

Egypt's Shocking Legal Judgments

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Brief Analysis

New unrest in prospect after high-court rulings appear to back military council.

Today, Egypt's Constitutional Court made two key rulings, confirming that former prime minister and air force chief Ahmed Shafiq is allowed to run in this weekend's presidential runoff and invalidating one-third of the seats in the Islamist-controlled legislature. The surprise move throws the country's political transition into further upheaval.

There may have been some legal basis for the decision to nullify election results for 166 legislators -- party-affiliated candidates won seats that should have been allocated to "independents." In the wake of the ruling, the military has announced that it is dissolving the legislature and assuming law-making powers in its place. Indeed, the timing of the court's decision -- just two days before the final round of the presidential election -- has many observers casting it as a soft coup that will allow the military to remain the key power center. In short, the rulings undermine the credibility of this weekend's balloting, further jeopardize the reputation of Egypt's traditionally respected judiciary, and raise the specter of a new round of mass demonstrations.

The biggest loser in these decisions is the Muslim Brotherhood (MB), which controlled 47 percent of the parliament. Its presidential candidate, Muhammad Morsi, will face off against Shafiq, a retired general who is widely seen to be aligned with the Supreme Council of the Armed Forces. Since March, when it first nominated Morsi, the MB has warned that the SCAF would engineer electoral fraud in favor of a former regime official. Today's court decisions seemingly validate these concerns.

The Brotherhood's initial reaction has been mixed. On one hand, spokesman Muhammad Ghazlan indicated that the MB would accept the decision on Shafiq: "It's a reality now, and we must deal with it as such." At the same time, however, the organization signaled its rejection of the legislature's dissolution, a move that MB parliamentary leader Essam al-Erian warned would take Egypt into "a dark tunnel."

No doubt, the rulings will result in some Egyptians taking to the streets. The key question, though, is how the Brotherhood -- Egypt's most potent and well-organized political force -- responds. Although the MB might demonstrate in significant numbers on Friday as it has done routinely for the past several weeks, it might also choose a less confrontational posture with the SCAF. According to Egyptian press reports, senior Brotherhood officials have been meeting with top SCAF generals, including discussions earlier this week between MB deputy supreme guide Khairat al-Shater and armed forces chief of staff Sami Enan. This suggests a deal could be in the works, perhaps securing an MB premiership under a Shafiq presidency.

Even absent a deal, the Brotherhood has other reasons to act with caution. On Wednesday, the SCAF-appointed Ministry of Justice essentially ignored the recent repeal of the much-hated Emergency Law by decreeing that military intelligence officers and military police were authorized to arrest civilians. And earlier this week, Egyptian daily *al-Masry al-Youm* published a picture of the military police formations in new riot-control gear. Should the MB come out in force against the judicial decisions and challenge the SCAF, violence could ensue. Even without the MB, some clashes between liberal protestors and the military may be inevitable. To date, however, military leaders have not shown a consistent willingness to order deadly force against demonstrators -- perhaps because such orders might not be followed.

More likely, should sustained mass protests ensue, the military will back down, as it has done in almost every confrontation with the Brotherhood to date. Perhaps the two best examples of such concessions are April 2011, when the SCAF relented in the face of large demonstrations and arrested former president Hosni Mubarak, and November 2011, when large rallies compelled the council to produce a timeline for its formal withdrawal from power.

For Washington, the prospect of an unstable Egypt is deeply troubling. Even worse is the extent to which developments surrounding the presidential election are seemingly undermining the country's political institutions and the legitimacy of its leadership at this pivotal moment. Taken together, the judicial rulings will further exacerbate growing domestic insecurity and economic problems, ensuring that Egypt's turbulent transition will continue for the foreseeable future.

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