

Reforming Egypt's Constitution: Hope for Egyptian Democracy?

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Abstract

In this Note, I discuss the recent constitutional reforms passed in Egypt on March 19, 2011, which followed former President Hosni Mubarak's resignation. I attempt to compare the reforms made in Egypt to constitutional reforms made in Benin, Mali, and other post-dictatorial African nations during the 1990s because of similarity in these countries' constitutional structures. All of these countries, including Egypt, had dictatorial presidents in one-party parliamentary systems with socialist underpinnings. I recognize that Egypt's Islamic social foundations will most likely have a dramatic effect on its constitution moving forward and discuss how to minimize those effects. However, I believe that by comparing how democracy has progressed in other post-dictatorial, socialist African nations, we may gain some understanding of how Egypt's democracy should, and hopefully will, develop in the future.

SUMMARY

INTRODUCTION: A CHANGING EGYPT	238
I. THE HISTORY OF EGYPT'S SOCIALIST CONSTITUTION	239
A. <i>Nasser's Constitution</i>	239
B. <i>Sadat's Constitution</i>	241
II. EGYPT'S RECENT AMENDMENTS.....	243
A. <i>Disabling Dictatorships</i>	245
B. <i>Facilitating Free Elections</i>	246
C. <i>Ending Oppression</i>	248
III. A COMPARISON WITH OTHER REFORMED AFRICAN CONSTITUTIONS	249
A. <i>Benin</i>	249

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<i>B. Malawi</i>	252
<i>C. Brief Examples of Reform from Other African Nations</i>	255
IV. THE ULTIMATE QUALIFICATION: THE MUSLIM BROTHERHOOD.....	257
CONCLUSION: HOPE FOR EGYPT?	258

INTRODUCTION: A CHANGING EGYPT

Beginning on January 25, 2011, Egyptians began protesting against Hosni Mubarak, the Egyptian president since 1981.¹ After eighteen days of protests, Mubarak stepped down as Egypt’s president.² The Egyptian people were “fed up with high levels of poverty, corruption and unemployment” and determined that serious constitutional changes needed to occur.³ After days of skirmishes between anti-and pro-Mubarak protesters, even Mubarak recognized the need for such changes.⁴

Despite Mubarak relinquishing some executive powers to his newly appointed vice-president, discharging his cabinet, and promising constitutional reform in a national address, protesters called for Mubarak’s immediate resignation.⁵ After the leadership of the National Democratic Party—Egypt’s dominant and essentially governing party—stepped down, Mubarak finally ceded control to Egypt’s Supreme Council of the Armed Forces (SCAF).⁶ The SCAF quickly held a referendum on March 19, 2011, passing nine amendments to the current constitution.⁷ Elections for the lower house of Parliament occurred in November and December of 2011, ending with moderate and more conservative Islamist parties winning a majority of the seats.⁸ Multi-stage elections for the upper house of Parliament began in January 2012 and are scheduled to end in February.⁹ These step-by-step elections are scheduled to conclude with a presidential election scheduled for June 2012.¹⁰

1. *Egypt Protests: Key Moments in Unrest*, BBC NEWS (Feb. 11, 2011), <http://www.bbc.co.uk/news/world-middle-east-12425375>; *Egypt Profile: Timeline*, BBC NEWS (Aug. 3, 2011), http://news.bbc.co.uk/2/hi/middle_east/790978.stm.

2. *Egypt Protests: Key Moments in Unrest*, *supra* note 1.

3. *Id.*; *Morning Edition: Protestors Demand Changes to Egypt’s Constitution*, NPR (Feb. 8, 2011), <http://www.npr.org/2011/02/08/133583987/Egypt-constitution>.

4. *See Egypt Protests: Key Moments in Unrest*, *supra* note 1 (explaining that Mubarak asked newly appointed Vice-President Omar Suleiman to “open dialogue with all political parties on constitutional reform”).

5. *Id.*; Michael Winter, *Mubarak Resigns; Israelis Worried About Peace Treaty*, USA TODAY (Feb. 11, 2011), <http://content.usatoday.com/communities/ondeadline/post/2011/02/military-vows-free-election-offers-conditional-end-to-emergency-law/1>.

6. Winter, *supra* note 5.

7. *Egypt Approves Constitutional Changes*, AL JAZEERA (Mar. 20, 2011), <http://www.aljazeera.com/news/middleeast/2011/03/2011320164119973176.html>.

8. *Runoff Races to Further Shape Makeup of Egyptian Parliament*, CNN (Dec. 4, 2011), http://articles.cnn.com/2011-12-04/middleeast/world_meast_egypt-elections_1_runoff-races-parliament-egyptians.

9. *Egyptians Vote in Upper House Elections*, AL JAZEERA (Jan. 30, 2012), <http://www.aljazeera.com/news/middleeast/2012/01/20121295410462718.html>; Ahmed A. Namatalla, *Egypt Parliamentary Elections Schedule Shortened*, *Ahram Reports*, BLOOMBERG (Jan. 1, 2012), <http://www.bloomberg.com/news/2012-01-02/egypt-parliamentary-elections-schedule-shortened-ahram-reports.html>.

10. *Runoff Races to Further Shape Makeup of Egyptian Parliament*, *supra* note 8.

This Note discusses the history of the Egyptian constitution, the previous constitutional impediments to democracy, the 2011 amendments, and how effectively those amendments address Egypt's constitutional issues in comparison with how other African nations reformed their constitutions in the 1990s. Specific African nations were chosen because before undergoing reform these countries' had socialist constitutions, had previously been subject to the rule of a dictatorial president in a semi-presidential system, and effectively had single-party political systems.¹¹ This Note also discusses what can be considered the ultimate limitation on any comparison of Egypt with sub-Saharan Africa: the effect that the Muslim Brotherhood, and Islam, could have on Egypt's constitution moving forward.

After looking to other African nations for how to effectively initiate democracy in a post-dictatorial society, this Note makes a couple of suggestions. Egypt should follow Benin's example by granting to the Supreme Constitutional Court enough authority to protect and enforce its new constitution. Egypt must also follow Malawi's example in creating a system of accountability within the constitution and the government that is able to address and protect civil liberties. Further, Egypt could mitigate the overpowering effect the Muslim Brotherhood may have on any future government by adopting a full parliamentary system, as suggested by one prominent professor, Bruce Ackerman. Lastly, and perhaps most importantly, a comparison with various successful African democracies emphasizes that Egypt, and its people, must be willing to truly commit to whatever results a democracy may lead to—no matter who disagrees with those results.

I. THE HISTORY OF EGYPT'S SOCIALIST CONSTITUTION

A. *Nasser's Constitution*

In 1952, Gamal Abdel Nasser and the Free Officers carried out an almost bloodless coup d'état.¹² This revolution abandoned the 1923 constitution, which had essentially formed a constitutional monarchy.¹³ The 1923 constitution had created an elected parliament, known as the "Chamber of Deputies," as well as a cabinet headed by a prime minister.¹⁴ The 1923 constitution extended suffrage to all adult males—with the exception of brief periods when land ownership was required—while citizens enjoyed the freedoms of speech, of press, to form political parties, and

11. See *infra* Section III; see also *Bureau of African Affairs, Background Note: Benin*, U.S. DEP'T OF STATE (July 18, 2011), <http://www.state.gov/r/pa/ei/bgn/6761.htm#history> ("The last of [a series of coups] brought to power Major Mathieu Kerekou as the head of a regime professing strict Marxist-Leninist principles. The Revolutionary Party of the People of Benin (PRPB) remained in complete power until the beginning of the 1990s."); *Bureau of African Affairs, Background Note: Malawi*, U.S. DEP'T OF STATE (Sept. 28, 2011), <http://www.state.gov/r/pa/ei/bgn/7231.htm#history> ("Malawi adopted a new constitution and became a one-party state with Dr. Banda as its first president. . . . After fully consolidating his power, Banda was named President for Life of Malawi . . . in 1971. The parliamentary wing of [Banda's party] helped keep Malawi under authoritarian control until the 1990s.").

12. GLENN E. PERRY, *THE HISTORY OF EGYPT 89–90* (Frank W. Thackery & John E. Finding eds., 2004); see also Selma Botman, *The Liberal Age, 1923–1952*, in 2 *THE CAMBRIDGE HISTORY OF EGYPT: MODERN EGYPT FROM 1517 TO THE END OF THE TWENTIETH CENTURY* 306–07 (M. W. Daly ed., 1998) ("[T]he Free Officers staged a bloodless coup d'état on July 23, 1952 . . .").

13. PERRY, *supra* note 12, at 76, 89–90.

14. *Id.* at 76.

even, to contest elections.¹⁵ However, two main aspects of the 1923 constitution thwarted democracy in Egypt: intermittent British interference in Egyptian politics and policymaking, and the king's overwhelming power.¹⁶ The king was able to single-handedly disband Parliament, appoint up to two-fifths of the Senate, and veto any of Parliament's bills.¹⁷ Furthermore, King Fu'ad, and later his son, King Faruq, frequently ignored or even abrogated the constitution.¹⁸ By the time Nasser and the Free Officers declared Egypt a republic in 1953,¹⁹ a new constitution was long overdue.

In 1956, Nasser established a new constitution that would remain the underpinnings of the current constitution despite his successor enacting a new constitution in 1971. Nasser's constitution was reminiscent of most socialist constitutions,²⁰ promising a welfare state that would provide:

[t]he eradication of all aspects of imperialism; [t]he extinction of feudalism; [t]he eradication of monopolies, and the control of capitalistic influence over the system of Government; [t]he establishment of a strong national army; [t]he establishment of social justice; [and] [t]he establishment of a sound democratic society.²¹

Nasser's constitution strove for the eradication of the "control of capitalistic influence" over the government by providing for a state-run economy²² and a national welfare system.²³ It also attempted to live up to its promise of establishing "social justice" by guaranteeing freedom of religion,²⁴ freedoms of press and of speech,²⁵ freedom of association,²⁶ and free elections.²⁷ However, these promises would not be met. From 1956 to 2011, if a "sound democratic society" existed in Egypt, it was unrecognizable.

While Article 47 of Nasser's constitution stated that "Egyptians have the right to set up associations," it qualified that right by saying it was "subject to the provisions prescribed by law."²⁸ This qualification allowed Nasser to ban all political

15. *Id.* at 75–76.

16. *Id.* at 76; Botman, *supra* note 12, at 307.

17. PERRY, *supra* note 12, at 76.

18. *Id.*

19. SUSAN MUADDI DARRAJ, HOSNI MUBARAK 40 (2007).

20. See Inga Markovits, *Constitution Making After National Catastrophes: Germany in 1949 and 1990*, 49 WM. & MARY L. REV. 1307, 1330 (2008) (discussing that state guarantees "are reminiscent of socialist constitutions, which tended to include long lists of promises supposedly ensured by the specific structures of the socialist state"); Emin S. Toro, *Of Courts and Rights: Constitutionalism in Post-Communist Albania*, 25 N.C.J. INT'L L. & COM. REG. 485, 487 (2000) (explaining that traditional socialist constitutions contain "lengthy lists of fundamental rights").

21. CONSTITUTION OF THE REPUBLIC OF EGYPT, 16 Jan. 1956, pmb1.

22. *Id.*; see also *id.* arts. 7, 9, 12 (stating that the "economy will be planned in accordance with the principles of social justice;" declaring that "[c]apital will be at the service of the national economy;" and establishing a limit on land ownership, in order to "eliminate the emergence of feudalism").

23. See *id.* art. 21 (guaranteeing "State aid in cases of old age, sickness and inability to work").

24. *Id.* art. 43.

25. *Id.* arts. 44–45.

26. *Id.* art. 47.

27. CONSTITUTION OF THE REPUBLIC OF EGYPT, 16 Jan. 1956, art. 61.

28. *Id.* art. 47.

parties.²⁹ Nasser would spend years oppressing the Muslim Brotherhood, though he could not fully outlaw the Brotherhood because of its status as a religious organization.³⁰ However, early and often, Nasser used his police powers³¹ to imprison Brotherhood members and, for all intents and purposes, prohibited any Brotherhood activities that could be seen as political.³²

Nasser also ignored his promise to establish a democratic society in other ways. While Nasser's constitution provided six-year terms for the president,³³ it did not provide term limits, essentially permitting a presidency for life. Furthermore, while Nasser was "re-elected" several times during his reign and was indeed extremely popular, he was unopposed in each election, and the National Union, which replaced political parties, prevented any potential candidates from running.³⁴ After Nasser's death from a heart attack in 1971, Anwar Sadat enacted a new constitution and reversed many of Nasser's policies, but did not reverse Egypt's socialist and dictatorial underpinnings.³⁵

B. *Sadat's Constitution*

While Sadat purported to enact a new constitution in 1971, he used Nasser's constitution as a foundation. Sadat's constitution, on its face, held on to many of the socialist constitutional tendencies. The preamble, like Nasser's, begins with general promises of justice, social progress, freedom from exploitation, national development, and "freedom and humanity."³⁶

Sadat tempered the quasi-socialist language in the 1971 constitution. For example, Article 3 recognized that the sovereignty and authority of the government came from the people,³⁷ instead of the state (which is more typical of socialist constitutions and was the case in Nasser's constitution).³⁸ Additionally, the 1971 constitution alluded to Sadat's desire to liberalize the economy by removing Nasser's declaration that the "economy will be planned in accordance with the principles of social justice which aim at promoting national productivity and raising the standard of living."³⁹ Instead, the 1971 constitution simply stated that the economy would be "based on the development of economic activity, social justice, guarantee of different

29. See PERRY, *supra* note 12, at 92 (describing the events that led Nasser to ban political parties).

30. *Id.*

31. See CONSTITUTION OF THE REPUBLIC OF EGYPT, 16 Jan. 1956, art. 138 ("The President of the Republic issues police regulations and all regulations required for the execution of laws.").

32. See PERRY, *supra* note 12, at 92–93 (describing that after one member's "barely failed" attempt to assassinate Nasser during a speech in October 1954, police imprisoned thousands of members and executed six); JAMES JANKOWSKI, NASSER'S EGYPT, ARAB NATIONALISM, AND THE UNITED ARAB REPUBLIC 21 (2002) (stating that a ban on political parties was extended to the Muslim Brotherhood in January 1954).

33. CONSTITUTION OF THE REPUBLIC OF EGYPT, 16 Jan. 1956, art. 122.

34. See DEREK HOPWOOD, EGYPT 1945–90: POLITICS AND SOCIETY 88–89 (3rd ed. 1991) (detailing Nasser's popularity and attempts to exclude other groups from political power).

35. PERRY, *supra* note 12, at 109–13.

36. CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, *as amended*, May 22, 1980, May 25, 2005, March 26, 2007, proclamation.

37. *Id.* art. 3.

38. CONSTITUTION OF THE REPUBLIC OF EGYPT, 16 Jan. 1956, art. 2.

39. *Id.* art. 7.

forms of property and the preservation of worker's rights."⁴⁰ Admittedly, Article 3 of the 1971 constitution is not the most capitalistic statement, but it is still a definite sign of liberalization when compared with Nasser's complete control over the economy.⁴¹ Sadat implemented capitalist policies in an effort to save Egypt's sinking economy.⁴²

Sadat's constitution even opened the door for a more open democracy by explicitly declaring that "[t]he political system of the Arab Republic of Egypt is a multiparty system."⁴³ However, Sadat again limited that statement with the qualification that "[p]olitical parties are regulated by law."⁴⁴ This qualification essentially allowed Sadat to control who could form a party and what parties were allowed to take part in elections, and to ensure that political opposition would remain minimal and easily brushed aside, if it existed at all.⁴⁵ These reforms did nothing to change the fact that the National Democratic Party (NDP), Sadat's party, would continue to dominate parliamentary elections, and Sadat would continue to run unopposed in presidential elections, since "[v]arious kinds of . . . vote rigging guaranteed that."⁴⁶ However, Sadat's 1971 constitution did have a limit on presidential power—a two-term re-election limit.⁴⁷

Beginning in 1977, after Sadat's reforms had failed to provide economic growth for the poorest Egyptians, his popularity began to wane.⁴⁸ As his popularity declined, Sadat became increasingly dictatorial. Sadat began to change the constitution to his liking through Article 152 of the 1971 constitution, which allowed Sadat to propose amendments through referendum.⁴⁹ Vote rigging continued and referenda typically resulted in 99.96 percent "yes" votes.⁵⁰ Sadat's first target was the two-term limit originally set forth in the 1971 constitution, abolishing any sort of term limits whatsoever.⁵¹ He went on to use his powers under Article 141 of the constitution, which permitted him to appoint or remove the Prime Minister without any approval from Parliament,⁵² leading him to assume the office himself.⁵³ Lastly, Sadat began imprisoning any and all dissidents, from Islamists to Coptic Christians, which was a

40. CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, *as amended*, May 22, 1980, May 25, 2005, March 26, 2007, art. 4.

41. *See, e.g.*, PERRY, *supra* note 12, at 100–01 (describing Nasser's Land Reform Act of 1952, his nationalization of British and French property in 1956, and the nationalization of Bank Misr in 1960, which became the National Bank of Egypt).

42. *Id.* at 123–24.

43. CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, *as amended*, May 22, 1980, May 25, 2005, March 26, 2007, art. 5.

44. *Id.*

45. *See* PERRY, *supra* note 12, at 124–25 (describing Sadat's various means of suppressing opposing political factions); ALAA AL-DIN ARAFAT, THE MUBARAK LEADERSHIP AND FUTURE OF DEMOCRACY IN EGYPT 18–19 (2009) (describing how the political party system in Egypt was used "to contain and moderate dissent" rather than to create an open, democratic system).

46. PERRY, *supra* note 12, at 125.

47. *Id.* at 126.

48. *Id.* at 125–26.

49. *Id.* at 126; CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, *as amended*, May 22, 1980, May 25, 2005, March 26, 2007, art. 152.

50. PERRY, *supra* note 12, at 126.

51. *Id.*

52. CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, *as amended*, May 22, 1980, May 25, 2005, March 26, 2007, art. 141.

53. PERRY, *supra* note 12, at 126.

key factor leading to his assassination in 1981.⁵⁴ After Sadat's assassination, then-Vice-President Mubarak ascended to the presidency.⁵⁵

II. EGYPT'S RECENT AMENDMENTS

First looked upon as a mere placeholder,⁵⁶ Mubarak would later take advantage of the fact that term limits were removed from the constitution under Sadat and eventually hold on to Egypt's presidency for three decades.⁵⁷ Mubarak's presidency was, for a short while, slightly more liberal than Sadat's presidency.⁵⁸ Political parties were tolerated to an extent.⁵⁹ Even Muslim Brotherhood members began running for Parliament as independents in 1984,⁶⁰ and free expression was growing in the form of opposition publications.⁶¹ Nevertheless, the government would routinely censor and confiscate these books or articles.⁶² Licenses to publish were extremely difficult to obtain.⁶³ While a moderate Islamist party had been allowed to form, the Muslim Brotherhood continued to be oppressed, and many members were imprisoned.⁶⁴

Most importantly, Mubarak's emergency powers under Article 148 were continuously renewed during his thirty years as president by the NDP-dominated parliament.⁶⁵ Mubarak used Sadat's Article 152 referendum power together with rigged elections to amend the constitution in his favor.⁶⁶ Because of Article 148's emergency powers and Article 152's referendum power, Mubarak added Article 179 to the constitution.⁶⁷ Article 179 (the Terror Article) provided:

The State shall seek to safeguard public security and discipline to counter dangers of terror. The law shall, under the supervision of the Judiciary, regulate special provisions related to evidence and investigation procedures required to counter those dangers. The procedure stipulated in paragraph 1 of Articles 41 and 44 and paragraph 2 of Article 45 of the Constitution shall in no way preclude such counter-terror action.

54. *Id.* at 126–27.

55. *Id.* at 129.

56. *Id.*

57. See Marwa Awad, *Egypt's Constitution Committee Meets Army Saturday*, REUTERS (Feb. 24, 2011), <http://af.reuters.com/article/topNews/idAFJ0E71N0EQ20110224> (referring to “legal mechanisms which kept Hosni Mubarak and his ruling party in power for 30 years”).

58. PERRY, *supra* note 12, at 132.

59. *Id.*

60. *Id.*

61. *Id.* at 134.

62. *Id.*

63. PERRY, *supra* note 12, at 134.

64. *Id.* at 132–35.

65. *Id.* at 134–35; see CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, as amended, May 22, 1980, May 25, 2005, March 26, 2007, art. 148 (“The President of the Republic shall proclaim a state of emergency in the manner prescribed by the law.”).

66. See CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, as amended, May 22, 1980, May 25, 2005, March 26, 2007, art. 152 (“The President of the Republic may call a referendum of the people on important matters affecting the supreme interest of the country.”).

67. *Id.* arts. 148, 152, 179.

*The President may refer any terror crime to any judicial body stipulated in the Constitution or the law.*⁶⁸

Mubarak's emergency powers allowed the police to detain citizens for up to a month—indeinitely renewable—without any official charges.⁶⁹ Mubarak was able to use the Terror Article to imprison dissidents in the media, in other political parties, and in Islamist organizations.⁷⁰ Furthermore, the emergency powers make a gathering of five or more illegal, thus prohibiting freedom of assembly.⁷¹

Another impediment to democracy was the inability of the Supreme Constitutional Court (SCC) to have any impact on lawmaking or constitutional growth. The 1971 constitution created the SCC as an independent body⁷² and granted some protections for that independence by giving its judges irrevocable status as members of the SCC.⁷³ The SCC was even granted authority to interpret the constitution.⁷⁴ However, SCC judges were appointed by the president.⁷⁵ In 2001, Mubarak appointed a man closely associated with his regime, Fathi Naguib, to be chief justice.⁷⁶ Naguib then increased the number of judges by fifty percent by appointing five new justices.⁷⁷ The SCC, never holding much power, became even more of a rubber stamp for Mubarak.⁷⁸

While Mubarak's Egypt was much more liberal than Nasser's and Sadat's in some ways, presidential power to silence dissidents had not decreased in the slightest since Nasser. Indeed, during Mubarak's reign, his dictatorship strengthened as he was able to slowly amend the constitution in order to give the appearance of

68. *Id.* art. 179 (emphasis added).

69. See Sadiq Reza, *Endless Emergency: The Case of Egypt*, 10 *NEW CRIM. L. REV.* 532, 537–38 (2007) (discussing the emergency powers, renewable monthly ad infinitum, which grant the executive the right to “arrest suspects or [persons who are] dangerous to public security and order [and] detain them” without regard to the “provisions of the Criminal Procedure Code,” which limits post-arrest detentions) (alteration in original) (quoting Law No. 162 of 1958, (Law Concerning the State of Emergency), *Qanun bi Sha'n Halah al-Tawari'*, 28 Sept. 1958, art. 3).

70. *Id.* at 549–50 (“Workers, political activists, counterrevolutionaries, Communists, homosexuals— all these and more have been targeted by emergency and military powers in modern Egypt.”).

71. Mona El-Ghobashy, *Unsettling the Authorities: Constitutional Reform in Egypt*, 226 *MIDDLE E. REP.* 28, Spring 2003, at 31–32.

72. CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, *as amended*, May 22, 1980, May 25, 2005, March 26, 2007, art. 174.

73. *Id.* art. 177.

74. Law No. 48 of 1979 (Law on the Supreme Constitutional Court, as amended by Law No. 168 of 1998), *Al-Jarida Al-Rasmiyya*, 9 June 1979, art. 25; see *Supreme Constitutional Court*, EGYPT STATE INFO. SERV., <http://www.sis.gov.eg/En/Story.aspx?sid=472> (last visited Nov. 11, 2011) (noting that “[t]he SCC is alone responsible for censoring the constitutionality of the laws” and that Article 25 of Law No. 48 of 1979 lists out the Court's responsibilities, including “[t]o censor the constitutionality of the laws and regulations”).

75. See Tamir Moustafa, *Law Versus the State: The Judicialization of Politics in Egypt*, 28 *LAW & SOC. INQUIRY* 883, 893–94 (2003) (“New justices on the court were appointed by the president from two candidates, one nominated by the general assembly of the court and the other by the chief justice, but in practice the nominations of the chief justice and the general assembly of the SCC were always the same.”).

76. *Id.* at 924.

77. *Id.*

78. See *id.* at 925 (“Over and above whatever substantive effect Naguib has on SCC rulings over the next several years, Mubarak's willingness to assert his power to appoint the chief justice after more than 20 years of ratifying the SCC's own internal selection process is yet another indication that the regime is increasingly intent on aborting its experiment with an independent constitutional court.”).

liberalization, while ensuring that his rule could never be challenged through the political system. Mubarak was able to hold on to the presidency for longer than any of his predecessors.⁷⁹ Perhaps telling of Mubarak's reign is that over the last twenty years, the time period in which he turned his back on more liberal policies in favor of dictatorial ones, the GDP per capita average annual growth rate was 2.6 percent, compared to 4.1 percent from 1970 to 1990, his liberal period.⁸⁰ Mubarak's oppression prompted the uprisings of February 2011, leading to the Supreme Council of the Armed Forces taking control of the country, gathering a constitutional committee, and proposing a total of nine amendments to the country for referendum.⁸¹

All nine amendments were passed—77 percent of voters⁸² voted “yes” to the changes—in possibly the first legitimate referendum since 1956,⁸³ including the most important amendment, which requires Parliament to write a new constitution.⁸⁴ In the meantime, eight other amendments were approved, which will hopefully ensure a more democratic Egypt until a new constitution can be introduced. I discuss these amendments in three subsections below.

A. *Disabling Dictatorships*

The amendments made to Articles 77 and 139 of the 1971 constitution focus on closing the constitutional hole, so to speak, that allowed Egypt's dictatorships to

79. See *Egypt Profile: Timeline*, *supra* note 1 (Nasser held the presidency from 1956–70, Saddam from 1970–81, and Mubarak from 1981–2011).

80. *Egypt: Statistics, The Rate of Progress*, UNICEF (Mar. 2, 2010), http://www.unicef.org/infobycountry/egypt_statistics.html#82.

81. *Egypt Approves Constitutional Changes*, AL JAZEERA (Mar. 20, 2011), <http://www.aljazeera.com/news/middleeast/2011/03/2011320164119973176.html>.

82. Maggie Michael, *Egypt: Constitution Changes Pass in Referendum*, USA TODAY (Mar. 20, 2011), http://www.usatoday.com/news/topstories/2011-03-19-3552014482_x.htm. However, only 18 million out of the 45 million eligible voters participated in the referendum, with approximately 14 million voting “Yes” to the changes, and approximately 4 million voting “No.” The 41 percent turnout, while not fantastic, is impressive, considering many Egyptians had never voted before. *Id.*

83. *Egypt Politics: Keeping the Constitution*, ECONOMIST INTELLIGENCE UNIT (Mar. 21, 2011), http://viewswire.eiu.com/index.asp?layout=VWArticleVW3&article_id=1987898383. Some have called the legitimacy of the referendum into question because of the influence the Army maintained over the process. The Military Council called for a media blackout about the referendum in order to avoid “suggestions or analysis that would affect public opinion positively or negatively with respect to the public referendum on constitutional amendments.” *Egypt Military Calls for Media Silence on Referendum Beginning Friday*, ALMASRY ALYOUM (Mar. 17, 2011), <http://www.almasryalyoum.com/en/node/360922>. Moreover, a poll taken before the referendum actually suggested the amendments would fail, with 57 percent opposing the amendments. *Majority of Egyptians Against Constitutional Amendments, Says Poll*, ALMASRY ALYOUM (Mar. 11, 2011), <http://www.almasryalyoum.com/en/node/348851>. I have no knowledge as to how the poll was conducted or the accuracy of it.

84. *Constitutional Amendments*, THE EGYPTIAN SUPREME JUDICIAL COMMISSION, art. 189, <http://www.referendum.eg/constitutional-amendments/2011-03-11-22-19-08.html> (text of the original in Arabic); *Egypt's Amendments: Full Text*, BIKYA MASR (Mar. 18, 2011), <http://bikyamasr.com/30772/egypts-amendments-full-text> (unofficial English translation) [hereinafter *Referendum Amendments*]; see also EGYPT STATE INFO. SERV., THE 2011 REFERENDUM TO AMEND THE CONSTITUTION, available at <http://www.sis.gov.eg/VR/referendum.pdf> (discussing the amendment to Article 189 to require the promulgation of a new constitution).

perpetuate. Previously, Article 77 limited the presidential term length to six years.⁸⁵ However, it conveniently left out any limitation on the amount of terms one president could serve. The amendment to Article 77 institutes a two-term limit for the presidency.⁸⁶ This was one of the easier and most important changes made to halt the persistent string of dictators in Egypt.

Article 139 of the 1971 constitution gave the power of appointing a vice-president—and removing the vice-president—to the president.⁸⁷ However, it was an optional power, which led to Mubarak waiting to appoint a vice-president until only days before his removal from office.⁸⁸ In the past, the vice-president did not have much power in Egyptian politics or much of an ability to check presidential action and authority.⁸⁹ However, the amendment to Article 139 now requires the president to appoint a vice-president within sixty days of taking power.⁹⁰ Perhaps this will put more of a focus on using the office of vice-president to curb dictatorial action.

B. *Facilitating Free Elections*

The amendments passed for Articles 75, 76, 88, and 93 were passed in an effort to remove the roadblocks to free elections. The original Article 76 discusses the requirements for a presidential applicant to be accepted as a candidate.⁹¹ It required that an applicant have support from 250 members of the People's Assembly, which has 454 total members.⁹² This requirement had essentially guaranteed that Nasser, Sadat, and, finally, Mubarak would not face opponents in any of their presidential elections.⁹³ Furthermore, the original Article 76 formed the Presidential Elections Committee and charged it with every aspect of the elections: “declar[ing] the initiation of candidature,” “supervis[ing] balloting and vote-counting procedures,” and even adjudicating all challenges to election results.⁹⁴ Unsurprisingly, Mubarak appointees dominated this committee.⁹⁵

85. CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, *as amended*, May 22, 1980, May 25, 2005, March 26, 2007, art. 77.

86. Referendum Amendments, *supra* note 84, art. 77.

87. CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, *as amended*, May 22, 1980, May 25, 2005, March 26, 2007, art. 139.

88. *Egypt Protests: Key Moments in Unrest*, *supra* note 1.

89. *See Defiant Mubarak Steps Back, But Not Down*, NPR (Feb. 10, 2011), <http://www.npr.org/2011/02/10/133646320/spreading-labor-strikes-jolt-protests-in-egypt> (detailing that while Mubarak transferred powers to Omar Suleiman in naming him vice-president, Suleiman is “prevented by the constitution from making recommendations to amend the document, dissolving parliament and firing the Cabinet”); *see also Mubarak Refuses to Step Down, Vows to Pass Powers to Egypt’s Vice President*, HUFFINGTON POST (Feb. 10, 2011), http://www.huffingtonpost.com/2011/02/10/mubarak-speech-egypt-vice-president_n_821568.html (noting that the president can transfer powers but such a transfer “does not mean his resignation,” and furthermore the vice-president “cannot request constitutional amendments or dissolve parliament”).

90. Referendum Amendments, *supra* note 84, art. 139.

91. CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, *as amended*, May 22, 1980, May 25, 2005, March 26, 2007, art. 76.

92. *Id.*

93. *See, e.g., PERRY*, *supra* note 12, at 104, 134 (stating that Mubarak never faced an oppositional candidate since the NDP-dominated People's Assembly “recurrently nominated” Mubarak before each six-year term ended).

94. CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, *as amended*, May 22, 1980, May 25, 2005, March 26, 2007, art. 76.

95. Tamir Moustafa, *Amending the Egyptian Constitution: 6 Critical Articles That Test the Military’s*

The amendment to Article 76 offers three possibilities for a candidate to be eligible to run for president: (1) the candidate can be supported by thirty members of the People's Assembly or the Shura Council (the upper house); (2) the candidate can gather 30,000 signatures of support from fifteen separate Governorates of Egypt; or (3) the candidate can be a member of a party that holds at least one seat in Parliament.⁹⁶ This change likely will provide greater participation in presidential elections, ensuring greater trust in the elections themselves because presidents will no longer be able to run for reelection unopposed for three decades.

The original Article 88 provided the general rules for all elections.⁹⁷ It provided that election committees shall be formed from the judiciary in order to supervise balloting and vote counting.⁹⁸ However, in the past, because of the usual provision that the judicial committee must act in "accordance with the rules and procedures stipulated by the law,"⁹⁹ Article 88 did not effectively guarantee legitimate election results. This essentially guaranteed that there was no oversight of elections because the People's Assembly, with influence from the president, was able to modify the rules and procedures the judicial committee had to follow and thus manufacture election results.¹⁰⁰ The amendment to Article 88 gives greater authority to the judiciary to oversee elections and the elections committee, giving the court the ability to check the Committee's results and ensure that the elections are held in accordance with the constitution.¹⁰¹

Formerly, under Article 93, the People's Assembly had the power to determine the validity of a member's election.¹⁰² This allowed the NDP-dominated Assembly to recognize and validate the election of some candidates, while invalidating the election of small-party candidates, independents, Islamists, and, most importantly, Mubarak's critics.¹⁰³ The amendment to Article 93 transfers that power to the SCC.¹⁰⁴ This will likely allow a neutral, politically isolated body to make legitimate decisions as to a parliamentary member's election. This further ensures free elections by encouraging independents and small-party candidates to run for election, knowing that, should they win, their election will not be overturned by a biased decision-maker.

Commitment to Democracy, HUFFINGTON POST (Feb. 25, 2011), http://www.huffingtonpost.com/tamirmoustafa/egypt-constitution_b_828479.html.

96. Referendum Amendments, *supra* note 84, art. 76.

97. CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, *as amended*, May 22, 1980, May 25, 2005, March 26, 2007, art. 88.

98. *Id.*

99. *Id.*

100. *See id.* (Article 88 of the 1971 constitution states that the law will stipulate procedures for supervising elections. However, the People's Assembly would be able join with the NDP-dominated Shura Council to change the law and, therefore, potentially undermine the legitimacy of elections.)

101. Referendum Amendments, *supra* note 84, art. 88; THE 2011 REFERENDUM TO AMEND THE CONSTITUTION, *supra* note 84, art. 88.

102. CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, *as amended*, May 22, 1980, May 25, 2005, March 26, 2007, art. 93.

103. *See id.* (Article 93 of the 1971 constitution states that the People's Assembly is the only authority capable of determining the validity of its members. Therefore, a People's Assembly controlled by the NDP could invalidate the elections of its opposition.)

104. Referendum Amendments, *supra* note 84, art. 93.

C. *Ending Oppression*

Perhaps the most distressing aspect of the 1971 constitution was the president's constitutional authority to oppress the Egyptian people. Article 148 granted the president the ability to declare a state of emergency, which, as discussed above, allowed the president to detain individuals without cause, among other civil rights violations.¹⁰⁵ According to Article 148, a state of emergency was renewable by a majority vote of the People's Assembly.¹⁰⁶ The People's Assembly voted to renew emergency powers for thirty straight years.¹⁰⁷ With the People's Assembly under the president's control and influence, voting to extend the state of emergency was never a suspenseful process.¹⁰⁸

The amendment to Article 148 eliminates the People's Assembly's power over this decision, and thus eliminates much of the possible influence a president may have.¹⁰⁹ The amended Article 148 requires that any extension of emergency powers must be voted on by a public referendum.¹¹⁰ This transfer of power, from the NDP-dominated and president-friendly People's Assembly to the actual people of Egypt should ensure that emergency powers will only be granted in a real state of emergency, and that the president will no longer have the ability to detain citizens indefinitely.

Presidential power under Article 148 was truly at its worst when coupled with the power granted to the president under Article 179. Article 179 effectively allowed the president to transfer detainees under Article 148 to a military court for any reason.¹¹¹ Article 179 also stated that Articles 41, 44, and 45 of the 1971 constitution—protecting civil liberties, such as freedom from searches without warrants—“shall in no way preclude such counter-terror action” under Article 179.¹¹² However, in perhaps the most outward showing of commitment to future democracy, the Supreme Council of the Armed Forces proposed the complete removal of Article 179¹¹³—the article that granted almost unbridled authority to oppress the people of Egypt. The passage of this is indeed a boon for democracy in Egypt, but hopefully it is just the beginning of democratic reforms.

105. CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, *as amended*, May 22, 1980, May 25, 2005, March 26, 2007, art. 148; *see also* Reza, *supra* note 69, at 537–38 (discussing Mubarak's use of the police power to detain people indefinitely).

106. CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, *as amended*, May 22, 1980, May 25, 2005, March 26, 2007, art. 148.

107. Reza, *supra* note 69, at 536–37.

108. *Id.*

109. *See* Referendum Amendments, *supra* note 84, art. 148 (stating that renewal of the state of emergency would require a popular referendum, thus minimizing the president's influence over renewal).

110. *Id.*

111. CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, *as amended*, May 22, 1980, May 25, 2005, March 26, 2007, art. 179; *Guide to Egypt's Transition: Overview of Egypt's Constitutional Referendum*, CARNEGIE ENDOWMENT FOR INT'L PEACE, <http://egyptelections.carnegieendowment.org/2011/03/16/overview-of-egypt-s-constitutional-referendum> (last visited Dec. 23, 2011).

112. CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, *as amended*, May 22, 1980, May 25, 2005, March 26, 2007, art. 179.

113. Referendum Amendments, *supra* note 84, art. 179; Nathan Brown & Michele Dunne, *Egypt's Draft Constitutional Amendments Answer Some Questions and Raise Others*, CARNEGIE ENDOWMENT FOR INT'L PEACE (Mar. 1, 2011), <http://carnegieendowment.org/2011/03/01/egypt-s-draft-constitutional-amendments-answer-some-questions-and-raise-others/fr>.

III. A COMPARISON WITH OTHER REFORMED AFRICAN CONSTITUTIONS

In order to determine if this revolution and its reformation of the Egyptian constitution will be successful in providing democracy to a previously authoritarian country, I compare these changes with the most critical changes made in other African constitutions that had similar constitutional DNA: socialist tendencies, dictators, and one-party systems.

A. *Benin*

Benin gained independence from France in 1960.¹¹⁴ For the next twelve years, several military factions wrestled for power.¹¹⁵ In 1972, General Mathieu Kerekou seized control over the country and began implementing socialist policies and nationalizing the economy.¹¹⁶ In 1977, Kerekou introduced the Fundamental Law of the People's Republic of Benin as a constitution.¹¹⁷ The Fundamental Law established a one-party system under the control of the Military Council of the Revolution, which was led and dominated by Kerekou.¹¹⁸ Kerekou became a powerful dictator over the next thirteen years, but was unable to build and sustain Benin's economy, leading to protests calling for a greater liberalization of the economy and of politics.¹¹⁹

Surprisingly and dissimilarly to Mubarak, Kerekou answered the calls for liberalization on his own and declared a period of democratization.¹²⁰ In 1990, a national conference appointed a constitutional commission to draft a new constitution.¹²¹ A national referendum voted in favor of its enactment.¹²² First and foremost, the new constitution contained the most obvious and essential article to combat dictatorship: term limits for the president.¹²³ During the first multiparty elections in Benin, Kerekou was defeated by Nicéphore Soglo in 1991,¹²⁴ with 64 percent of the population participating in the second round of presidential elections.¹²⁵ Kerekou would indeed cede the presidency to Soglo,¹²⁶ a major victory

114. THE BRITANNICA GUIDE TO AFRICA: THE HISTORY OF WESTERN AFRICA 84 (Amy McKenna ed., 2011) [hereinafter THE HISTORY OF WESTERN AFRICA].

115. *Id.*

116. *See id.* (stating that Kerekou pursued a policy "based on nationalization and state planning of the economy").

117. Arnold Hughes, *The Appeal of Marxism to Africans*, in MARXISM'S RETREAT FROM AFRICA 4, 11 (Arnold Hughes ed., 1992); JENNIFER C. SEELY, THE LEGACIES OF TRANSITION GOVERNMENTS IN AFRICA: THE CASES OF BENIN AND TOGO 32 (2009) ("In 1977, the Marxist constitution, or 'Basic Law,' came into force.").

118. VICTOR T. LE VINE, POLITICS IN FRANCOPHONE AFRICA 146 (2004).

119. *See id.* at 145-46 (stating that Kerekou's policies failed to "revitalize the economy" and that Kerekou faced "progressive alienation of all of the constituencies that had initially supported" him).

120. THE HISTORY OF WESTERN AFRICA, *supra* note 114, at 84.

121. SUSANNA D. WING, CONSTRUCTING DEMOCRACY IN TRANSITIONING SOCIETIES OF AFRICA: CONSTITUTIONALISM AND DELIBERATION IN MALI 41 (2008).

122. *Id.*

123. CONSTITUTION OF THE REPUBLIC OF BENIN, 11 Dec. 1990, art. 42.

124. THE HISTORY OF WESTERN AFRICA, *supra* note 114, at 84.

125. WING, *supra* note 121, at 42. First-round participation rates, however, are not available. *Id.*

for the new constitution in and of itself. Another victory came in 2006, when Kerekou and Soglo abstained from campaigning for the presidency because they would be disqualified by the constitution's term limits and age limits.¹²⁷

The 1991 constitution also guaranteed a multiple-party system,¹²⁸ free speech and press rights,¹²⁹ and, most importantly, granted new and vast powers of oversight to the Constitutional Court of Benin (CCB).¹³⁰ The 1991 constitution declares that the CCB is the highest authority on matters of interpreting and judging constitutional law.¹³¹ Further, the 1991 constitution requires the CCB to rule on law or acts that may violate human rights or civil liberties.¹³² Perhaps most importantly, the constitution states: "A provision declared unconstitutional may not be promulgated or enforced. The decision of the Constitutional Court shall not be subject to any appeal. They shall be imperative for public authorities and for all civil, military, and jurisdictional authorities."¹³³ This article expressly states that the president, the parliament, or any other authority must abide by the CCB's rulings on the constitutionality of a matter.

The most important questions to ask of a constitutional court are: Is this court truly independent and does this court have the authority to enact decisions that will be abided by? In the case of Benin, the answer is yes. In *President of the Supreme Court v. President of the Republic*, the CCB's authority was tested when the president attempted to remove the president of the CCB before his term was over.¹³⁴ The CCB ruled this action "was against the law," and the president adhered to the court's ruling.¹³⁵ If Egypt is to successfully move forward in democracy, it must follow Benin's example and establish an independent court, nominated by the president but approved by the legislature, that has power to check illegitimate and illegal actions by both the president and the legislature.

The amendment to Article 88 of Egypt's constitution does in fact give greater authority to the judiciary in oversight of elections.¹³⁶ This is a step in the right direction. However, as Egypt's politicians continue to reform the constitution or write a new one altogether, they need to go further. Egypt's Supreme Constitutional

126. THE HISTORY OF WESTERN AFRICA, *supra* note 114, at 84.

127. U.N. Office for the Coordination of Humanitarian Affairs, *Benin: Kerekou Says Will Retire Next Year, Will Not Change Constitution to Stay in Power*, IRIN NEWS (July 12, 2005), <http://www.irinnews.org/Report.aspx?ReportId=55408>.

128. See CONSTITUTION OF THE REPUBLIC OF BENIN 11 Dec. 1990, art. 5 (providing that political parties "shall be formed and shall freely exercise their activities"); cf. H. Kwasi Prempeh, *Africa's "Constitutionalism Revival": False Start or New Dawn?*, 5 INT'L J. CONST. L. 469, 469 (2007) ("[T]he National Conferences . . . abolished the one-party system . . . and authorized the drafting of a new constitution . . .").

129. CONSTITUTION OF THE REPUBLIC OF BENIN 11 Dec. 1990, arts. 23–24.

130. See *generally id.* arts. 114–24 (establishing relatively broad-based powers of the constitutional court).

131. *Id.* art. 114 ("The Constitutional Court shall be the highest jurisdiction of the State in constitutional matters. It shall be the judge of the constitutionality of the law and it shall guarantee the fundamental human rights and the public liberties. It shall be the regulatory body for the functioning of institutions and for the activity of public authorities.").

132. *Id.* art. 114.

133. *Id.* art. 124.

134. WING, *supra* note 121, at 43.

135. *Id.*

136. THE 2011 REFERENDUM TO AMEND THE CONSTITUTION, *supra* note 84, art. 88.

Court has been willing to be autonomous in the past, but it needs to be granted the authority to truly be independent and be a court that protects the rights of the Egyptian people, protects the constitution, and has authority to stand up to a president or parliament that is acting unconstitutionally. For Egypt to progress in democracy, it must follow Benin's example. The reforms made to Benin's Constitutional Court have been hailed as essential for human rights and for Benin's transformation into a truly democratic country.¹³⁷

After two decades of free elections, an autonomous and authoritative constitutional court, truly protected liberties, and an improving multi-party system, Benin is now one of the freest nations in Africa. It has a Freedom House ranking of "Free" and individual rankings of two for both civil rights and political rights protection.¹³⁸ Additionally, Freedom House bestows upon Benin the title of an "electoral democracy,"¹³⁹ which means the state meets these criteria:

- (1) A competitive, multiparty political system;
- (2) Universal adult suffrage for all citizens (with exceptions for restrictions that states may legitimately place on citizens as sanctions for criminal offenses);
- (3) Regularly contested elections conducted in conditions of ballot secrecy, reasonable ballot security, and in the absence of massive voter fraud, and that yield results that are representative of the public will;
- (4) Significant public access of major political parties to the electorate through the media and through generally open political campaigning.¹⁴⁰

Obviously, no ranking system is perfect. However, that Benin's democracy has progressed so dramatically in only two decades is praiseworthy. Furthermore, as Benin moved towards a more democratic society and a capitalistic economic system, its GDP per capita average annual growth rate from 1990 to 2009 was 1.2 percent.¹⁴¹ While perhaps not remarkable at first glance, when that number is compared with

137. See Anna Rotman, *Benin's Constitutional Court: An Institutional Model for Guaranteeing Human Rights*, 17 HARV. HUM. RTS. J. 281, 281 (2004) (stating that "[t]he role of the Beninese Constitutional Court in protecting human rights is a 'landmark feature' of Benin's transition to democracy").

138. COUNTRY REPORT: BENIN, FREEDOM HOUSE (2010). The rating range is from one (Most Free) to seven (Not Free). A rating of two in Political Rights is described by Freedom House as: "Countries and territories with a rating of 2 have slightly weaker political rights than those with a rating of 1 because of such factors as some political corruption, limits on the functioning of political parties and opposition groups, and foreign or military influence on politics." A rating of two in Civil Liberties is described as: "Countries and territories with a rating of 2 have slightly weaker civil liberties than those with a rating of 1 because of such factors as some limits on media independence, restrictions on trade union activities, and discrimination against minority groups and women." Furthermore, "[e]ach pair of political rights and civil liberties ratings is averaged to determine an overall status of 'Free,' 'Partly Free,' or 'Not Free.'" *Freedom in the World: Methodology*, FREEDOM HOUSE, <http://www.freedomhouse.org/report/freedom-world-2012/methodology>.

139. COUNTRY REPORT: BENIN, *supra* note 138.

140. *Freedom in the World: Methodology*, *supra* note 138.

141. *Benin: Statistics, The Rate of Progress*, UNICEF (Mar. 2, 2010), http://www.unicef.org/infobycountry/benin_statistics.html#82.

the 0.3 percent growth rate from 1970 to 1990,¹⁴² it shows that Benin's transition to democracy has also laid the foundation for growth in its economy.

Yet, in Benin, corruption at the local and regional level is still widespread, women still suffer societal discrimination, and journalists can still face criminal charges for libel.¹⁴³ The Benin government works to curb corruption through increased corruption trials and a government agency called The Watchdog to Combat Corruption.¹⁴⁴ Women have gradually taken a larger role in politics, with nine women in the eighty-three-member National Assembly, four women in the thirty-member cabinet, and two women in the seven-justice Constitutional Court.¹⁴⁵ Furthermore, judges continue to receive libel cases against journalists but "generally refrain from prosecuting them."¹⁴⁶ Egypt must learn from the lessons of Benin and be prepared to face similar problems that occur in a young democracy by enacting similar measures to fight corruption, end sex discrimination, and promote free speech.

Any comparison of Egypt and Benin is incomplete without recognizing the difference in religious makeup of the two countries. Egypt is predominantly Muslim.¹⁴⁷ Benin, according to the 2002 census, is 27 percent Roman Catholic, 24 percent Muslim, and 17 percent practitioners of Voodoo.¹⁴⁸ Benin's government requires that all religious groups register with the Ministry of the Interior, but there have been no reports to suggest that the government has denied registration to any groups.¹⁴⁹ Generally, the government does not interfere with religion, and private schools are allowed to teach religion, while public schools are not.¹⁵⁰ Egypt, as roughly 90 percent Muslim, and with a constitution that declares Sharia law as the principle source of legislation, likely will have a much harder time establishing such a clean record of religious freedom.

B. Malawi

After Malawi gained independence from the British in 1964, the country went through a period of both political and economic uncertainty during which time Hastings Kamuzu Banda was elected president.¹⁵¹ Banda was made president-for-life

142. *Id.*

143. *See generally Benin: 2010 Country Reports on Human Rights Practices*, BUREAU OF DEMOCRACY, HUMAN RIGHTS, & LABOR, U.S. DEP'T OF STATE (Apr. 8, 2011), <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154331.htm> (report detailing government corruption, discrimination against women, and repression of journalists in Benin).

144. *Id.* at 11.

145. *Id.* at 10.

146. *Id.* at 7.

147. *Egypt: International Religious Freedom Report 2010*, BUREAU OF DEMOCRACY, HUMAN RIGHTS, & LABOR, U.S. DEP'T OF STATE (Nov. 17, 2010), available at <http://www.state.gov/g/drl/rls/irf/2010/148817.htm>.

148. *Benin: International Religious Freedom Report 2010*, BUREAU OF DEMOCRACY, HUMAN RIGHTS, & LABOR, U.S. DEP'T OF STATE (Nov. 17, 2010), available at <http://www.state.gov/g/drl/rls/irf/2010/148662.htm>.

149. *Id.*

150. *Id.*

151. THE BRITANNICA GUIDE TO AFRICA: THE HISTORY OF SOUTHERN AFRICA 104–06 (Amy McKenna ed., 1st ed. 2011) [hereinafter THE HISTORY OF SOUTHERN AFRICA].

in 1971, establishing his reign until a new constitution was passed in 1994.¹⁵² While the 1966 constitution of Malawi did not have the traditional markings of a socialist constitution (that is a preamble with lofty goals of protecting rights of equal pay, etc.), it did establish a one-party system,¹⁵³ require that, should a second presidential election ever occur, all candidates must be a member of the party to be eligible,¹⁵⁴ and fail to establish term limits for the president.¹⁵⁵

Under the 1966 constitution, Banda was able to be an oppressive, all-powerful dictator with power to appoint and remove the speaker of the National Assembly,¹⁵⁶ the chief justice of the high court,¹⁵⁷ and even the director of public prosecutions.¹⁵⁸ This appointment authority gave President Banda unchecked power over all three branches of government, and, furthermore, it gave him unheard of police powers through the director of public prosecutions. Banda's Malawi became a police state that "ruthlessly suppressed any opposition."¹⁵⁹ However, in 1992, at the same time that international aid groups began withholding aid to Malawi, two internal opposition groups finally gained a footing to challenge Banda's regime and began calling for a national referendum for constitutional reform.¹⁶⁰ Banda relented and a new constitution was enacted in 1994.¹⁶¹ After the passage of the new constitution, Banda was defeated in the first free elections in more than three decades.¹⁶²

The constitution of 1994 reacts to nearly three decades of dictatorship by creating "accountability and transparency" in the government.¹⁶³ Accordingly, the constitution sets a term limit of two terms for the president.¹⁶⁴ The president of Malawi is also much more accountable to the parliament. Parliament must now approve of appointments of the chief supreme court justice by a two-thirds vote and of his removal by a majority vote.¹⁶⁵ Furthermore, the president can no longer control Parliament by appointing its members, removing others, and dissolving it on a whim.¹⁶⁶ Parliament actually has the authority to override a presidential veto.¹⁶⁷

152. *Id.* at 106–07.

153. REPUBLIC OF MALAWI (CONSTITUTION) ACT OF 1966, ch. I, art. 4(2) ("The National Party shall be the Malawi Congress Party.").

154. *Id.* ch. III, art. 10(2).

155. *See id.* ch. III (discussing the presidential office without mentioning any term limits and stating that "the President shall continue in office until another person is elected").

156. *Id.* ch. IV, arts. 25(1), (3)(c).

157. *Id.* ch. VI, arts. 63(1), 64(3).

158. *Id.* ch. V, arts. 56(2), 58(6), 59 (indicating the president has the power to appoint and remove the attorney-general, who has the direct authority over the director of public prosecutions).

159. THE HISTORY OF SOUTHERN AFRICA, *supra* note 151, at 106.

160. *Id.* at 107.

161. *Id.*; George N. Barrie, *The Constitution of Malawi 1995: A Fresh Breeze in Central Africa*, 1997 J. S. AFR. L. 761, 761 (1997) (the constitution was permanently adopted by the National Assembly in 1995).

162. THE HISTORY OF SOUTHERN AFRICA, *supra* note 151, at 107.

163. Barrie, *supra* note 161, at 762.

164. REPUBLIC OF MALAWI (CONSTITUTION) ACT OF 1994, ch. VIII, art. 83(3).

165. *Id.* ch. IX, arts. 111(1), 119(3)(b).

166. Compare REPUBLIC OF MALAWI (CONSTITUTION) ACT OF 1966, ch. IV, arts. 19–20, 25, 28, 45 (allowing the president to appoint the speaker of parliament and individually dismiss members of Parliament), with REPUBLIC OF MALAWI (CONSTITUTION) ACT OF 1994, ch. VI, arts. 53, 63 (providing for election of the speaker by vote in the National Assembly and establishing a transparent procedure for removing a member from the National Assembly).

The 1994 constitution also provides for impeachment proceedings against the president, which is an enormous step towards a balance of power in a previously authoritarian government.¹⁶⁸

Overall, the 1994 constitution creates an almost completely new governmental system that provides for checks and balances for all the branches of the Malawian government, but most specifically against the possibility of another dictator. It is interesting to note that in only seventeen years, the constitution already notched a significant victory when it was used to prevent Bakili Muluzi, president from 1994 to 2004, from attempting to amend the constitution to gain another term.¹⁶⁹ The 1994 constitution also provided new protections for a multi-party electoral system.¹⁷⁰ In 1994, ten political parties formed and provided presidential candidates.¹⁷¹

Perhaps what is most impressive about Malawi's 1994 constitution is its protection of fundamental rights. The entirety of Chapter IV of the constitution is dedicated to outlining the rights that are protected.¹⁷² These rights range from equality for women to prisoners' rights.¹⁷³ Moreover, the 1994 constitution binds every branch of government to protect these rights.¹⁷⁴ What is truly remarkable is the "Ombudsmen" system established by the constitution.¹⁷⁵ This system allows for any person who wishes to seek protection of his or her rights to ask for investigation by an ombudsman into his or her claim.¹⁷⁶ After the investigation, should an ombudsman determine that a violation of rights took place, the ombudsman may request a prosecution, and should none take place, the ombudsman may demand reasons as to why no prosecution occurred.¹⁷⁷ The ombudsmen system is an efficient and practical method of ensuring that rights are protected and wrongs are redressed.

While Malawi's democracy has progressed mightily since the days of Banda, it has not progressed as far as Benin. While Malawi has not yet been designated a "liberal democracy" by Freedom House, it has been designated an "electoral democracy," just as Benin.¹⁷⁸ It currently has a "Partly Free" status according to Freedom House, with ratings of three and four for political rights and civil rights, respectively.¹⁷⁹ Much of this likely has to do with the fact that the 1994 constitution still allows the restriction of some rights—such as privacy rights and freedom of expression—if such limitations "are reasonable, recognized by international human

167. REPUBLIC OF MALAWI (CONSTITUTION) ACT OF 1994, ch. VI, art. 73.

168. *Id.* ch. VIII, art. 86. For a president to be impeached, he or she must first be indicted in the National Assembly (the lower house of Parliament) by a two-thirds vote. Next, impeachment must be approved by a two-thirds vote of both the National Assembly and the Senate. The constitution provides that indictment and impeachment should occur for serious constitutional and legal violations. *Id.*

169. Prempeh, *supra* note 128, at 488.

170. REPUBLIC OF MALAWI (CONSTITUTION) ACT OF 1994, ch. IV, art. 40.

171. Michael Kirby, *Malawi: The Arrival of Multi-Party Democracy*, 20 COMMONWEALTH L. BULL. 675, 675 (1994).

172. REPUBLIC OF MALAWI (CONSTITUTION) ACT OF 1994, ch. IV, arts. 15–46.

173. *Id.* ch. IV, arts. 24, 42.

174. *Id.* ch. IV, art. 15.

175. *Id.* ch. X, art. 120.

176. *Id.* ch. X, art. 123.

177. *Id.* ch. X, art. 126(c).

178. Compare COUNTRY REPORT: MALAWI, FREEDOM HOUSE (2010), with COUNTRY REPORT: BENIN, *supra* note 138.

179. COUNTRY REPORT: MALAWI, *supra* note 178.

rights standards and necessary in an open and democratic society.”¹⁸⁰ Malawi's economy has also grown as a result of its transition to democracy, albeit very moderately. Malawi's GDP per capita average annual growth rate has gone from -0.1 percent from 1970 to 1990 to 0.5 percent from 1990 to 2010.¹⁸¹

Should Egypt advance in democracy, it must continue to amend its constitution in order to provide protection for the political and civil rights that Malawi has protected. Providing an “ombudsmen” system could also help ensure such protection. Overall, it is encouraging to see how quickly Egypt has responded by protecting basic political rights in the months since Mubarak's exit.¹⁸²

C. *Brief Examples of Reform from Other African Nations*

Since the beginning of the 1990s, nations across Africa have undergone significant constitutional reforms, resulting in a new wave of democracy. Egypt can learn from the nations that have successfully transitioned into free democracies. The Egyptian people must recognize what reforms have worked in other African nations, understand why those reforms were successful, and be committed to seeing those reforms through. Egypt should take note of three improvements that other African nations have made during their constitutional reformations: committing to reform and adhering to the results of those reforms even when the results are initially unpopular, establishing governmental institutions of transparency and accountability, and establishing a more representative form of government in a full-parliamentary system.

Nigeria and Ghana are examples of the commitment necessary to see constitutional reform through. In both countries, the people and the politicians have realized that true democracy does not always mean their side will win, but it requires that they must be committed to the system, even in their defeat.¹⁸³ This commitment is evidenced by the populace relying on elections for regime change over the last two decades, instead of resorting to coup d'états as in the past.¹⁸⁴ For their citizens to be willing to seek regime change through elections instead of coup d'états, politicians in Egypt must also be committed to reforming their nation through legal means. In 2005, Kenyans held their president in check by refusing to amend the constitution to reinstall vast presidential power.¹⁸⁵ Egypt must follow this example. Both Egypt's people and its politicians need to commit to democracy and to its protection in the

180. REPUBLIC OF MALAWI (CONSTITUTION) ACT OF 1994, ch. IV, art. 44(2).

181. *Malawi: Statistics, The Rate of Progress*, UNICEF (Mar. 2, 2010), http://www.unicef.org/infobycountry/malawi_statistics.html#82.

182. See James Traub, *Good News: How the Revolution Transformed Egypt's Media*, FOREIGN POL'Y (Apr. 8, 2011), available at http://www.foreignpolicy.com/articles/2011/04/08/good_news?page=0,1 (discussing that the media, previously extremely sensitive to the possibility of censorship, already has begun to be critical of those in power and has begun exercising its freedom to speak).

183. See H. Kwasi Prempeh, *Marbury in Africa: Judicial Review and the Challenge of Constitutionalism in Contemporary Africa*, 80 TUL. L. REV. 1239, 1277 (2006) (discussing that in countries like Ghana and Nigeria, supervised competitive elections have become a routine manner of changing government as opposed to coup d'états).

184. *Id.*

185. *Kenyans Reject New Constitution*, BBC NEWS (Nov. 22, 2005), <http://news.bbc.co.uk/2/hi/4455538.stm>.

future. Both need to realize that the temptation to return to an authoritarian government will arise, and both need to have the resolve to reject that temptation.

Egypt must also be willing to create a democracy that promotes accountability and transparency, just as Malawi has.¹⁸⁶ Ghana and Zambia have also been good examples of creating systems of government with accountability. Both have instituted constitutional changes that allow their politicians to be held in check, even their presidents. In Ghana, former President Jerry Rawlings is being held accountable for abuses of power in a criminal trial.¹⁸⁷ In Zambia, former President Frederick Chiluba faced prosecution on corruption charges.¹⁸⁸ Egyptians must be willing to hold their leaders accountable for wrongdoing, and their Egyptian leaders must be willing to hold themselves accountable by providing constitutional rules for monitoring and restricting their own authority.

At least one expert has called for Egypt to completely revamp its constitutional and governmental structure for a true parliamentary system.¹⁸⁹ Other experts have advocated in the past that the current presidential systems of reformed African nations do not go far enough in facilitating a successful democracy in the future.¹⁹⁰ For example, South Africa adopted a full parliamentary government in which the president is elected by members of Parliament with the enactment of its 1996 constitution.¹⁹¹ This nation has been able to avoid revolt after revolt following elections despite being a nation that has a deeply divided electorate.¹⁹² Parliamentary governments are far more representative of the electorate and generally alleviate potential alienation of the “losing” side.¹⁹³ Furthermore, parliamentary systems can develop a general feeling in the electorate that participation is vital and meaningful.¹⁹⁴ As Ackerman states: “A parliamentary system generates a leadership coalition, not a leadership cult, enabling different coalition parties to reach out to different sectors of Egyptian society.”¹⁹⁵ Post-apartheid South Africa was able to avoid extreme-reactionary policies and potential revolt by the previously-in-power white population, in large part due to President Nelson Mandela’s leadership, but also by adopting a parliamentary system that has yielded slow, yet consistent, progress.¹⁹⁶

186. See Section III.B, *supra*, for a discussion of democracy formation in Malawi.

187. H. Kwasi Premph, *Presidential Power in Comparative Perspective: The Puzzling Persistence of Imperial Presidency in Post-Authoritarian Africa*, 35 HASTINGS CONST. L.Q. 761, 771–72 (2008).

188. *Id.* at 771.

189. See generally Bruce Ackerman, *Parliament to the Rescue*, FOREIGN POL’Y (Mar. 1, 2011), available at http://www.foreignpolicy.com/articles/2011/03/01/parliament_to_the_rescue.

190. See generally, Muna Ndulo, *The Democratic State in Africa: The Challenges for Institution Building*, 16 NAT’L BLACK L.J. 70 (1998) (finding that electing presidents by parliament, rather than by the citizens directly, better fosters proportionate representation).

191. *Id.* at 92.

192. See, e.g., *id.* at 89–92 (discussing the success of the proportionality representation system within South Africa’s deeply divided electorate).

193. See Ackerman, *supra* note 189 (stating that in a parliamentary system, “even if [Islamists] win a quarter of the vote, three-quarters of the parliamentary seats would go to more secular rivals”).

194. See Ndulo, *supra* note 190, at 92 (stating that “it would seem that having a president elected by parliament would foster feeling of greater participation in the election among all citizens of the country as represented by parliament”).

195. Ackerman, *supra* note 189.

196. See *Background Note: South Africa*, U.S. DEP’T OF STATE (Oct. 3, 2011), <http://www.state.gov/r/pa/ei/bgn/2898.htm> (elaborating on Mandela’s efforts to quell political violence); see also Andrew Reynolds, *Constitutional Engineering in South Africa*, 6 J. OF DEMOCRACY 86, 89–91 (1995)

Perhaps it would be best for democracy in Egypt if Egyptian people embrace a full parliamentary system. It will be more conducive to power-sharing arrangements and ensure that possible dictators are checked before they gain too much power. A full parliamentary system would also avoid the danger that a directly elected president would interpret his election as a mandate to enact any and every one of their pet policies, no matter how detrimental those policies may be to the progress of democracy in Egypt. Lastly, and perhaps most importantly, it may provide the answer for the powerful and persuasive Muslim Brotherhood.

IV. THE ULTIMATE QUALIFICATION: THE MUSLIM BROTHERHOOD

Of course, any comparison of Egypt to other African nations is incomplete without discussing the possible wrench in the cogs of Egypt's transition to democracy: Islam's influence in politics. While there are many Islamist political parties in the region, the Muslim Brotherhood can be seen as the "parent" of these groups and is by far the most influential in Egypt.¹⁹⁷ The Muslim Brotherhood has been an underground opposition movement, but if Egypt is to move forward as a democracy, the Muslim Brotherhood needs to be let into the fray because it holds such a high place of authority with the people of Egypt, even if that authority is religious and not political.¹⁹⁸ For years, the Brotherhood had been the strongest source of opposition to the Mubarak regime.¹⁹⁹ Therefore, its inclusion in the political process and any further amendments to the constitution are necessary, or the Egyptian people will likely view that process as illegitimate. The first step towards its inclusion is to remove the emphasized portion of Article 5 below, which prevents religiously based political parties: "Citizens have the right to establish political parties according to the law and no political activity shall be exercised *nor political parties established on the basis of religion* or discrimination due to gender or race."²⁰⁰

For a truly democratic and representative government to be put in place, all views, whether religious or not, must be represented. However, this could be a difficult and dangerous task. The Muslim Brotherhood has been a semi-radical group in the past,²⁰¹ and it may not actually advocate for a better democracy, just a

(discussing the success of the proportionality representation parliamentary system in preventing political unrest).

197. Kristen Stilt, "Islam is the Solution:" *Constitutional Visions of the Egyptian Muslim Brotherhood*, 46 TEX. INT'L L.J. 73, 74 (2010). Other nations have struggled with the Islamist movement's place in politics, including the Islamic Action Front in Jordan, the Party of Justice and Development in Morocco, and the Islamic Constitutional Movement in Kuwait. Nathan L. Brown, Amr Hamzawy & Marina Ottaway, *Islamist Movements and the Democratic Process in the Arab World: Exploring the Gray Zones*, 67 CARNEGIE PAPERS 3-4 (Mar. 2006).

198. See Stilt, *supra* note 197, at 74-75, 79-80 (discussing the failure of the Mubarak regime to allow substantial participation by the Muslim Brotherhood and how the exclusion of such an influential force undermines Egyptian politics).

199. See *id.* at 74 (describing the Muslim Brotherhood as the "major opposition 'party'"); Mona El-Naggar, *New Call for Election Boycott in Egypt*, N.Y. TIMES, Sept. 7, 2010, at A4 (describing the Muslim Brotherhood as "the country's single strongest opposition group").

200. CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, *as amended*, May 22, 1980, May 25, 2005, March 26, 2007, art. 5 (emphasis added).

201. See Robert S. Leiken & Steven Brooke, *The Moderate Muslim Brotherhood*, 86 FOREIGN AFF., Mar-Apr. 2007, at 107, 116 (stating that some of its "positions seem to make them moderates," but also

different set of leaders. In 2007, the Brotherhood released a platform discussing its political goals.²⁰² This platform does not paint a very democratic picture, advocating that Egypt be both a civil state and an “Islamic state,”²⁰³—in other words, that the law of Egypt be in “compliance with some notion of Islamic law,”²⁰⁴ and that the president also be “a leader of the [Egyptian] Muslim community.”²⁰⁵

The Brotherhood claims that Islamic law can coexist with a democratic process,²⁰⁶ but to what extent that can actually occur must be decided in the future. The Brotherhood calls for “free and fair” elections,²⁰⁷ but when it also requires that the president be the leader of the Egyptian Muslim community, that seems to leave out the 10 percent of the Egyptian population that are Coptic Christians.²⁰⁸ For Egypt to transform into a truly democratic society, the Muslim Brotherhood needs to be involved in both governance and constitution making, but it is also clear that its vision for the future is not necessarily a democratic one. How that dichotomy is solved in the coming months and years will be one of the most interesting pieces of this democracy puzzle.

CONCLUSION: HOPE FOR EGYPT?

Needless to say, Egypt’s most recent amendments to the constitution of 1971 have only been a step in the right direction. After decades of dictatorship, censored speech, and oppressed political groups, democratic change may finally be coming to Egypt, but that change has not yet fully come. The amendments made to Articles 77 and 139 of the 1971 constitution complete their task of immediately, if incompletely, solving Egypt’s perpetual dictatorship problem. The amendments made to Article 76, 88, and 93 go on to provide for the first free elections Egypt has seen since 1954. Further, the amendments made to Article 148 and 179 do a great deal to dispose of oppressive and uncontrollable dictatorial power. These reforms are great news for Egypt, but they do not do enough.

For Egypt to become a true democracy, the government must deliver a new constitution in accordance with the eighth amendment made on March 19, 2011—the promise to write a new constitution. This amendment calls for the next parliament to write a completely new constitution, but Egypt’s politicians should not move too hastily in writing the new constitution. Egypt must take the time to study all the options. Egypt must look at Benin and Malawi (and all the other African nations that blossomed into democracies after years of authoritarian oppression) in order to learn from their successes and from their mistakes.

that the Brotherhood authorizes jihad in some countries and that Hamas is an offshoot of the Muslim Brotherhood).

202. See Stilt, *supra* note 197, at 76 (stating that the platform describes the Brotherhood’s “specific goals and beliefs for the place of religion within the structure of the Egyptian legal system”).

203. *Id.* at 90. The Brotherhood distinguishes, however, an “Islamic state” from a religious political power, such as is found in Iran. *Id.*

204. *Id.* at 100–01.

205. *Id.* at 101.

206. See *id.* at 100–01 (stating that the Brotherhood wants to bring “all Egyptian laws into compliance with some notion of Islamic law through the democratic legislative process”).

207. *Id.* at 100.

208. See Ben Gilbert, *Coptic Christians Want a Voice in Egypt’s Government*, THE WORLD (Apr. 8 2011), <http://www.theworld.org/2011/04/coptic-christians-want-a-voice-in-egypt-government> (discussing Coptic Christians’ desire for equal treatment by future Egyptian governments).

First and foremost, Egypt should follow Benin's lead and continue to grant new authority to the Supreme Constitutional Court in order to create a court with true independent authority that is able to protect the constitution and the rights of Egyptians. Egypt should also create a system of accountability and transparency as Malawi has, perhaps even adopting the ombudsmen system to protect civil liberties. Furthermore, Egypt should adopt a full parliamentary system, as Professor Ackerman has suggested.²⁰⁹ In doing so, it will be able to avoid the possibility of another dynamic politician becoming a dictator, and it can form a government that provides checks on the majority party and full representation for any minority parties. In this way, the Muslim Brotherhood could finally have its rightful place in government without becoming overly powerful.

Lastly, Egypt must commit. When elections for the new parliament and president are completed in 2012, and it turns to the task of writing a new constitution, Egypt must commit to growing into a full and thriving democracy. Both the people of Egypt and the politicians of Egypt must be willing to trust whatever constitution comes next and submit to its authority. While some voters worry that these elections are a sham,²¹⁰ the people of Egypt and the military must commit to these election results, as some already proclaim they will,²¹¹ in order to validate the new parliament and its new constitution. The New Democratic Party, the Muslim Brotherhood, the Supreme Council of the Armed Forces, and the citizenry must decide that no matter who is elected or what unpopular policies are created pursuant to the forthcoming constitution, they will not try to circumvent the constitution, but instead will abide by its authority and by the decisions they make now to implement a lasting democracy.²¹²

209. Ackerman, *supra* note 189.

210. See David D. Kirkpatrick, *After Second Day of Voting in Egypt, Islamists Offer Challenge to Generals*, N.Y. TIMES, Nov. 30, 2011, at A13 (quoting one Egyptian demonstrator who believes the elections are a sham).

211. See *id.* (quoting Gen. Ibrahim Nassouhy, a member of the ruling Supreme Council of the Armed Forces, saying that the military is “[b]etting on the Egyptian people,” while also discussing that “some voters said they hoped an elected Parliament could stand up to the military council, and some activists insisted that the new body would become their most potent tool”).

212. The recent parliamentary elections have provided promising results for Egyptian commitment to democracy. The Muslim Brotherhood dominated these elections by winning 73 percent of the seats. *Egypt's New Assembly Elects Muslim Brotherhood Speaker*, BBC NEWS (Jan. 23, 2012), <http://www.bbc.co.uk/news/world-middle-east-16677548>. Western diplomats remain hopeful that Egypt will be able to continue democratic growth as the Brotherhood leadership and the current military regime have shown signs of willingness to negotiate. David D. Kirkpatrick, *In Egypt, Signs of Accord Between Military Council and Islamists*, N.Y. TIMES, Jan. 22, 2012, at A8. If the Muslim Brotherhood can hold to its promise to “cooperate with everyone” and create a broad coalition with liberal, moderate, and minority parties, Egypt could succeed in building a sustainable democracy. *Id.*; see also David D. Kirkpatrick, *Chaotic Start to Egypt's First Freely Elected Parliament*, N.Y. TIMES, Jan. 24, 2012, at A4 (detailing that while the Muslim Brotherhood was able to elect its choice for the speaker of parliament, Saad el-Katatni, in the first meeting of this new parliament, it was not without some resistance from the minority parties, which appears to be a good sign for Egypt going forward).