

Egypt's Women on post revolution constitutional making

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The Constitution is “The fundamental law, written or unwritten, that establishes the character of a government by defining the basic principles to which a society must conform; by describing the organization of the government and regulation, distribution, and limitations on the functions of different government departments; and by prescribing the extent and manner of the exercise of its sovereign powers. In a nut shell it is a legislative charter by which a government or group derives its authority to act. It is the most important document in our lives.

In my intervention I will cover the significance of the role of Egypt's Women in post revolution constitutional making; by dealing with two issues: first the process of constitutional making; Second the content of the constitutional making in the post revolution phase.

First: The process:

The formulation or review of constitutional making must reflect the will of the people through nation-wide; transparent and effective participation of citizens. Exclusion of any segment of the population from such a process is a denial of basic rights. Therefore; exclusion of women from such a process is undemocratic, and renders the outcome of such a process as unrepresentative of the will of the people.

A constitution that overlooks women's rights is simply incomplete. While history has shown a tendency for constitution framers to overlook the ethical ramifications of excluding women's rights from constitutions, the economic ramifications of such exclusion cannot be ignored. A significant body of research conducted over the past decade has shown that women are critical to economic development, active civil society, and good governance, especially in developing countries. Focusing on women is the only successful way to reduce birth rates and child mortality; improve health, nutrition, and education; stem the spread of HIV/AIDS; build robust and self-sustaining community organizations; and encourage grassroots democracy. Democracy without the participation of women is nothing short of denial. That said, it is unfortunate that in the year 2011, when the issue of constitutional amendments is raised; the focus is automatically on the political clauses and the rights of women remain over looked.

To ensure their effective participation; citizens are entitled to be educated on the entire process. States Parties of the UN Human rights conventions; are under obligation; to raise awareness of the entire population; including women and children concerning the issues at stake. Education and awareness raising are of

crucial importance for women as more women are illiterate and excluded than men due to well-known socio economic factors.

The timing of our roundtable coincides with a turbulent, yet exciting time for my country, Egypt. The January 25th 2011 revolution suspended the constitution of 1971, and a decision was taken to amend 10 articles of the constitution. This stirred nation-wide debate. Men and women participated equally in the debate, from all disciplines, political, and religious affiliations and freely expressed their views.

In preparation for the referendum, many workshops, newspaper articles, TV talk shows, and panels explained and simplified the issues at stake, a process in which women were equally as active as men, if not more. Female legal experts played an outstanding role in educating the society about issues at stake during the first real transparent and democratic voting in many years.

A constitutional committee was formed to propose amendments to 10 key articles that were put to a referendum on March 22nd 2011. The committee included legal and constitutional experts. Much to my dismay, and despite Egypt's wealth of female legal experts, women were excluded from this committee. I would like to take a moment to dwell on Egyptian women's stature within the judiciary: It is a well-known fact that Egyptian women have bypassed the stage of proving their competence within the judiciary. Over the past three years, dozens of pioneering female judges — out of more than 9,000 total judges — have been quietly building an unassailable record of performance in civil, criminal, family and economic cases in courtrooms across Egypt. The vice chair of the Supreme Constitutional Court is a renowned female judge, and Egypt has over 42 female judges; in addition to many renowned female constitutional experts. "Their performance is absolutely on a par with their male colleagues. They have proved that they're perfectly capable of handling the job." according to a male assistant Minister of justice.

In brief- shortage of women in key constitutional positions could not be the culprit for the exclusion of women from the constitution amendments committee. It is ironic that women should be left out of such an important task in a country where it is commonplace to have women ministers, judges, and CEOs. An optimistic interpretation of what happened; would be that the committee was formed in haste; and they simply forgot to include women? Or it is too simplistic?? I believe the exclusion of women as such should serve as a wakeup call to Egyptian women and activists. While the committee was only charged with amendment of 10 articles as a temporary measure, there will soon be a complete redrafting of the constitution in its entirety. Women have to ensure representation on that committee, and not just by way of the one token female legal expert that would keep activists at bay. Representation has to be adequate, and effective.

Second: The content of the Constitutional making: The representation of women on the constitutional committee is crucial for making their voices heard. There are certain articles in the Egyptian constitution that warrant the attention of women.

The participation of women will bring very important issues to the forefront that would otherwise be over looked, as are expert in their own issues. I will give you but two examples which warrant women adequate participation.

At the heart of our rich national dialogue lies a heated debate on the post-revolution political system. I am proud to say that for the first time in history, Egypt's political factions (Islamists and liberals alike) - Some Islamists have indicated their preference to establish an Islamic state and apply the rule of Shariaa. The liberals on the other hand insist on a civil state that assures equal citizenship rights. Each party is testing out their views and gauging their strengths in public, perhaps for the first time. This debate in my view should be linked to article 2 of the Constitution. It provides that the principles of Shariaa are the main source of legislation. This article has stirred heated debate between supporters and opponents. The reason being that Egypt's population include 10-12% Christians and questions are raised about whether they should be subjected to Shariaa. Moreover; many human rights activists fear its impact on the rights of women both Muslim and Christians.

Abdullahi Ahmed An-Na'im, (A Sudanese Moslem Scholar) in a lecture at the American University in Cairo; 2 weeks ago; on May 3rd 2011; "under the title an Islamic State non democratic "argues that the coercive enforcement of Shari'a by the state betrays the Qur'an's insistence on voluntary acceptance of Islam. Just as the state should be secure from the misuse of religious authority, Shari'a should be freed from the control of the state. State policies or legislation must be based on civic reasons accessible to citizens of all religions. Showing that throughout the history of Islam, religion and the state have normally been separate, An-Na'im maintains that ideas of human rights and citizenship are more consistent with Islamic principles than with claims of a supposedly Islamic state to enforce Shari'a. In fact, he suggests, the very idea of an "Islamic state" is based on European ideas of state and law, and not Shari'a or the Islamic tradition¹.

I tend to support An Na'im's argument. Moreover; in my view the debate may seem purely political; but at the heart of it lie women's rights. I am sure you are all following the religious strife currently engulfing my beloved Egypt. It is embarrassing to say that the reason in some cases was a Christian woman who converted to Islam as she fell in love with a Muslim man.

Rania El Malky in Egypt Daily News on 14 May 2011 summarised the situation very eloquently. She wrote "Women in Egypt, despite having made enormous leaps in access to education and jobs and through their activism in the public arena, continue to be exploited by religious extremists from both sides to further their own political agendas. The simple truth is, socially, marginalized Egyptian women are often terrorized by their families and their extended social circles into behaving along a certain strict path, often being forced to make very private decisions that would have an immense impact on their social and psychological well-being. Should they choose to go against the grain, the backlash, as we have often seen, can be fatal. The issue is not simply sectarian; it's a question of the fundamental human and gender rights of mature women to make decisions that could upset their families. Rania concludes. Egyptian society as a whole, and activist religious groups, whether Muslim or Christian, in particular, are in complete denial of how the role of women in society has changed over the decades. Continuing to impose such flagrant social and

¹ Abdullahi Ahmed An-Na'im, "Islam and the secular state"

religious restrictions can be easily abused to the detriment of the future of Egypt and its religious cohesion”.

Hazem Abdel Rahman in El Ahram Newspaper of 15th May 2011, dealt with the same issue. Yet he went more in depth to correctly say that this a problem of poorer young women in the most conservative Upper Egypt; women who managed to get some education and have a professional career; earn some income that gives them a sense of independence and right to make their own decisions; yet their own family and communities refused to treat them with humanity dignity and respect. They refuse to accept the right of women to liberation from servitude”. He concludes “who believes that when a girl makes such a decision Egypt tips on her toes”

In my view; this is one reason why Egypt should opt for a civil state and a constitution that assures equal rights for equal citizens. As An Naáim said there is no single agreed upon interpretation of Shariaa. I say women will be the victims of discrimination if this happens.

Women are the best experts on their issues. They offer the best solutions; and should be active participants in the constitutional making.

Added to this is the never mentioned; yet in my view the infamous Article 11 of Egypt’s 1971 constitution; provides specifically to women issues. It is also the only article dealing with a specific segment of the population that uses the Shariaa caveat to put a damper on the rights granted by the article. I am sure that women would like to see their rights stipulated for in a more forceful language that offers certitude. In a positive development; Egypt’s ruling Supreme Council for Armed Forces announcement on May 13th 2011 that Egypt seeks to establish a democratic civil state that treats all citizens equally.

The constitutional amendments enforced in March 2011 have done away with women’s quota in the Parliament. Consequently, the amendments to the law on exercise of political rights becomes of essence. Women groups are lobbying to change the voting system into proportional representation. It provides women candidates with the opportunity to be placed on parties list for parliamentarian election. It assists women overcome the fierce competition during electoral campaigns and enhances their political participation. I find it more important than the quota system which is currently under attack.

Women should also be partners in the constitutional making to ensure that gains achieved in the past are not squandered in the revolutionary hype. Gains in the civil law in support of women’s rights as well as the child’s law are currently under threat. There are calls for the reversal of gains such as the family courts; criminalization of FGM; ban on child marriage; child custody and visitation rights. Women at the grass root level are encouraged to be the defenders of their own rights.

In conclusion, Egypt is going through historic times thanks to its women. Egyptian women who fought equally for the revolution; expect a paradigm shift in their struggle for equal rights. On January 25th they asked for freedom and democracy for all Egyptians. They didn’t raise banners asking for women’s rights. Egyptian women want to be truly equal not just receiving some lacking human rights.