VOTING FOR CHANGE:
THE PITFALLS AND POSSIBILITIES OF FIRST ELECTIONS IN ARAB TRANSITIONS

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INTRODUCTION

Elections that follow dramatic downfalls of authoritarian regimes present policymakers with difficult choices. They are an opportunity to establish a sound basis for democratization, putting in place institutions and strengthening actors that help guarantee free and fair elections. Yet such elections are part of a high-stakes conflict over the future that takes place in a context of enormous uncertainty, as new actors emerge, old elites remake themselves, and the public engages in politics in new and unpredictable ways.

Assisting elections in the Arab world today is made more challenging by two factors that have thus far distinguished the region from others. First, transitions are made more difficult by extraordinarily strong demands to uproot the old regime. Fears that former regime elements will undermine ongoing revolutions along with demands for justice after decades of wrongdoing invariably create pressures to exclude former elites. In other regions, reformers within autocratic regimes, like Boris Yeltsin and South Africa's F.W. DeKlerk, split from hardliners to spearhead reforms, muting demands for excluding old regime allies writ large. In the Middle East, however, old regime elites have been unable to credibly commit to reforms, partly given decades-long histories of empty promises and oppositions that remain largely determined to accept nothing less than Ben Ali-like departures. Room for compromise is difficult to find.

Second, for an international community hoping to support Arab transitions, widespread distrust of outside forces compounds these problems. Such distrust is inevitable in all post-colonial states; however, skepticism is particularly high in the Arab world, especially toward the United States. Cynicism about American intentions has been fed by U.S. support for Israel, its continued backing of Arab autocrats for nearly two decades after the Cold War, and, more recently, its unwillingness to take stronger stands against Mubarak, Asad, and others early on in the uprisings. Even if transitioning elites believe international expertise can help smooth the election process and enhance faith in the outcomes, they find it difficult to embrace in the context of heightened nationalism and a strong desire to assert sovereignty.

In light of these challenges, this paper explores how the international community can best engage in "founding" elections in the Arab world. Examining Egypt and Tunisia, the first two Arab states to hold elections, it focuses on challenges in leveling the playing field, managing electoral processes, and creating just and sustainable outcomes. These cases are undoubtedly unique in many ways and – as in any transition – remain in flux. Nevertheless, examining their early experience yields insights into how international actors can best approach those cases that may follow (e.g., Libya, Syria, and Yemen).

Most notably, these cases suggest that the democracy promotion community should approach first elections differently than it does subsequent ones. It should prioritize different goals and activities, in some cases even leaving off the agenda well-intentioned and generally constructive programs in order to focus on more urgent activities critical to strengthening electoral processes. Recognizing the enormous fear and uncertainty with which democrats approach first elections, international actors should resist the understandable urge to seek immediate, permanent democratic arrangements and "favorable" electoral outcomes. They should also encourage revolutionary forces to resist understandable, but counterproductive, urges to exclude allies of the former regime from new democratic processes. Rather, democracy promoters should suggest interim measures, encourage tolerance toward "unfavorable" results, and, in so doing, support democrats as they make their way through a long, imperfect process.

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1.   SETTING THE STAGE

Democrats in the Arab world face considerable challenges in leveling the playing field for first elections. They need to guarantee that the regime will not revert to authoritarianism while assuring political opportunities for those long shut out of the process. These are difficult tasks, given ongoing conflict over regime change and the resources that old regime allies have accumulated. Fear that the old order may return, combined with a sometimes visceral desire to see those associated with it suffer, prompts many to support the outright exclusion of regime elements. This problem was particularly acute in Egypt and Tunisia, where swift transitions gave regime elites little time to switch sides. However, even where regime change comes more gradually, years of pent-up frustration with old elites may lead to widespread demands for exclusion. This will be particularly true when last-ditch efforts to hold on to power lead to brutal repression, adding fresh wounds to long-held grievances.

Eliminating old regime allies writ large, however, undermines democracy. Retaining space for local elites (often framed by the opposition as "remnants of the old regime") helps to ensure that they buy into democracy instead of trying to subvert it. It also recognizes that the fundamental nature of society does not change upon the resignation of a leader; indeed, just as the autocrat had to co-opt the pillars of the local social order, democracy too has to find a place for them. Moreover, by excluding old elites from the democratic process based on their political affiliations and positions, this practice perpetuates, albeit to a smaller degree, some of the same problems that plagued the *ancien regime*. Democrats should be wary of taking such efforts too far and resist the understandable but counterproductive temptation to block those associated with the old regime.

Bans and Blacklists

Popular demands to ban or blacklist former regime allies are especially prevalent where elites have not defected from the old order to be at the forefront of reform, leaving few to argue that allies of the old regime support democratization. Not surprisingly,

then, calls for bans and blacklists have been widespread in Egypt and Tunisia and will likely emerge elsewhere in the Arab world.

The extent to which revolutionaries are successful in excluding candidates closely associated with former ruling parties depends in part on the continued presence of old regime elites in the transitional government. In Egypt, where members tied to the old regime continued to sit in government, the ruling military council – known as the Supreme Council of the Armed Forces (SCAF) – refused to issue a political exclusion law. In the absence of such a law, the Supreme Court overturned a lower court ruling issued only weeks before parliamentary elections that would have excluded former ruling party members from standing for election.[2] In contrast, the Tunisian transitional government represented a much greater break with the past and issued Article 15, prohibiting elites from the *ancien regime* from participating in the 2011 elections.[3] An unpublished blacklist became the basis for disqualifying candidates.

While it may appear to stifle democratization, Egypt's approach may actually be a more effective foundation for democratic change than Tunisia's. In the absence of an official ban on ex-regime allies, groups like Egypt's Revolutionary Youth Coalition published unofficial lists and rallied voters against supporting ex-National Democratic Party elites. This approach promoted transparency, informed voters, and fostered debates, while allowing old regime allies a continued stake in the competition. The Tunisian approach – excluding elites from the *ancien regime* and compiling an unpublished blacklist – lacked transparency, inflated rumors about the level of exclusion,[4] heightened opposition from regime sympathizers, and led to rejection of party lists in which organizers unknowingly included blacklisted individuals.[5] Moreover, it failed to resolve the underlying problem, as allies of the old regime nevertheless could, and did, seek influence by backing less-tainted allies in the elections.

International actors should encourage public campaigns to strengthen pro-revolutionary forces over official bans and undisclosed blacklists. Public campaigns promote transparency, foster debate,

and enhance public efficacy. They also allow old regime elites to engage in the new political game, giving them a stake in democracy.

Party Lists and Individual Candidacies

Debates over whether candidates should run in individual candidacies (ICs) or on party lists (PLs) directly reflect the fear that the old regime will return. Many believe old regime allies can take advantage of ill-gotten power and resources to win elections. Egyptian revolutionaries thus sought a closed, party list system, hoping it would lock out those who ran on local reputations – and often under the banner of the former ruling National Democracy Party (NDP). It was thought that requiring candidates to run on party lists, given the discrediting and disbandment of the NDP, could advantage revolutionaries and facilitate the emergence of new political parties.

However, the extent to which party lists can be used to clip the wings of old regime allies depends on both the strength of revolutionary forces within the transitional government and institutions inherited from the past. In Tunisia, Ben Ali left behind a fully closed party list system with a Party Block Vote system that shifted seats to the largest party.[6] The former opposition was fairly united in its desire to overturn the Party Block Vote and maintain the party list system, while elites formerly allied with the now-banned Constitutional Democratic Rally (RCD) were in little position to seek reforms to their advantage. In contrast, Egyptian revolutionaries faced greater obstacles in trying to establish a party list system. They encountered resistance from stronger conservative forces and an institutional legacy that favored individual candidacies. Indeed, many of the same opposition forces that pushed SCAF to reduce the proportion of individual candidacies in 2011 had rallied in 1985 and 1987 for Supreme Constitutional Court rulings in favor of independents. Given these rulings and the continued strength of old regime allies, the opposition struggled to reduce the proportion of individual seats from an initially-proposed one-half to one-third of lower house seats.[7]

Fights over electoral laws are understandably in-

tense, but they should be kept in proper perspective. It is important to recognize that with major shifts in political power, a flood of relatively unknown candidates, and voters heading to the polls for the first time, there are many unknowns about how such rules work out in practice.[8] Indeed, the Muslim Brotherhood, which had opposed individual candidacies, did significantly better in these races than in those on party lists. They won 100 of 166 IC seats (60 percent), and only 117 of the 332 PL seats (35 percent).[9]

In highly uncertain, transitional environments, democrats should engage judiciously in struggles over institutional design. They should recognize that a wide gap exists between expected and actual outcomes. They should guard against institutional designs that will wildly shift the balance of power to selected forces. Apart from this, however, democracy promoters are better off focusing their energies on other issues.

District Boundaries and Seat Allocation

First elections also present an opportunity to redraw boundaries and allocate seats, righting past wrongs. Authoritarian leaders drew district boundaries in order to create regime strongholds, apportioning seats to their benefit. For example, in the Egyptian electoral system under Mubarak, sparsely populated frontier districts received a disproportionate share of parliamentary seats. And in Tunisia, the less-populated interior had been systematically disadvantaged under Ben Ali. However, democrats should avoid jettisoning old rules simply because they are tainted by the previous order.

They should instead take social and economic considerations into account when evaluating these rules. In some cases, this means maintaining some of the historically devised protections and benefits of the old electoral boundaries. Fully correcting malapportionment in the Egyptian case would lead to political difficulties, given that the frontier areas are both ethnically different from core governorates and provide a disproportionate share of the country's mineral and tourism wealth. In other cases, it may mean introducing malapportionment to correct past wrongs. Indeed, current reforms in

Tunisia resulted in a reasonably apportioned distribution of seats, but one that nevertheless over-represents the less-populated (and previously under-privileged) interior regions.

At the same time, democrats should avoid uncritically accepting old rules simply because they enjoy historical legitimacy. For example, Egypt's requirement that at least half of those elected be a worker or farmer derives from Nasser's 1952 revolution.[10] This requirement undermines equal opportunity for Egyptians and fits Egypt's increasingly urban society less well today than it did decades ago. However, given its historical roots, which are constitutionally enshrined, calls to remove the requirement were relatively muted, and a major opportunity to redress the situation was lost.

International actors can play an important role in sharing outside perspectives and lessons-learned on redistricting and apportionment. They need to appreciate domestic concerns and to recognize underlying socio-economic and political realities. At the same time, external actors can draw attention to cases in which the realities that undergirded malapportionment under the old regime should continue to hold and, at other times, encourage the rethinking of unfair arrangements. They can do so by asking questions, sharing lessons-learned from other cases, and convening venues for key actors from transitions in other regions to share experiences and perspectives. The goal should not be giving technocratic solutions intended to lead to an imagined "fair" order, but to help domestic actors review elements of the old order on a case-by-case basis.

Candidate Entry

Including opposition parties repressed for decades, youth who played a major role in the revolution, and a public long excluded from meaningful participation is a fundamental goal of the Arab transitions. In Tunisia, a government decree eliminated prohibitions on parties based on religion, language, race, sex, or region, and allowed parties, alliances, or independents to form electoral lists as long as they met minimal requirements.[11] The government also attempted to level the playing field by facilitat-

ing campaign financing[12] and media access. Egypt too expanded participation by establishing relatively minimal requirements for party registration and candidate entry.[13] Although the law prohibited campaigns from using divisive appeals on ethnic, religious, and gender lines,[14] these stipulations—particularly regarding religious slogans—were weakly enforced.

Lowering barriers to entry and leveling the playing field are keys to establishing democratic norms and legitimizing electoral results, but they also lead to an overwhelming flood of candidates. In Egypt, 6,591 candidates ran for 166 IC seats. 590 lists, spanning more than 50 registered political parties, were entered into the PL race for the People's Assembly.[15] In Tunisia, 11,618 candidates entered elections for the Constituent Assembly, running on 1,662 lists in 33 districts.[16] Tunisia's efforts to provide candidates with voter access through state-run television only exacerbated the problem. During the month of October, for four hours each evening, viewers could hear a different candidate every three minutes – a rate of 20 candidates per hour or 80 candidates each day. Even seasoned voters would have a difficult time processing that much information, and for Tunisians – many going to the polls for the first time – it was bewildering.[17]

International actors should see the flood of new candidates as an inevitable feature of first elections, but not as a problem to be solved. As discussed previously, the playing field should be opened to allow old elites and new entrants an opportunity to engage in the process. Ideally, the playing field should be leveled as well, but in reality, this is never fully accomplished – even in well-established democracies. Attempting to do so in first elections may not only be unsuccessful but also counterproductive. Thus, rather than focus on such interventions, democrats should let Darwinian processes run their course. When fragmentation contributes to the defeat of smaller parties – as it did for secularists in Tunisia – they will learn to merge, and when parties find they lack significant support bases, they will fade away. Such processes take time, and international intervention will not necessarily accelerate them.

2.   THE ELECTION PROCESS

Transitioning elites face competing pressures as they define the role of international actors in the implementation process. For a number of reasons, election organizers often lack the wherewithal to conduct elections effectively on their own: the *ancien regime* did not establish procedures aimed at implementing credible, democratic elections; those who organized the country's previous elections are largely discredited; and those stepping up to design and run first elections may have never before voted in national polls. Yet, while international assistance is necessary, it may also be politically contentious. Nationalist sentiments are at an apex in the context of transitions, and naysayers can use any appearance of foreign tutelage to delegitimize the process.

International actors should recognize that their assistance can be the source of political conflict, especially when it comes to the high profile, critical processes of electoral preparation and monitoring. They should shape their programs accordingly, engaging in the process but limiting the extent and visibility of assistance. They should refrain from intervening heavily in the ongoing process, even though the notion that first elections are a critical juncture in democratization makes it tempting to do so. Processes may in fact be more smoothly carried out with more external direction, but flawed processes driven by domestic forces may have more legitimate outcomes. Ultimately, successful elections depend not only on clean processes, but on results that are seen as credible. That, in turn, requires that the public perceives that domestic forces control the electoral process.

Electoral Management

Establishing electoral management bodies (EMBs) to oversee the preparation and implementation of elections is a fundamental problem in first elections, and one in which concerns over sovereignty and independence play a major role. Even democrats keenly aware of their own limitations are reticent to cede these processes to direct international supervision. Not surprisingly, both Egypt and Tunisia established domestic bodies to supervise elec-

tions. In Tunisia, where the government was determined to make a complete break with the past, it established an entirely new commission, the Independent High Authority for the Elections (ISIE), while in Egypt, where the break was less complete, SCAF appointed an 11-member Supreme Electoral Commission (SEC) in accordance with an amended 1956 law on political rights.

The public may be quite forgiving of procedural flaws when a well-respected domestic authority oversees the elections. In Tunisia, the process was rocky. Voter registration witnessed a fitful start, extension, and finally a second-best solution to establish special polling stations for those who were unregistered.[18] Election day, too, saw a number of irregularities, with some improper procedures in polling preparation, balloting, and counting. Yet, ISIE represented a break with the past and was given an independent, unfettered role by the interim government. Through hard work and public acknowledgment of mistakes, it gained a reputation of diligence and dedication. This reputation, combined with Tunisians' pride in running their first democratic elections without extensive, direct international supervision, allowed elections to be seen as free, fair, and credible although imperfect.

The extent to which the public is willing to accept flawed elections run by domestic bodies depends in part on the extent to which the election organizers are seen as independent from the old regime. In Egypt, escalating tensions between SCAF and the opposition, combined with continued interventions by SCAF into affairs ostensibly under the SEC mandate, tainted SEC decisions. This was well-illustrated in the controversy over the commission's decision to stagger elections over three rounds. With six times the area and eight times the population, Egypt faced exponentially more daunting logistical challenges than Tunisia. Staggered elections could ease logistical difficulties while giving election organizers a chance to learn over time. Yet the decision was highly criticized not only because it threw Egypt into months of nearly constant election campaigning and polling, but also because it raised concerns that SCAF and old regime allies would take advantage of intervals between rounds to destabilize the process.

Given the continued presence of old regime allies overseeing the elections, many were more skeptical of SEC decisions and less forgiving of flaws in elections; yet even then, widespread public opposition to international intervention remained, as public reaction to SCAF's crackdown on U.S. and U.S.-funded NGOs later suggested. That the election process continued despite early results apparently at odds with the desires of SCAF, combined with oversight by well-respected judges and successful appeals of elections in cases of alleged irregularities, led most to conclude that the results were credible.

The international community should thus avoid the temptation to replace or run roughshod over electoral management bodies. They should help election organizers learn lessons from Egypt, Tunisia, and other regions, giving them insights into the challenges ahead, including helping them to enhance transparency and develop reasonable timetables for the processes at hand. Such assistance can minimize public backlash and at the same time help reduce flaws in domestically-managed elections, increase the integrity of the management body, and build public trust in the process.

Candidate and Party Campaign Training

Individual candidates and parties also often lack the experience and resources to conduct elections, and they too know that receiving international assistance is highly politicized. Political parties do not want to be perceived as reliant upon or the pawns of international forces, least of all the United States. Such ties can jeopardize public support and invite government repression, as Egypt's recent crackdown on NGOs so clearly demonstrates.

However, competition between groups makes them more willing to accept assistance. It is often difficult for domestic actors to refuse international expertise (at least if given quietly), when opponents may be benefiting. Further, when candidates and parties receive training and information from democracy promoters, the costs of doing so decreases for other parties. Not surprisingly, in both Tunisia and Egypt, democracy promoters reported widespread interest – across the ideological spectrum –

in the resources they offered. Programs trained an extraordinary number of candidates and parties in the art of campaign strategy, focusing on gauging and responding to voters' interests and policy demands.

Despite the apparent success and value of these programs, there are important reasons to rethink their implementation in first elections. Leveling the playing field for candidates and promoting effective, policy-based campaigns in elections are laudable goals, but they are unlikely to be achieved in first elections. There is little reason to believe that campaign training influenced the outcomes of elections in either Tunisia or Egypt. In both cases, al-Nahda and the Muslim Brotherhood were seen to be effective organizations before the elections, and retained their dominant position. Rather, with thousands of candidates and more than a hundred parties vying for seats, effective campaigning by thousands of candidates may simply increase public confusion. Most importantly, the vast number of candidates entering the field means that offering equal access to training programs for all parties and candidates is an enormous undertaking. It draws energy and resources away from the long list of tasks critical to conducting elections, at a time when pressures to proceed quickly are high.

Democracy promoters should thus resist the temptation to step up efforts to provide campaign training for parties and candidates in first elections. Given the enormous challenges that democracy activists and practitioners at home and abroad face in leveling the playing field, preparing elections, educating voters, and monitoring the process, it is prudent to shift time and resources into more urgent, and critical, tasks aimed at establishing and strengthening the process in first elections.

Voter Education

Voter education is a major challenge in first elections. In Egypt and Tunisia – as elsewhere in the Arab world – the majority of the population had never voted, and those who had did so under very different circumstances. Citizens in these countries need to be informed of their rights to vote and to be empowered to participate, from registration to find-

ing their polling stations, balloting, and monitoring results.[19]

Tunisia, a relatively small country with a largely educated population, took a more extensive approach to voter education, combining efforts of the ISIE with domestic and international NGOs. Egypt, nearly six times larger and with a less literate population,[20] took a half-hearted approach to voter education. The SEC and government made little effort to educate and mobilize voters, and international and domestic NGOs faced more severe obstacles.

That voters often remained confused and unaware of their rights in both countries attests to the enormity of the task in first elections. Voter education was often limited to small slips of paper from political parties, with the party's symbol marked. Voters also often found it difficult to locate and navigate their polling stations. Well-organized political parties took advantage of this problem by placing volunteers at polling stations who then assisted voters while engaging in last-minute campaigning.

Yet, these cases also suggest that while the task is enormous, it is also likely to have significant returns.[21] In Tunisia, where efforts were stronger, turnout was higher, and voters were reportedly more satisfied with the process. In Egypt, weaker efforts were followed by lower voter turnout and lower satisfaction. Of course, the very same factors that drove Egypt to have a weaker education effort are likely to have contributed to lower voter turnout and satisfaction as well. Nevertheless, the lesson is clear: *The international community should prioritize efforts to assist EMBs, interim governments, and local NGOs in voter education and polling assistance.*

Election Monitoring

The debate over international election monitoring reflects the fundamental tension between affirming sovereignty by relying on domestic resources and enhancing legitimacy through international expertise. In a world where international election monitoring has become the norm,[22] failure to allow international observers provokes skepticism, while a nod of approval confers legitimacy on both process and outcomes. Yet the very fact that such monitoring matters seems to privilege the expertise and approval of international actors over domestic ones, tacitly undermining notions of sovereignty.

Domestic actors need to navigate through this conundrum and do so in a timely matter. Both Egypt and Tunisia debated the presence of monitors, initially rejecting them and ultimately accepting the presence of "witnesses" but not "observers." In Egypt, the debate itself was costly, for accreditation came too late for international organizations to establish long-term missions. This compromised their ability to monitor the pre-electoral processes, which are as important to the credibility of electoral outcomes as election day itself.

International actors can help solve this problem in two ways. First, they can recognize that ultimately it is not the lexicon, but the process, that matters. To the extent that re-labeling "observers" and calling them something else helps alleviate opposition to their presence, international organizations may be best advised to do so. But their main focus should be on establishing clearly defined and agreed upon rules that allow them to enter the process as early as possible, providing incentives for and advice on well-run elections, thus enhancing their legitimacy.[23] *Second, international actors can emphasize and invest in train-the-trainers programs.* In Tunisia, the presence of domestic election monitors from a wide range of affiliations (many trained by civil society organizations such as IWatch and Mourakiboun) played an important role in shoring up confidence in the process, but in some areas monitors were limited to those affiliated with the largest parties. Training a wider range of monitors from different backgrounds would have made the process more inclusive.

3.   OUTCOMES

Democrats are invested in obtaining outcomes that will strengthen and sustain democracy in the long run. They first need elections that yield a sufficiently wide array of forces seated at the table to avoid spoilers. Elections should also assure the rights of

minorities and women, and be carried out quickly and smoothly enough to establish legitimacy. Continued demands to exclude actors from the old regime and minimize international involvement make it difficult to meet these challenges.

International actors can assist by helping democrats recognize that in democracies, the process matters as much as the outcome. Indeed, democrats in the Arab world – and democracy promoters assisting them – would do well to remember that elsewhere democracy has slowly taken root, often despite (and perhaps even due to) elites close to the old regime continuing to play a role in the new order.[24] It is certainly understandable that democrats eyeing the candidacy and potential victory of former regime officials fear their participation will endanger democracy. Candidates connected to the former regime can make promises to the contrary, but this often provides little assurance. In some cases, officials of former authoritarian regimes play by new democratic rules; at other times, they renege. Neither outcome is assured. Moreover, candidates emerging from ranks far outside the former regime can be enemies of democracy as well. The key to safeguarding progress is to maintain support for building democratic rules that bind everyone, regardless of their history. Excluding elements of the past regime violates democratic principles and increases opposition to democratic processes.

Seats at the Table

A diverse parliament may make the process of political reform more difficult, but it can also help in consolidating a new regime. Fewer sidelined parties means greater public legitimacy and fewer potential spoilers to undermine reform processes. For Islamists, too, expressing commitment to the goal of plurality, not majority, can help allay fears in the international community. International actors should recognize that Islamists, like secularists, hold a wide range of positions regarding the value of democracy. The goal is to strengthen democrats – whatever their ideological orientation – and to promote institutional rules that help avoid the dominance of any single political force.

It is easier for parties to claim commitment to plu-

rality than to actually commit to achieving it. It is not surprising that the Egyptian Muslim Brotherhood shifted from assurances that it would run in only one-third of constituencies, to half of them, eventually fielding candidates in every race and winning 46 percent of lower house seats.[25] Parties face pressures to compete broadly; would-be candidates are often not enthused about giving up their potentially successful bid at the polls for a notion of restraint for the greater good; and party leaders are under pressure to satisfy their members. Stakes in first elections are high. With increasing uncertainty over the expected returns, many parties are unwilling to risk undermining their position. They do not want to threaten the process by walking away with wins that may be deemed "unacceptable" at home or abroad, nor do they want to lose influence they may have in determining the future or, worse, risk a return to the old order.

International forces should support the yield of a diverse parliament by providing technical information and assisting in electoral design. They should also continue to support democratic processes in the face of seemingly problematic outcomes. In Tunisia, eliminating the majoritarian party block system in favor of a highly proportional, closed party list system helped assure that no party attained a majority. Of course, as noted above, the exact outcomes of electoral engineering are uncertain, and social, economic, and political considerations play an important role in determining which rules are feasible and appropriate. More importantly, even when the outcomes of democratic processes foster fears among democrats, the results should not be overturned through non-democratic means. Democrats may be tempted to call for overturning elected bodies when they fear they are being captured by potentially non-democratic forces. However, as the experience in Algeria demonstrated twenty years ago, giving in to those impulses is the one sure way to thwart democratization.

Ensuring Rights of Women and Minorities

The problem of assuring rights for minorities and women in the face of majority rule exists in all democracies, but it takes on an added dimension in first elections. Often, former regimes privileged

minorities in an attempt to shore up their power, or fostered social divisions in an effort to divide the opposition. Similarly, they implemented policies that promoted women's rights often as much in response to international incentives as to domestic demand, and often in ways that helped strengthen the regime.

Arguments to ensure women's and minority's rights are therefore sometimes dismissed as efforts which privilege allies of the old order, and which do so at the West's bidding. Thus, when Egypt eliminated the existing women's quota that guaranteed women a set number of seats in parliament, there was little outcry; the 2010 quota law had been criticized for heavily favoring women with close NDP connections, and the projects aimed at advancing women were seen as too closely linked to former First Lady, Suzanne Mubarak.[26] Similarly, Mubarak's regime was seen to have privileged some members of the Coptic community and provoked violence between Copts and Muslims, in part to assure Coptic loyalty. These problems are exacerbated by the deep concerns felt by Coptic Christians and women's rights activists over some of the ideological commitments of Islamist forces.

While the challenges of incorporating women and minorities into the political system are considerable, so are the rewards. This past year, Tunisia demonstrated significant gains on women's representation through institutional protections.[27] Since Bourguiba, Tunisia has been at the forefront of progressive policies toward women, and by the end of 2010 it had led the region in female legislative representation.[28] Additional steps continued in the months following the fall of Ben Ali: dropping remaining reservations to the Committee on the Elimination of the Discrimination against Women (CEDAW) and establishing a law of parity on closed party lists.[29] These steps provoked controversy – with both men and women arguing against the parity provisions. However, the arguments centered more on domestic considerations[30] than on the role of foreign influence.

International actors should help democrats shore up support for measures that protect women and minorities and increase their representation in

elected bodies. They can seek to overcome resistance to these measures in two steps. The first is identifying the instances where opposition to such measures is borne of fears that old regime allies will come to power. The second is working with democrats to find measures that engender less opposition (e.g. including temporary or graduated quotas). In doing so, they should be particularly cognizant that measures to expand rights and representation, especially for women, are often seen as external demands which contradict the social fabric.

Timing and Expectations

Democrats face competing pressures regarding the timing of elections. They need to quickly move forward on elections and try to establish 'normalcy,' and yet, especially given the logistical problems and importance of first elections, must take the time necessary to prepare.

Interim governments inherently lack the democratic legitimacy necessary to make tough decisions required in transitions; thus, as time progresses, calls for elections increase. In addition, many see elections, and the establishment of a "permanent" government, as a significant step toward democracy. They become impatient, hoping to "get elections over with," even if conditions are not entirely favorable. Indeed, nearly two-thirds of Tunisians were disappointed when elections were postponed from July to October, even though more than half of those surveyed in June had no idea who they would vote for and little understanding of the various parties.[31] Similarly, Egyptians largely wanted elections to move forward quickly, despite large-scale demonstrations and escalating violence in Tahrir Square and throughout the country.

4.   LOOKING FORWARD

The downfall of longtime authoritarian regimes presents a critical historical moment. The changes taking place across the Arab world provide citizens new political and economic opportunities that have eluded them for decades. The exact nature of change will differ across the region, determined in part by

the degree of rupture with the old regime, the role of minorities, and the extent of post-war recovery. In all cases, however, the logistical challenges for first elections will be daunting: nascent electoral institutions to be built or reformed; electoral processes to revise; and parties, civil society organizations, and citizens to train. These challenges are exacerbated by high uncertainty about the relative strength and true political demands of emerging elites, including Islamists; unconsolidated legitimacy of democratic institutions; widespread temptations to marginalize and exclude former elites; and opposition to international involvement.

Avoiding these temptations—driven by fear of counter-revolutionaries, anger at past injustice, and heightened nationalistic sentiments—may be the best way for local democrats to achieve their goals. They need to repress urges to exclude allies of the old regime if they are to keep local elites invested in the new order. They need to balance international intervention and nationalistic demands if they are to benefit from resources and expertise as they implement first elections.

Members of the international community must also adjust their own strategies in response to the unique challenges posed by first elections in the Arab world. They should limit their activities, setting aside many programs and priorities that would be desirable in later elections (e.g., political party and candidate strengthening, electoral law assistance, etc.) in order to concentrate on more immediate, critical needs (e.g., strengthening EMBs, voter education, training local monitors and poll assistants, etc.). They should work with Arab democrats to counter demands for the wholesale uprooting of the old system, to broaden the playing field, and to ensure a diverse set of representatives seated at the table. They should also seek ways to support locally driven processes (e.g., facilitating lessons-learned from other countries, supporting but not overpowering EMBs, establishing train-the-trainers programs for local NGOs, etc.), recognizing that international engagement itself is politically contentious. Finally, they should help moderate expectations both at home and abroad, countering perceptions that there is a 'correct' electoral process or outcome, or that

elections will immediately 'usher in' democracy.

Democratization takes place slowly, over time. For countries in transition, what matters most is establishing rules and outcomes that give diverse actors a place in the arena, and are viewed as domestically driven and 'fair enough,' rather than focusing on impeccable processes or ideal outcomes. These inclusive and credible, if imperfect, processes instill confidence in democracy, and ultimately, the ability to achieve it.

NOTES

1. The author gratefully acknowledges helpful comments and assistance from Tabitha Decker, Shadi Hamid, Lina Khatib, Tarek Masoud, Stephen Ndegwa, and Tamara Wittes.

2. Importantly, the Islamist-dominated parliament attempted to exclude former regime elites from the presidential race as well. Prompted by former intelligence chief Omar Suleiman's entrance into the presidential race, parliament passed legislation that would ban top Mubarak regime officials from running in elections for the next ten years. In the current presidential election, this measure challenged the candidacy of former Prime Minister Ahmed Shafiq. (Omar Suleiman was disqualified from the race for failing to secure sufficient voter endorsements.)This may appear to be a reasonable way to safeguard democracy, but inherent in it are the same problems as in blacklists and bans of parliamentary candidates.

3. Specifically, Article 15 banned government officials who had served under Ben Ali; RCD officials, including those at the local level; and all individuals who had signed an August 2010 petition favoring Ben Ali's bid for the presidency in 2014.

4. For instance, the Carter Center estimates that there were 8,100 individuals on the list, but Tunisians sometimes set the number as high as 20,000. "Carter Center Preliminary Statement on Tunisia's National Constituent Assembly Elections," The Carter Center, October 25, 2011, <http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/tunisia-prelim-102511.pdf>.

5. The list could be resubmitted if the candidate in question was replaced. However, the majority of lists was submitted in the final days of registration, which often did not allow time to find a replacement candidate.

6. Party Block Vote system is a rare and highly disproportional form of proportional representation. Candidates run in districts on party lists, and the list winning the highest percentage of votes obtains all seats in the district. The remaining votes are used to determine which candidates received seats in a national district. In Tunisia, this served to favor the then-ruling RCD.

7. It should be noted that the opposition did successfully force SCAF to repeal a stipulation, originally proposed as Article 5, that candidates standing for election to IC seats not be affiliated with a political party. The amendment was expected to favor former NDP candidates and was repealed under threat of boycott.

8. The uncertainty over the best electoral system design for first elections is reflected in academic debates as well. See for instance Andrew Reynolds and John Carey, "Getting Elections Wrong," *Journal of Democracy* 23, no. 1 (January 2012): 164-168; and Timothy Meisburger, "Getting Majoritarianism Right," *Journal of Democracy* 23, no. 1 (January 2012): 155-163.

9. Carnegie Endowment for International Peace, "Results of People's Assembly Election," <http://egyptelections.carnegieendowment.org/2012/01/25/results-of-egypt%E2%80%99s-people%E2%80%99s-assembly-elections>. The Muslim Brotherhood's weaker success in the two out of every three seats reserved for party lists is partly the result of the use of the largest remainder (Hare quota) system. This system, used in Tunisia as well, favors smaller parties.

10. Egypt's candidates are classified either as workers (i.e., registered with a labor union), farmers (dependent on agriculture for main source of income, but owning less than 10 feddans, which is equivalent to 10.4 acres, of land), or professionals (all others). In each district, at least one half of seats must go to a worker or farmer, even if he or she is not one of the top two vote-getters. Candidates in ICs are required to win at least 50 percent + 1 vote to win the race, entering run-offs if they do not succeed in round one. If a worker or farmer fails to win in round one, the top two worker/farmer candidates advance to a run-off.

11. Tunisia's requirements stated that candidates be above the age of 23 and be present on only one party list. Lists were required to contain as many candidates as seats in the district, at least one of which must be under the age of 30; to alternate male and female candidates; and not to contain any blacklisted candidates.

12. Tunisia's campaign finance law prohibited the use of foreign funds and private assets, but it provided public funds to registered candidates' lists. Candidates' lists, calculated at a rate of 35TDN (nearly US $24) for every 1,000 registered voters in districts with fewer than 200,000 voters, and 25TDN (nearly $17) for every 1,000 registered voters in districts with fewer than 200,000 voters. Campaigns were prohibited from spending more than three times the amount provided as the state subsidies for their district. Lists that won less than 3 percent of the total votes in their district were required to return 50 percent of the funds they received. The Carter Center and "Elections in Tunisia: The 23 October Constituent Assembly, *Frequently Asked Questions*," International Foundation for Electoral Systems, October 19, 2011, <http://www.ifes.org/~/media/Files/Publications/White%20PaperReport/2011/Tunisia_FAQs_October_2011.pdf>. In contrast, Egypt's campaign regulations stipulate that candidates running for either IC or PJ seats cannot spend more than 500,000 LE (approximately $83,200) in first-round elections, and an additional 250,000 LE in run-off elections (SJCE Regulation No. 21, Sec. 4). However, there were no provisions for transparency and oversight of these limitations, making them essentially unenforceable. See Carter Center, "Egypt 2011/2012 Parliamentary

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Elections: Preliminary report on all three phases of the People's Assembly Elections," January 24, 2012, <http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/Egypt-Peoples-Assembly-Elections.pdf>

13.   Individual candidates must be over 25 years old and born to an Egyptian father.

14.   According to a law passed by SCAF in March 2011, parties also had to gather a minimum of 5,000 signatures from across at least ten of Egypt's 29 governorates, with a minimum of 300 signatures in each governorate.

15.   "A Concise Idiot's Guide to the Egyptian Elections," *Al-Ahram*, November 27, 2011, <http://english.ahram.org.eg/News/26943.aspx>

16.   Tunisia had 27 districts inside the country and six districts abroad. Inside Tunisia, there were 655 independent lists, 828 party lists, and 34 coalition lists, containing 1,517 candidates. In the districts abroad, there were 72 independent lists, 66 party lists, and seven coalition lists, containing 474 candidates. Allan Bradey, "The October 23rd Constituent Assembly Elections in Numbers," *Tunisia-Live*, October 21, 2011, <http://www.tunisia-live.net/2011/10/21/the-october-23rd-constituent-assembly-election-in-numbers/>

17.   Daphne McCurdy, "A Guide to the Tunisian Elections," Project on Middle East Democracy, October 2011, <http://pomed.org/tunisian-election-guide-2011/>

18.   When the first deadline passed, fewer than 25 percent of voters had registered. ISIE extended the deadline, and even then only 60 percent of eligible voters registered. Eventually, ISIE created special polling stations for unregistered voters. This was not a perfect solution since special polling stations were sometimes located far away from voters or were difficult to locate on polling day, but it demonstrated their desire to make up for inexperience.

19.   Two anecdotes illustrate these problems well. In Tunisia, the author witnessed voters, particularly older ones, holding their ballots face-up, entirely exposed as they took them up to the ballot-box--reportedly a typical procedure in the Ben Ali regime. In Egypt, when asked if they were voting in the upcoming presidential elections, women in a lower-class market said that they were not voting for president. Shaking their heads when informed they could vote, they insisted that the military would determine the president. They believed there were elections for parliament, but not for the presidency.

20.   According to UNICEF, the adult literacy rate in Tunisia stands at 78 percent, compared to 66 percent in Egypt. See <www.unicef.org>.

21.   I am grateful to Tamara Wittes for drawing this comparison to my attention.

22.   Susan Hyde, *The Pseudo-Democrat's Dilemma: Why Election Observation Became an International Norm* (Ithaca: Cornell University Press, 2011).

23.   The Carter Center has argued that labeling the international observers as witnesses, rather than observers, promotes confusion over the role of these parties. The points are well-taken, but resolving debates quickly and getting observer missions into the field early is the primary goal. "Preliminary Report on all Three Phases of the People's Assembly Elections," The Carter Center, 21, <www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/Egypt-Peoples-Assembly-Elections.pdf>

24.   In many cases, incumbent presidents and their close allies have run and lost in founding elections. After ruling Zambia since independence in 1964, Kenneth Kaunda ran and lost in the 1991 elections; General Mathieu Kerekou, after ruling Benin since 1972, ran in the 1991 presidential elections and was defeated, before a successful presidential bid in 1996. In other cases, incumbents contest and win elections, but the democratic process is not derailed. After instituting multiparty elections in 1991, Kenya's Daniel Arap Moi won races in 1992 and 1997, before 2002 polling returned Mwai Kibaki, who himself had been Moi's Vice President from 1978-1988. Ghana's Jerry Rawlings ruled as a military dictator from 1977-1979 and 1981-1992, before he was democratically elected president in 1993-2001. In Taiwan, President Lee Teng-hui, who came to power in 1988, won the country's first direct presidential election in 1996. South Korea's democratization process was ushered in with the election of the ruling coalition candidate, Roh Tae-Woo. In all of these cases, democratization was at times halting, but the process continued.

25.   The switch from IC to PR may have prompted the Muslim Brotherhood to increase the number of seats it contested. PR requires that parties field full lists, usually expecting that only part of the list seats will be elected, while in IC, the party can concentrate on running candidates in seats it believes it is most likely to win. I thank Shadi Hamid for this point.

26.   See Hoda Elsadda, "Women's Rights Activism in Post-Jan. 25 Egypt: Combating the Shadow of the First Lady Syndrome in the Arab World," *Middle East Law and Governance* 3, no. 1-2 (2011): 84-93. The only provision regarding women in the electoral system was a requirement that one woman be placed somewhere, indeed anywhere, on the party list — and most often not in a winning position. Consequently, only five members of the newly elected 498-member lower house are women.

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27.   Inter-Parliamentary Union, "Women in National Parliaments: World Classification," December 31, 2009, <http://www.ipu.org/wmn-e/arc/classif311209.htm >

28.   Inter-Parliamentary Union, "Women in National Parliaments," December 2010, <http://www.ipu.org/wmn-e/arc/classif311210.htm>. Tunisia ranked 31st in the world, well ahead of the UK (52nd) and the US (71st). On the role of the Tunisian state in promoting this representation, see Azza Karam, "Strengthening the Role of Women Parliamentarians in the Arab Region: Challenges and Options," UNDP Programme on Governance in the Arab World, 1999, 6, < http://www.undp-pogar.org/publications/gender/karam1/karama.pdf>

29.   Party lists were required to alternate male and female candidates. However, because men headed the vast majority (about 94 percent) of the lists, the representation of women in the Constituent Assembly reached only 22.5 percent (i.e., 49 women in its 217-member Constituent Assembly and a female Vice President).

30.   Issues included debates over the role of women in politics, concerns about their level of experience, and, in cases of smaller parties, the ability to find sufficient numbers of female candidates.

31.   As election day approached, many Tunisians remained unclear about the process as well as the mandate of the Constituent Assembly. They simply wanted the process to move forward, hoping to restore "normalcy." Zied Mhirsi, "85 percent of Tunisians are Willing to Cast Their Votes," *Tunisia-Live*, June 9, 2011, <http://www.tunisia-live.net/2011/06/09/88-of-tunisians-are-willing-to-cast-their-votes/> and Nicole Roswell and Ian T. Woodward, "Imagining the Road Ahead: Citizen Attitudes about Tunisia and the Constituent Assembly Period," National Democratic Institute, July 2011. Egypt showed similar confusion over elections in the face of determination to see the process move forward. A month before elections, more than 50 percent of potential voters remained undecided, although more than three-quarters intended to vote. They went to the polls seeking security, employment, and a stop to inflation. Al-Ahram Center for Political and Strategic Studies and Danish-Egyptian Dialogue Institute, "3rd National Voter Survey in Egypt: Press Release," November 3, 2011, <http://dedi.org.eg/wp-content/uploads/3rd-Poll-Press-Release.pdf>

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