, respecting the rights of all of its citizens, and playing a responsible and peaceful regional role.

Thank you, Mr. Chairman.