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### **Egypt: Will Parliamentary Elections Unleash a Conflict of Legitimacies?**

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The first parliamentary elections in Egypt since the fall of Mubarak began on 28 November 2011. They have ushered the country into a new and pivotal chapter in the transition process. The People's Assembly and the Shura Council elections will span several months and are due to conclude in March 2012. With the end of the elections and the convening of the new parliament, the political landscape will undergo a major change. One of the most significant aspects of this shift will be an increased complication of the legitimacy game played by the various political actors. The elections automatically generate a new type of legitimacy, one that has been absent since the fall of Hosni Mubarak, namely representative legitimacy. The entry of a legitimacy generated from the ballot boxes, considered the most important source of legitimacy in a democratic regime, would thus reshape the entire political landscape.

This paper analyses the effects of the parliamentary elections on the political landscape and on the balance of power between the various actors. It then addresses the scenarios that may arise from the new situation in terms of the clash or concord between the various legitimacies.

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## **The Pre-election legitimacies**

Before attempting to analyse the effects of the representative legitimacy that will be generated from the elections, it is beneficial to first analyse the legitimacy that the various actors already enjoy (actually or allegedly) on the eve of the elections. The foremost legitimacy within the political landscape is the “revolutionary legitimacy” that emerged from the womb of the movement that ousted Mubarak on February 11th, 2011. Several actors share this type of legitimacy.

The legitimacy of the Supreme Council of the Armed Forces (SCAF), which has assumed the political leadership of the country since the fall of Mubarak, is derived primarily from the “revolution.” It is not based on any constitutional legitimacy, as the 1971 Constitution contains no reference whatsoever to this body. The SCAF draws its legitimacy from the fact that “the army protected the revolution,” or at least did not open fire on the people. However, SCAF’s rhetoric largely avoids mention of “revolutionary legitimacy,” instead affirming its preference for a vague “constitutional legitimacy.” It is here that the Council has been at pains to interpret the result of the March 19th referendum as a popular endorsement of its own legitimacy, even though the articles of the Constitution covered by the referendum did not relate to the SCAF in any way.

The SCAF also emphasises other sources of legitimacy in its discourse. At times it refers to itself as the only functioning and effective state institution, in contrast to most other failing state institutions. At other times it invokes the symbolism of the Egyptian army, its achievements, or the fact that it is the guarantor of the country’s stability.

There also exists the so-called “revolutionary bloc,” which is comprised of all the groups that participated in the 18 days that culminated in the overthrow of Mubarak. This bloc, however, is no longer a unified body. Numerous new political parties, movements, and diverse groups have emerged from it. Groups such as the families of the martyrs

and victims of the revolution (a group that enjoys a special symbolic legitimacy), all claim to exemplify revolutionary legitimacy. A set of new political parties has also emerged from this bloc. These new parties, especially the Muslim Brotherhood’s newly established Freedom and Justice Party, have proceeded to distance themselves from the remainder of the “revolutionary bloc.” Instead, they have directed their focus towards their own internal construction and preparations for the elections, thereby ruling out the “revolutionary option” from their strategies.

Thus the “revolutionary bloc” has split. Each of the constituent groups within the bloc has adopted different strategies and tactics, leading to heightened tensions and traded accusations within the bloc. The elections could further increase the gap between these groups and possibly lead to an alignment of opposing camps, as discussed below.

Revolutionary legitimacy is the primary type of legitimacy held by both SCAF and the revolutionary bloc. However, the relations between those who staged the revolution (the revolutionary bloc), and those who protected it, or at least did not suppress it (the army), have become strained and declined rapidly in recent months. As a result of SCAF’s floundering administration and foot-dragging in many issues, the revolutionary bloc’s trust in the Council is eroding. On many occasions in recent months, the revolutionary bloc has been compelled to take to the streets in order to pressure the SCAF to be more assertive and decisive in its actions and decisions, and to be more revolutionary in its conduct. For its part, the SCAF has been quick to adopt hostile rhetoric against some elements in the revolutionary bloc, accusing some of them of treachery (such as the April 6 Movement) in order to undermine their credibility and legitimacy and to incite public opinion against them. The SCAF has employed the same discourse as the former regime by accusing activists of having foreign agendas and receiving funding from abroad. In its discourse, the SCAF has also attempted to

isolate the revolutionary bloc from the rest of the street by classifying the people as either “good citizens”, i.e. those citizens who collaborate with the SCAF or its supporters, or as “suspect” revolutionary groups. In the face of this onslaught, the revolutionary bloc has begun to question the revolutionary legitimacy that the army claims to possess and to argue that the army’s only legitimacy stems from force, weapons, and the power to impose facts on the ground. What was once spoken in hushed tones- that the army is ambushing the revolution and leading the counter-revolution- is now being stated publicly. Little by little, slogans and calls for the ousting of Field Marshal Hussein Tantawi and the SCAF have become commonplace during demonstrations.

The army and military police have used excessive violence on several occasions, particularly during October’s Maspero event and the recent events on Mohammed Mahmoud Street. The violence left dozens dead and hundreds injured and have brought relations between the rallying “revolutionary bloc” and the SCAF to a stalemate. The mass demonstration on “handover Friday” on November 25th, which demanded that the army handover power, was a clear manifestation of the nadir to which relations between the revolutionary bloc and the SCAF sunk.

In the background of this landscape, there are certain actors who surface and occasionally organise demonstrations to call for stability, claiming to represent the “silent majority” and to possess “numerical legitimacy”. At times these groups demand the end of the trial of Mubarak; at others they defend the SCAF and its rule of the country.

Therefore, on the eve of the November 28 elections, the political landscape was already explosive. The conflict over the ownership of revolutionary legitimacy intensified, with each side denying that the other holds it. Relations between the various parties, previously based on revolutionary legitimacy, have come to a dead-end. The revolutionary bloc is unable to reach agreement between its constituents over its demands, let alone

impose its will on the SCAF. The SCAF, meanwhile, is unable to continue to administer the country single-handedly amid the growing protests and objections and the rapid erosion of its own legitimacy and credibility. It is perhaps this deadlock of revolutionary legitimacy that gives the elections, and the legitimacy won from them, their extraordinary importance, particularly with respect to the possibility that a new representative legitimacy could break the vicious circle and end the political stalemate.

### **The elections: Birth of a new legitimacy**

It is apparent that elections and the emergence of a “representative legitimacy” will have a profound impact on the political landscape, as described above. Furthermore, the next parliament, regardless of the identity of the winners and losers, will enjoy a high level of legitimacy. Despite the abuses and errors that have marred the electoral process, the elections have seen an unprecedented turnout rate. The parliament, therefore, represents the votes of a broad section of the populace, including the “silent majority” who will have also spoken through the ballot box.

The landscape of legitimacies will become more complicated and will further accentuate the complex relationship between revolutionary legitimacy and representative legitimacy. The already apparent polarisation between the Islamist and non-Islamist political groups is liable to grow. As a result, there is an increasing likelihood that parliament will not function as a united body that works in a collective, rational manner in order to enhance its own powers on the basis of the extensive legitimacy that it enjoys.

**The first question on the table is how the elections will affect the existing actors, and the type of relationship they will have with the new actor (the parliament) that emerges from the ballot boxes.**

For the SCAF, the successful organisation of elections was a critical test of its ability to deliver results after it has faltered in managing many other areas. The SCAF views its holding of successful, fair, and

almost violence-free elections as an achievement that boosts its own legitimacy, and that “history will recall and record with letters of light, in the annals of the patriotism and honour, the genius of the Egyptian military”<sup>1</sup>. Furthermore, the unprecedented rate of participation could be interpreted as a sign that the majority of the people have accepted the timetable for the transitional phase determined by the SCAF.

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However, the convening of parliament will create a new and complex situation with respect to the powers of the various governing institutions (the SCAF, the parliament, and the government). The SCAF has enjoyed absolute power since it assumed administration of the country, wielding control over both the executive and legislative authorities. Theoretically, the election of the new parliament will result in the transfer of legislative power to parliament. Article 33 of the Constitutional Proclamation published on March 30th, 2011 stipulates that:

*“Immediately upon election, the People’s Assembly will assume the power to legislate and determine the public policy of the state, the general plan for economic and social development, and the public budget of the state. It will also oversee the work of the executive branch.”*<sup>2</sup>

Article 37, on the Shura Council, provides as follows:

*“Immediately upon election, the Shura Council will study and recommend what it views as necessary to safeguard support for*

<sup>1</sup> Statement 89 of the Supreme Council of the Armed Forces, issued on December 2<sup>nd</sup>, 2011 following the conclusion of the first round of the first phase of elections to the People’s Assembly. See link:

<http://www.facebook.com/Egyption.Armed.Forces?sk=w>  
[all](http://www.facebook.com/Egyption.Armed.Forces?sk=w)

<sup>2</sup><http://www.almasryalyoum.com/node/380474>

*national unity, social peace, and the protection of the basic elements of society and its supreme values, as well as rights, freedoms and general duties. The Council must consider the following:*

*1- The general draft plan for social and economic development;*

*2- Draft laws referred to it by the President of the Republic;*

*3- Anything the President of the Republic refers to the Council on subjects related to the public policy of the state or its policies regarding Arab or foreign affairs.*

The council is to inform the President of the Republic and the People’s Assembly of its opinion on these matters.”<sup>3</sup>

In accordance with the Constitutional Proclamation that was issued by the SCAF itself, the two chambers of parliament are supposed to end the era of absolute power that the SCAF has exercised since the fall of Mubarak. However, things are not so simple. The Constitutional Proclamation grants broad powers to the SCAF that are separate from performing the functions of President, pending his or her election. Furthermore, the articles of the Constitutional Proclamation that relate to the SCAF’s powers contain a great deal of overlap with the powers of parliament, giving it a far higher status than that of the parliament, and allowing it to obstruct the parliament’s work. Article 56 states that the SCAF has the right to promulgate or object to laws. Additionally, the SCAF is to represent the state both domestically and abroad. Moreover, the same article states that the SCAF is to appoint the Prime Minister and his deputies, as well as ministers and their deputies, and to relieve them of their duties. There is no mention of the role of parliament. It is logical that parliament will attempt to expand its powers through utilizing the surplus of legitimacy it enjoys over the unelected SCAF, which exercises the powers of the President. Thus the ground has been laid for a major dispute

<sup>3</sup> Ibid.

between the SCAF and parliament over the separation of powers.

Indeed, there have already been early signs of a conflict over executive and legislative powers. Major General Mamdouh Shahin, a member of the SCAF, has confirmed on several occasions (the most recent occurred a few days before the start of elections), that the new parliament would not be able to form a government or to withhold its confidence from the current government<sup>4</sup>. His statements have drawn broad criticism, especially from the Islamists, who hope to win a large number of parliamentary seats. At the start of elections, the SCAF also raised the idea of forming an appointed advisory council, comprised of thirty public figures, to assist it in managing the transitional phase until the election of a new president, in addition to issuing an ordinance setting out the prerogatives of this council. Due to the timing of its formation, this new body raises many questions about the powers of the next parliament and its future relationship with the government and the SCAF. However, the leaders of the Muslim Brotherhood and its Freedom and Justice Party, which according to all indicators will be the party to win the largest number of seats, has begun to test the waters by issuing statements, some of which express a desire to cooperate with the SCAF and to respect the scope of its powers under the Constitutional Proclamation (first and foremost its right to form the government). In other statements the Freedom and Justice Party has gone so far as to state that the parliamentary majority will form the new government<sup>5</sup>.

<sup>4</sup> <http://www.almasryalyoum.com/node/521441>

<sup>5</sup> Statement by Mohammed Mursi, Chairman of the Freedom and Justice Party dated November 2011. See link:

<http://gate.ahram.org.eg/NewsContent/13/97/143553/%D8%A3%D8%AE%D8%A8%D8%A7%D8%B1/%D8%A8%D8%B1%D9%84%D9%85%D8%A7%D9%86-%D9%88%D8%A7%D8%AD%D8%B2%D8%A7%D8%A8/%D9%85%D8%AD%D9%85%D8%AF-%D9%85%D8%B1%D8%B3%D9%89-%D8%A7%D9%84%D8%A3%D8%BA%D9%84%D8%A8%D9%8A%D8%A9-%D9%81%D9%89-%D8%A7%D9%84%D8%A8%D8%B1%D9%84%D9%85%D8%A7%D9%86-%D8%A7%D9%84%D9%82%D8%A7%D8%AF%D9%85-%D8%B3%D8%AA%D8%B4%D9%83%D9%84-%D8%A7%D9%84%D8%AD%D9%83%D9%88%D9%85.aspx>

It appears that the selection of a constituent assembly to draft the new constitution will be the crux of the most important dispute between the parliament and the SCAF. In statements made on December 7th, Major General Mukhtar al-Mulla, another member of the SCAF, noted that the new parliament would not represent all segments of Egyptian society. He added that an agreement must be reached over the rules for selecting the figures who will participate in the constituent assembly before the parliament makes its selection and the constituent assembly should have the approval of both the government, advisory council, and parliament<sup>6</sup>. These statements attracted sharp criticism from Islamists in particular, above all the Muslim Brotherhood, who withdrew from the advisory council because the new arrangement circumvented the new parliament and gave the SCAF custodianship over the constitution-drafting process.

However, it is premature to predict the outcome of this conflict given that the Muslim Brotherhood is keen to avoid raising points of contention, preferring instead to postpone such battles until after the elections. Moreover, if the state of extreme polarisation between the Islamists and Liberals continues beneath the dome of the parliament, it could turn the SCAF into an indispensable mediator and facilitator.

However, recent violent events in which the military was involved in around the Egyptian Cabinet from December 16th, will change the scene. Excessive violence used by the military against the protesters isolated SCAF to a large extent and relatively alleviated the polarization among the political parties. Recent events also reduced the gap between the revolutionary bloc and these parties.

<sup>6</sup> <http://www.ft.com/intl/cms/s/0/b50e0bc4-21c2-11e1-a19f-00144feabd0.html#axzz1g2vgiNFn>

See also link: <http://www.almasryalyoum.com/article2.aspx?ArticleID=320362&IssueID=2344>

**Between the square and the parliament: Are elections the “graveyard of the revolution”<sup>7</sup>?**

If the entry of representative legitimacy onto the scene is likely to have significant consequences for the distribution of power and authority between the elected parliament and the SCAF – which relies on the “legitimacy of protecting the revolution” and a supposed constitutional legitimacy, as well as the power of force and coercion – what impact will this electoral legitimacy have on the “revolutionary bloc?” (Here by the revolutionary bloc I mean the groups that are still mobilised and have not organised themselves into political parties, such as the April 6 Movement, the families of the martyrs and victims of the revolution, and numerous other groups and movements including leftist and Islamic groups, and some new youth parties that have not been able to compete in the elections.)

It must first be recalled that elections were held at a time when many groups within the revolutionary bloc were still engaged in an open-ended protest in Tahrir Square and in front of the Council of Ministers (Cabinet building) in Cairo. The elections immediately followed a full and violent week (November 19th-25th) of protest that left over forty people dead and led to the fall of Essam Sharaf’s government. Given these circumstances, the “revolutionary bloc” was cautious and cold in their reception of the elections, especially as they took the spotlight away from the square. The bloc was eager to emphasise that protest was a parallel course to elections rather than a substitute for them, so as not to be seen to “spoil the party”. The protestors did not declare themselves hostile to the elections or explicitly call for a boycott (with a few exceptions). Rather, they preferred to focus on their own demands: the most important of which were the formation of a national salvation government,

investigations into the killings of demonstrators, accountability, and the restructuring of the Ministry of the Interior.

The following question remains: Does the “revolutionary bloc”, which relies on revolutionary and symbolic legitimacy, retain their legitimacy in the presence of a new representative legitimacy? In other words, does representative legitimacy cancel out other legitimacies?

Logic would seem to dictate that the existence of an elected body after a long absence, which has a high-level of representative legitimacy, would automatically decrease the symbolic legitimacy of the revolutionary bloc. In this new context, continuing pressure from this bloc in the form of rallying to achieve the “goals of the revolution” may result in its greater detachment from the street and make it appear radical and extremist. It may perhaps lead the bloc into confrontations and verbal ping-pong with the new parliament; indeed there have already been signs of such altercations (especially with the Muslim Brotherhood, which the bloc has already accused of being opportunist and freeloading on the revolution). It will be difficult for the bloc to position itself within this new equation. The real challenge it will face is how to continue to call for the neutralisation of the SCAF, its removal from the equation, and disengagement from the government, without clashing with a parliament whose sympathy is not guaranteed. The perseverance of the revolutionary bloc could make it vulnerable to losing its remaining credibility and symbolic legitimacy on the street, leaving it unable to continue placing pressure on the other actors.

However, the equation may not be so simple. Many factors will influence the relationship between the parliament and the revolutionary bloc, both positively and negatively. First and foremost, of course, will be the result of the elections and the relative balance of power inside the parliament and the developments in the relationship with SCAF. If the aforementioned state of polarisation between the Islamist and Liberal movements continues

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<sup>7</sup>One of the slogans etched into a wall around Tahrir Square.

or is exacerbated, it will drive the non-Islamist minority (all indicators suggest that the Islamists will constitute the parliamentary majority) into an alliance with extra-parliamentary forces, such as the revolutionary bloc or the SCAF, to counter the dominance of the majority. Parliament as a whole would be weakened as a result, and representative legitimacy would lose its strength and momentum. Furthermore, the revolutionary bloc may be able to expand its base by embracing other aggrieved and disadvantaged groups (associations and the labour unions, for example), and continue to exert pressure and exercise a kind of oversight not only over the SCAF and the government, but also over the new parliament. The fact that the new parliament will be dominated by parties with a right-wing economic orientation (the Muslim Brotherhood and most of the "Liberal" parties have right-wing economic leanings) might make such a scenario more likely in the near-total absence of leftist forces. Thus the socio-economic demands of the lower classes that led the demands of the revolution will find no one to represent them within the new parliament, which could present an opportunity for the revolutionary bloc to regain its momentum.

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In summary, the parliamentary elections and subsequent representative legitimacy will reorder the political landscape. The emergence of this new legitimacy will alter the balance of power between the various actors and further complicate relations between them. Finally, it must be noted that electoral legitimacy will test the competence and abilities of new incumbents and the political class as a whole, particularly with respect to the ability cooperate and function in a meaningful fashion. The events of the week of November 19th-25th, 2011 revealed a widened gulf between the political class as a whole (all the political parties and the SCAF) and the street. Should the polarisation between the Islamic and Liberal parties deteriorate under the dome of the parliament, the country will enter into a state of paralysis

that will worsen economic and living conditions and ultimately cause all of the political elites to lose their legitimacy and credibility.