

Egypt's New Elections Laws: Another Democratic Setback

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Brief Analysis

Election laws that ensure a broadly representative parliament are vital to the legitimacy of Egypt's transition, but the newly announced system falls far short of this goal.

Egypt's complicated new parliamentary laws, which the ruling Supreme Council of the Armed Forces (SCAF) endorsed today, represent the latest setback for the country's democratic prospects. By perpetuating the individual candidacy system for one-third of the parliament, the new laws virtually ensure that the former ruling party will be well represented in the next legislature. Meanwhile, the proportional representation voting system, which will determine the other two-thirds of the parliament, will likely include a provision for a "largest remainder system," making it virtually impossible for small parties to compete with larger, mostly illiberal parties.

Background

Since 1976, Egypt has regularly held tightly controlled multiparty parliamentary elections. During the Mubarak era, these votes enabled the regime to create the impression of democratic legitimacy while it otherwise manipulated the system to ensure a parliamentary supermajority for the ruling National Democratic Party (NDP).

From 1990 through November 2010, the elections were based on a two-member-district system, with each of Egypt's 222 districts electing one "professional" and one "worker" to parliament. This structure helped the regime control electoral outcomes at the local level, alongside tactics such as deploying police forces to shut down specific polling stations, permitting regime-preferred candidates to buy votes or stuff ballot boxes, and ordering State Security to exclude prospective candidates without garnering national attention. The relative smallness of the districts further bolstered a clientelist system that benefited the NDP: candidates' electoral fortunes often depended on their ability to provide services to their constituents, and NDP candidates typically won thanks to their enhanced access to government services.

Since Mubarak's ouster in February, however, most opposition parties have demanded that the two-member system

be replaced by a proportional-representation system, under which parliamentarians are seated according to the percentage of votes that their party receives nationwide. Opposition parties fared relatively well when this type of system was in place from 1984 to 1990, winning roughly 20 percent of the vote compared to less than 10 percent in most elections thereafter. A nationwide proportional-list system would also give the many new parties that have formed since February a chance to win some seats: most of these parties are quite small and ill prepared to establish the kind of concentrated, local organization necessary for competing under a district-based system.

Yet the SCAF and the transitional civilian government have resisted pressure to scrap the district-based model, arguing that an electoral system based exclusively on proportional representation would unconstitutionally exclude independents. To provide space for independents, Egyptian authorities initially hinted that the new system would be split evenly between proportional and district-based voting. But on Monday, the government responded to ongoing opposition pressure by announcing that two-thirds of the new parliament would be elected through proportional voting and one-third through the district system.

A Recipe for the Ruling Party's Return

Although it is tempting to view yesterday's decision as a major concession, the details of the new voting system suggest an effort to reconstitute authoritarian rule. Under the terms of the new elections law, only independents can vie for the one-third of parliamentary seats chosen at the district level. Former NDP parliamentarians -- who are now independents because the party has been disbanded -- are therefore expected to be the most competitive candidates in the district-based races. Despite the NDP's unpopularity and the strong public support for prosecuting Mubarak regime officials, many former NDP parliamentarians retain strong reputations in their districts given their prior provision of services to their constituents.

The enlargement of individual electoral districts will further bolster former NDP candidates. Under the new system, 83 districts are covered by individual candidacy, compared to 222 under the previous system. Since candidates in the district-based elections cannot draw on the organizing capabilities of a political party, larger districts significantly advantage wealthier candidates -- many of whom either joined or supported the NDP during the Mubarak era. Former NDP legislators -- or their relatives -- are likely to fare particularly well in Upper Egypt and the Nile Delta, where large families that typically aligned with the NDP under Mubarak still dominate political life.

Blocking Small Parties?

Although the district-based component of the new electoral system is the most obvious avenue through which the former ruling party might return to power, it is hardly the only threat to Egypt's democratic prospects. The party-list elections that will determine the other two-thirds of parliament have also been structured in favor of larger, illiberal factions.

The official election bylaws have yet to be released, but reports suggest that the party-list elections will be based on district-wide voting, with winners determined using the "largest remainder system." According to this method, only those parties that meet or exceed the quota of votes for a given district will be able to win seats. For example, in a district with five seats, a party must win at least 20 percent of the vote to gain a seat; even if a party finishes within the top five, none of its candidates will be seated if it does not cross the 20 percent threshold.

If this system is enacted, it will significantly hamper newer parties in the next parliamentary elections. The local nature of these party-list elections -- as opposed to the nationwide systems in other democracies -- makes it unlikely that small and still-forming parties will be able to compete effectively. Even in those districts where they might field multiple candidates, they would have trouble surpassing the relatively high thresholds that the largest remainder system implies.

At the same time, the party-list structure significantly advantages the Freedom and Justice Party, the Muslim

Brotherhood (MB) faction that remains Egypt's only political force with significant organizational capabilities (apart from former NDP parliamentarians). Although the MB recently announced that it would run for only 40 percent of the parliamentary seats, it will likely dominate a much larger share of the legislature through its stewardship of the National Democratic Alliance for Egypt -- an electoral bloc that has attracted more than thirty parties hoping to benefit from the MB's political prowess. Most of these smaller parties stand to win only a handful of seats, however, because the Wafd Party, the MB's primary partner in the alliance, is likely to run for an additional 33.5 percent of the seats.

These percentages may grow even larger, especially if the new election laws lead more parties to jump on the MB's bandwagon. For example, the Egyptian Bloc -- a coalition of mostly liberal and leftist parties -- has just signaled that it might want to run in tandem with the Democratic Alliance, providing further indication that the presumptive new system heavily favors the Brotherhood.

While MB leaders prefer an electoral system that scraps district-based elections entirely and thereby limits the former NDP bloc's likelihood of success, Freedom and Justice Party leader Saad al-Katatni stated that he has "no objections to the new amendments." The MB is therefore likely to push its partners in the Democratic Alliance to accept the new format, since they stand to benefit by holding elections as soon as possible -- before potential competitors organize effectively.

U.S. Policy Options

Since Egypt's next parliament will select the committee that drafts the new constitution, election laws that ensure a broadly representative legislature are vital to ensuring the legitimacy of the country's political transition. The newly announced system, however, falls far short of this goal. Rather, it is designed to boost two of Egypt's most illiberal political forces -- the MB and former NDP parliamentarians -- and will therefore undermine prospects for a democratic future.

Given Washington's interest in promoting a stable, democratic transition, U.S. policymakers should encourage Egypt's military rulers to foster a more transparent elections process. International bodies such as the UN can play an important role in advising Cairo on creating a more open system, and Egypt's transitional leaders should be urged to seek out their advice -- much as Jordan and Iraq have done during their own internationally monitored elections. The United States should also continue to support pro-democracy Egyptian NGOs that provide information on the democratic process without advocating on behalf of any specific parties. Toward that end, Washington should insist that the transitional government cease its repressive investigations into these organizations' activities, as well as the vicious media campaign it has launched against them in recent days.

Eric Trager, The Washington Institute's Ira Weiner fellow, is a doctoral candidate in political science at the University of Pennsylvania, where he is writing his dissertation on Egyptian opposition parties. ❖

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