

Towards constitutional change: Egypt's referendum and the President Sisi's quest for power

Egyptians were called to cast their votes through a referendum on the constitutional amendments adopted last week by the parliament, from April 19th to 22nd 2019. In the very likely case of a majority of "Yes" the amended constitution would give more power to Abdel Fattah el-Sisi, the president of Egypt.

Current context

The days of the 2011 Revolution seem distant to the Egypt that took to the streets to topple Mubarak's regime. Since then, the Egyptian people have seen two presidents, three constitutional referenda and

- **January-February 2011:** Egyptian Revolution, Mubarak steps down from power.
- **March 2011:** New constitutional amendments adopted after a constitutional referendum.
- **June 2012:** Morsi is elected President of Egypt.
- **December 2012:** New constitution adopted by referendum: a step towards more democratic institutions.
- **July 2013:** Morsi is toppled by a military coup amid massive demonstrations calling on him to quit.
- **January 2014:** New constitution adopted by referendum.
- **May 2014:** Sissi is elected President of Egypt with 96% of the votes.
- **April 2018:** Sissi re-elected with 97% of the votes.
- **April 2019:** Constitutional referendum.

one military coup that forced a democratically elected president to step down. Before talking about the referendum, it is important to contextualize this event, seen by some as the final act of the burial of the 2011 revolution.

President Abdel Fattah el-Sisi has been in office since 2014. In constitutional terms, the situation in the country has stabilised after three years of uncertainty since the 2011 Revolution. But the reign of Sisi has been stained by regression in terms of democracy: the current constitution has been adopted in January 2014 through a referendum with 98% of the votes, while Sisi won the two past presidential elections with respectively 96% (2014) and 97% (2018) of the votes. These elections were often controversial, characterized by a low turnout and a muted opposition. As an illustration, only one candidate was allowed to face Sissi during the 2014 and 2018 presidential elections. It is not a surprise that for this year's constitutional referendum "only the Turnout Seems in Doubt"¹ and not the result itself.

¹ V. Yee, 'In Egypt Referendum, Only the Turnout Seems in Doubt', *New York Times*, 20th April 2019, <https://www.nytimes.com/2019/04/20/world/middleeast/egypt-referendum-sisi.html>, (accessed April 2019).

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With the coming constitutional referendum, a new project is in preparation- a more personalized constitution for Sisi- a man who has never stopped harvesting power since his access to the presidency in 2014. This monopolisation has been in the pipeline for years. In 2015, Sisi's thoughts were already on changing the rules: "The constitution gave the parliament broad powers, with good intentions... But the country cannot be run on good intentions".²

Constitution and Referendum Context

Current Constitution

The current constitution replaces the one introduced by President Mohammed Morsi, a member of the Muslim Brotherhood, and was approved by a referendum in January 2014. Months later in May 2014, Sisi was elected president. 2014 signifies a new cycle of power in Egypt, with a new constitution and a new president that still stands today. Under this new text, the president is elected to a four-year term and may serve only two terms, while the military keeps the authority to appoint the defence minister.

Referendum Context

The amendments to the 2014 constitution come at a crucial time, with neighbouring countries Algeria and Sudan toppling their leaders, spring 2019 is proving to be the Second Act of the Arab Spring. Sisi is hoping to prevent similar events like these from happening in Egypt, seeking to establish stability and prosperity through amendments that repress, essentially taking Egypt back to, as Human Rights Watch puts it, authoritarian rule.³

There have been talks of these amendments being put forward since February, yet on Tuesday 16th April parliament voted on a finalised set of amendments, with 531-22 passing them out of 596 seats. Sisi's support seems unwavering, and many are expecting that similar to his 97% re-election win, that Sisi will not be contested. Although oppositions exist, they seem to be silenced among the propaganda that is calling people to "Do the right thing. Vote" and "Yes to the constitutional amendments, for a better future". Egypt has a system where any amendment to a constitution should be put to the people, yet announcing the votes on 17th April to begin for 19th April shows a clear lack of time given to the nation to understand the consequences of the amendments put forward. Khaled Dawoud, member of the opposition party Al-Doustour, claims that there has been no time for the opposition to ask people to vote no⁴. Paradoxical when seeing the new and incredibly polished music videos urging people to vote. These music videos, with people waving Egyptian flags celebrate Nationalism and Democracy, echoing current scenes during the referendum. The New York Times reports that people are being offered free rides, free groceries and even money in exchange for an Electoral stained finger.

² M. Elmasry, 'Egypt's farcical elections', *Middle East Eye*, 20th October 2015, <https://www.middleeasteye.net/opinion/egypts-farcical-elections>, (accessed April 2019).

³ Human Rights Watch, 'Egypt: A Move to Enhance Authoritarian Rule', *Human Rights Watch*, 12th February 2019, <https://www.hrw.org/news/2019/02/12/egypt-move-enhance-authoritarian-rule>, (accessed April 2019).

⁴ R. Michaelson and A. Youssef, 'Egyptians vote in snap referendum on keeping Sisi in power', *The Guardian*, 20th April 2019, <https://www.theguardian.com/world/2019/apr/20/egypt-snap-sisi-presidency-cairo>, (accessed April 2019).

What do the amendments mean?

Military's Role

The current state in Egypt was established under the military coup of 2013, and under Sisi the military has received more power. His new amendments aim to continue this trend.

Article 200- Originally stated the "Armed Forces belong to the people", it now seems the Armed Forces will have more power, in addition to protecting the country in preserving security and territories, they will "preserve the constitution and democracy, maintain the basic pillars of the state and its civilian nature, and uphold the gains of the people, and the rights and freedoms of individuals"⁵.

Article 204- Citizens can face trial before military courts " in cases of assaulting military establishments, military camps, military zones and borders, military equipment, vehicles, weapons, ammunition, documents, secrets, funds, or army factories," and even includes crimes relating to recruitment and assaulting an officer.

Article 234- The role of the Supreme Council of the Armed Forces is enshrined in approving the minister of defence's appointment, which will last until the end of Mr Sisi's second term.

Judiciary

The amendments are highlighted by Amnesty International to undermine judicial independence, in a move that will further empower the president in creating a higher council for judicial with Sisi at the head and appoint individuals to roles.

Article 185- Amendment will allow the president of the republic to appoint the heads of judicial authorities.

The Senate

Sisi will create the Senate, and in the amendments the terms are defined for those who are applicable, as well as the issues the senate will deal with, but beyond that it further empowers the prime minister and his circle.

Article 243- Authority to study and propose what it deems necessary on the basis of democracy.

Article 253- The prime minister, deputies, and ministers will not be held accountable to the senate.

Article 250- Senate will be comprised of 180 members with a third being appointed by the president, and its term being 5 years.

Article 251- Members should be Egyptian, not less than 35 years old, and have a university degree that will allow them to exercise their civilian and political rights.

House of Representatives

⁵ Ahram Online, ' Egypt parliament passes constitutional amendments, extends president's term limit', *Ahram Online*, 16th April 2019, <http://english.ahram.org.eg/NewsPrint/330131.aspx>, (accessed April 2019).

This amendment is a conscious move towards equality, however it is underpinned by the reduction of elected MPs.

Article 102- Reduce number of elected MPs from 596 to 450 MPs , with at least 25 percent/ 112 seats to be reserved for women.

President of the Republic

This is perhaps the most significant amendment which extends Sisi's rule possibly to 2030.

Article 140- The president of the republic will be elected for 6 year terms, and cannot remain for more than two terms.

Transitional Article 240- The current president will have his current term change from 4 to 6 years, and can be re-elected for another six year term.

Human Rights crackdown in Egypt

“President Abdel Fattah al-Sisi's government continues to oversee Egypt's worst human rights crisis in decades.”⁶ Egypt's amendments will further weaken the constitution and have a detrimental effect on human rights across the nation. Since Sisi's overthrow of elected President Mohamed Morsi in the 2013 military coup, there have been ongoing human rights crackdowns in Egypt.

Counter-terrorism

Egypt has intensified the use of counterterrorism and state-of-emergency laws to target opposition activists, journalists and peaceful protesters. The new counterterrorism laws uphold a very broad definition of terrorism, encompassing the criminalisation of a wide range of acts. Professionals such as journalists, lawyers, surgeons and human rights activists have all been arrested for their criticism of the government, often on social media, or for their peaceful human rights work or free expression. However, they have used this law to unjustly accuse or prosecute individuals of disseminating fake news, being a risk to public security, inciting public fear, joining terrorist organisations as well as other crimes. Under these counterterrorism laws there is no guarantee of a fair trial for those prosecuted. Lawyers are often prevented from attending interrogations with their clients and there is no process for appeal, this is particularly problematic in cases where capital punishment is used.

Online-censorship (Freedom of Expression)

In 2014, the year of the presidential elections that followed the military coup, Sisi won 96.1% of the votes with no real opposition. Since then, there has been an ongoing crackdown on online activism in Egypt. As reported by the Guardian, the UAE bought a spyware programme, from French company, Nexa technology, which they then gifted to Egypt enabling them to monitor and hack the social media

⁶ Human Rights Watch, 'Egypt', *Human Rights Watch*, <https://www.hrw.org/middle-east/n-africa/egypt>, (accessed April 2019).

accounts of Al-Sisi's opposition during his presidential campaign. This led to the arrests of a large number of opposition activists.⁷

The Egyptian parliament passed a new law called the Anti-Cyber and Information Technology Crimes Law (Cybercrime Law) in August 2018. This granted Egyptian authorities more extensive powers to restrict freedom of expression, violate citizens' privacy, and prosecute online activists for peaceful speech.⁸ A report published by Amnesty International on 6 March 2019 revealed that dozens of Egyptian human rights defenders have been targets of phishing or digital attacks. A rise in attacks often coincide with political events. In the run-up to the referendum it has been reported that 34,000 websites have been fully or partly shut down by authorities in order to prevent access to a petition opposing the proposed amendments. The petition has reportedly received 250,000 signatures.

Security and Armed Forces

If the proposed amendments are adopted they will legitimise the Armed Forces' authority to intervene in government, undermine judicial independence and broaden executive powers that are already being abused. The army are essentially granted governing authority in Egypt and this further ensures that they cannot be held accountable for their actions, If the amendments are voted for in the referendum. In 2017, a 63 page report, 'We Do Unreasonable Things Here': Torture and National Security in al-Sisi's Egypt, was released by Amnesty International regarding the systematic torture used by Egyptian security forces to coerce suspects to disclose information, give forced confessions or as form of punishment. Torture is deep-rooted in Egypt's law enforcement system, the abuses carried out by security forces contributed to the unrest of Egyptian citizens and the consequent uprising that resulted in the downfall of Hosni Mubarak in 2011.

Death Penalty (Right to Life)

Since Sisi's military coup, Egypt have sentenced hundreds of people to death, and many did not receive a fair trial. The most recent figures released by Amnesty International showed that Egypt ranked sixth in highest numbers of executions, increased from 35 in 2017 to 43 in 2018, and the second largest number of death sentences in the world in 2018, a significant increase from 402 in 2017 to 717.

Freedom of Assembly (Right to Participate)

According to Article 20 of the Universal Declaration of Human Rights, everyone has the right to freedom of peaceful assembly and association. This is far from the case in Egypt.

In August 2013, peaceful protesters gathered in Rab'a Square in Cairo in support of ousted President Mohamed Morsi, at least 817 protesters were killed by Sisi's security and armed forces in a single day. This has been considered one of the largest killings of demonstrators in recent times.

⁷ The Guardian, Egypt referendum: No one believes this vote will be fair but we won't be silenced, The Guardian, 16th April 2019, <https://www.theguardian.com/global-development/2019/apr/16/no-one-believes-this-vote-will-be-fair-egypt-protesters-cast-doubt-on-poll>, (accessed April 2019).

⁸ Human Rights Watch, 'Egypt events of 2018', Human Rights Watch, <https://www.hrw.org/world-report/2019/country-chapters/egypt>, (accessed April 2019).

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In the lead-up to the referendum on constitutional changes, the Minister of Interior requested that the court prevent the Civil Democratic Movement from gathering outside parliament to protest. The request was made and granted on the grounds of protesters being a threat to public security and peace.

Free and fair elections

Since Sisi came into power in 2013, presidential elections have returned to being neither free nor fair. Egyptian authorities have intimidated and eliminated alternative candidates and their supporters, leaving Sisi with no real opposition. This is in violation of international obligations towards facilitating the enjoyment of basic human rights.

Conclusion

These amendments undermine human rights in Egypt. In order to support democratic development and strengthen the human rights situation, it is essential to take measures and revise the current situation based on International Standards of Free and Fair Elections and candidature, party and campaign rights. To move towards this, and enhance legitimacy is a priority to build national consensus and preserve the status of citizens. ACHRS supports the Freedom of Assembly and Association and strictly affirms a maximum of two consecutive terms for any elected leader.