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# Semi-presidential government in Tunisia and Egypt

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## Introduction

In early 2014, both Tunisia and Egypt adopted new constitutions. Both constitutions establish a semi-presidential form of government, in which a popularly elected president shares executive power with a prime minister and government selected by a democratic legislature. The semi-presidential form of government is thus neither a purely presidential system nor a purely parliamentary system, but neither is a system that operates simply as a hybrid of the two 'pure' forms of government. On the contrary, semi-presidentialism's dual executive structure creates a unique power-sharing dynamic within government, and establishes a system of government that must be understood as more than merely the sum of its 'pure' parts. The way in which a semi-presidential system distributes executive power between the president and the government is thus an important factor in whether this power-sharing form of government will succeed.

Semi-presidentialism emerged as a form of democratic government only in the 20<sup>th</sup> century, much later than the presidential and parliamentary systems. Finland and the Weimar Republic are early examples, with semi-presidential constitutions adopted in 1919. Since the end of World War II, the proportion of global democracies that have adopted a semi-presidential system has increased significantly. By the late 1990s, semi-presidential systems accounted for 22 per cent of the world's democracies, and by 2007 this figure had risen to 33 per cent.<sup>140</sup> Semi-presidentialism has been especially prominent among new democracies, especially those emerging from authoritarian government. Of the 52 semi-presidential systems in place today, 15 emerged in Africa following the demise of a dictatorial or colonial system or after internal conflict, and 21 emerged in Eastern Europe following the break-up of the Soviet Union.

There are two questions facing the West Asia and North Africa (WANA) region. The first is why Tunisia and Egypt chose to follow these trends and embrace semi-presidentialism. The second is whether the specific institutional arrangements put in

place by the 2014 Tunisian and Egyptian constitutions are consistent with the reasons for adopting a semi-presidential system in the first place. The answers to these two questions may suggest whether semi-presidentialism presents a promising way forward for constitutional reform in the WANA region, and, if so, how.

## **Why semi-presidentialism?**

A compelling attraction that semi-presidentialism has held for the young democracies of the last 50 years or so lies in the opportunities it creates for enjoying the benefits of each of the ‘pure’ systems of government while avoiding the risks each carries. Twentieth-century experiences of pure presidential systems support the view that presidential government encourages the consolidation of power by populist leaders, undermining the democratic process and frustrating representative and deliberative politics. The rigidity of having a single, fixed-term, popularly elected chief executive reduces both space for, and incentives to, accommodate diverse political interests in the government, and may spur the emergence of autocratic leadership.<sup>141</sup> The lack of legislative oversight or control over the president makes it easier for autocratic and non-accountable governments to emerge. Semi-presidentialism may offset this danger by linking government’s time in office to its performance in the eyes of the legislature, imbuing parliaments with real control over the government.

On the other hand, a long-standing criticism of pure parliamentary systems is that the prime minister and the government are beholden to political parties in the legislature rather than to the electorate. A parliamentary government and its prime minister must retain the confidence of the legislature if they are to survive, and the lack of an electoral mandate outside the confidence of parliament ties the cabinet to parliament rather than to the people.<sup>142</sup> In a semi-presidential system, the directly elected president serves as an agent of the people in government, and stands as a popular counterpoint to parliamentary parties’ influence over the prime minister and cabinet.

The attractions of semi-presidentialism’s dual executive are summarized in the pithy aphorism that political parties get two bites of the cherry. This is so in two different respects, which are set out below.

### *Two elections*

After the fall of autocratic rulers in Tunisia and Egypt during the Arab Spring, it quickly became apparent that the Islamist parties in both countries (Ennahda in Tunisia and the Muslim Brotherhood in Egypt) were likely to dominate the legislative elections. Unlike other political parties that contested the elections in Tunisia and Egypt, Ennahda and the Brotherhood were founded years before the Arab Spring, had endured authoritarian rule in their respective countries, and had developed party structures and organizational networks. The Islamist parties held an electoral advantage over newer political parties for these reasons. In the first post-Arab Spring elections in October 2011 in Tunisia and November 2011–January 2012 in Egypt, the two Islamist parties did indeed win more

seats in the legislature than the other parties. In both Tunisia and Egypt, all the parties at the constitution-drafting table had a fairly good sense of how the seats would be divided after the coming elections: the secular, centre-left and liberal parties who would be contesting the elections against the Islamists knew that they would be in the minority in the legislature.

In a purely parliamentary system, the chances that the opposition parties would be represented in government, or have a significant voice in policy-making and law-making processes, would be low. In a semi-presidential system, however, where the president must be elected by an absolute majority (after two rounds of voting if necessary), presidential candidates must appeal to a broader political base. While a single political party might be able to dominate the legislature, it may not be capable of winning an absolute majority in a presidential election. A presidential candidate with broader, cross-cutting political appeal—a compromise candidate—is thus more likely to win a presidential election. In a situation where smaller opposition parties are unlikely to win representation in a parliamentary cabinet, they stand to gain from a dual executive system where the president must carry broad appeal.

For the liberal and secular parties in Tunisia and Egypt, the calculation is precisely that an Islamist presidential candidate will not generate sufficient appeal to win an absolute majority in a presidential election. If they are dominated by an Islamist party in the legislature, they may yet be able to present a broadly popular candidate for president and protect their interests in the executive.

For the dominant parties in Egypt and Tunisia, the Muslim Brotherhood (up until July 2013) and Ennahda, the opportunity to win both legislative and presidential elections must have been attractive. Already dominant in the legislature, and in the case of the Muslim Brotherhood also in control of the presidency, they must have felt confident that they had promising prospects of winning a presidential election as well, thus ensuring exclusive control of the executive. For the Islamist parties in the two countries, semi-presidentialism offered two routes to executive power. For secular parties, faced with the prospect of an Islamist party likely to dominate the legislature, semi-presidentialism offered an alternative route to executive power in the form of a popularly elected president whose election requires broad, cross-cutting electoral appeal.

This logic does not explain the outcome of Egypt's 2013 constitution-drafting experience. However, since the 2012 semi-presidential constitution was abrogated and the Muslim Brotherhood was forced underground after President Mohamed Morsi was ousted from power, there was no longer an immediate need for the secular parties to ensure their electoral prospects with two separate elections. Other factors should therefore be considered to explain why semi-presidentialism has remained the favoured system of government in the region. In both Egypt and Tunisia, for example, it is not unimportant that semi-presidentialism has been the system of government for many years. Historical bias towards a system that people are familiar with may have played a role, and in Tunisia in particular, the cultural influence of France, which has operated a semi-presidential system since the 1960s, should not be discounted.

Semi-presidentialism is in some sense the only game in town for the WANA region, offering a middle ground between pure presidential and pure parliamentary systems of government. The pure parliamentary system has little historical or cultural foundation in the region, and, moreover, political conditions in a region dominated by authoritarian presidents for decades are not conducive to parliamentary democracy: party structures are weak, and the parties that do exist have no experience with the parliamentary system. The pure presidential system, on the other hand, holds little appeal both because the spectre of presidential power looms large in the region and semi-presidentialism offers an alternative, and because parties likely to dominate the legislature, anticipating that a compromise candidate with broad electoral appeal might win a presidential election, have sought to ensure access to executive power through the prime minister.

### *Two forms of accountability*

A second reason why semi-presidentialism may be attractive has more to do with the recent history of autocratic leaders than with electoral realpolitik. Semi-presidentialism potentially offers greater government accountability than the pure forms of government, appealing greatly to transitional societies previously cowed by unaccountable chief executives. In both presidential and parliamentary systems, there is only one mechanism through which the chief executive and the government are accountable to the electorate.

A president or his or her party must face voters at the end of their term in office. The success of his or her party's bid for re-election depends on the government's performance, in the assessment of the voters, during the term gone by. This popular, retrospective accountability is high where office-holders can be held directly accountable for their performance.<sup>143</sup> The difficulty with popular accountability is that the voters only have an opportunity to voice their approval or displeasure once every four or five years, at regularly scheduled presidential elections.

The parliamentary system's comparative advantage here is an immediate and rapid response on the floor of parliament to the performance of the executive. A prime minister and his or her government must remain sensitive to the wishes of parliament because their tenure depends on retaining parliament's confidence. Even apart from the possibility of a vote of no confidence and the dismissal of the government, a prime minister's government is far more easily questioned, criticized or censured by parliament in the ordinary course of business than a president's cabinet.<sup>144</sup> In presidential systems, in contrast, the complete separation of the executive and legislative branches and the president's distinct electoral mandate help to shield a president and his or her cabinet from parliamentary scrutiny.<sup>145</sup>

Parliamentary systems thus have high levels of what we term 'responsive accountability', where MPs are able to exercise immediate oversight of the government's actions, and the government must respond if it is to stay in office. The trade-off that responsive accountability carries with it, though, is that it must be exercised by a representative institution rather than by the electorate itself. It is logistically and organizationally

difficult—the transactions costs are high—to test whether a government retains the confidence of the whole electorate between scheduled elections. That task is instead delegated to representatives elected to parliament. While this is a pragmatic approach, the drawback is that it limits the voters' ability to hold the government to account. It is unlikely, for instance, that a disciplined majority party will sanction its own government however poorly it performs, leaving voters having to wait until the next election before they can hold anyone to account. Even then voters cannot hold the government to account directly, since they vote only for members of parliament. Second, when government or opposition MPs remove the government through 'no confidence' procedures, they do so 'with no consideration of voters' preferences'. By removing the government, members of parliament can in fact limit the voters' ability to reward or sanction members of the government perceived to be responsible for policy outcomes.<sup>146</sup>

In sum, parliamentary systems have high levels of responsive accountability, but low levels of popular accountability. By contrast, presidential systems have low levels of responsive accountability, but make up for this with higher levels of popular accountability. Many of the disagreements between proponents of presidential and parliamentary democracy over which form of government is more accountable can be understood as privileging of one of these kinds of accountability over the other.

The attraction of semi-presidentialism to its proponents as a form of government for the Arab Spring countries is that it avoids the zero-sum choice between responsive and popular accountability, because it combines a directly elected and popularly accountable chief executive with a government serving at the pleasure of an elected legislature. This dual executive structure introduces both responsive and popular accountability to the system. If a semi-presidential system is designed so that the government is accountable only to the legislature and not to the president in addition, then parliament will exercise continuous scrutiny over the government during its term, and the voters will hold the chief executive, in the form of the president, directly to account at the end of his or her term in office. The sharing of executive power between the president and the prime minister ensures that the executive is popularly accountable for the president's actions, and responsively accountable for the government's actions.

For post-authoritarian countries like those in the WANA region, where executive accountability has long been non-existent but where there is little experience of meaningful parliamentary democracy, semi-presidentialism's seeming accountability advantages over the pure forms are understandably alluring. These advantages, however, do not flow simply from the adoption of a semi-presidential system. It should be borne in mind that both Tunisia and Egypt were, formally at least, semi-presidential systems for much of the pre-Arab Spring period. The advantages of the semi-presidential system can be realized only if, first, the system is designed in such a way that the president is not able to dominate the prime minister and government. In all semi-presidential systems, as in pure parliamentary systems, the legislature is empowered to dismiss the prime minister and/or the government. In some semi-presidential systems, however, the president is also empowered to dismiss the prime minister and/or government. In these latter semi-presidential systems, the prime minister is accountable to the president

in addition to the legislature, and in effect answers to two masters. Facing the threat of dismissal from the president as well as from the legislature, the prime minister is less likely to act as a check on presidential power than he or she would be if the president were not empowered to dismiss him or her. Historically, the likelihood of a reversion to authoritarian rule is higher when the president has the power to dismiss the prime minister and/or government. Second, the success of semi-presidential democracy depends on factors beyond the design of the system of government. In particular, the independence and competence of the judiciary are important safeguards of the principles of democracy. In addition, semi-presidentialism works better when true multiparty democracy exists and a number of parties are able to meaningfully compete for power in competitive multiparty elections.

## **Semi-presidentialism in Tunisia**

Article 71 of the 2014 constitution of Tunisia provides that:

‘Executive authority is exercised by the President of the Republic and by a government which is presided by the head of the government.’

Article 71 designates the president of the republic as the head of state, while article 89 provides that the government shall be made up of the head of government (the prime minister), ministers and secretaries of state.

The president is elected for a five-year term in universal, free, direct, secret, fair and transparent elections. A presidential candidate must win an absolute majority of votes cast to win the presidency. If no candidate wins an absolute majority in the first round of voting, the two candidates with the highest number of votes must enter a second round of voting. No person can serve more than two terms as president, whether those terms are consecutive or not, and the constitution may not be amended to increase the number of terms a person may serve or to increase the length of the presidential term of office (article 75).

As with all semi-presidential systems, the 2014 constitution of Tunisia goes on to provide that the government is accountable only to the elected legislature—and not to the president in addition (article 95), and that that legislature may vote to dismiss the government and appoint a new head of government through a vote of no confidence supported by an absolute majority of the members of the legislature.

The government is not accountable to the president, and the president has no constitutional authority to dismiss the government. The president may, however, ask the legislature to renew its confidence in the government a maximum of two times during the presidential mandate. If the legislature does not renew confidence in the government, the government is considered to have resigned (article 99).

## Semi-presidentialism in Egypt

Article 114 of the 2014 constitution of the Arab Republic of Egypt sets out the mandate of the president of the republic:

The President of the Republic is the head of state and chief of the executive branch of government.

Article 137 sets out the mandate of the government:

The government is the supreme executive and administrative organization of the state and it consists of the Prime Minister, the Prime Minister's deputies, the ministers, and their deputies.

The Prime Minister heads the government, oversees its work, and directs it in the performance of its functions.

Comparing this arrangement to the 2014 constitution of Tunisia, it would appear that the Egyptian president enjoys greater executive authority than the Tunisian president. The former is both head of state and 'chief of the executive branch of government', while the latter is head of state only. The Egyptian president's relatively greater power to direct the executive is reinforced by article 122, which provides that the president 'exercises presidential authority via the prime minister, his deputy and ministers'. A similar provision in Egypt's 2012 constitution led to confusion about the extent to which the president acts as head of government vis-à-vis the prime minister.<sup>147</sup>

Problems of indeterminacy arise elsewhere in the Egyptian constitution. Article 118 provides that the president must be elected by an absolute majority of votes, but allows that the specific procedures for electing the president may be regulated by law. The failure to constitutionalize the procedures for the election of the president—particularly, for example, whether run-off or second-round elections are to be held in the event that no candidate wins an absolute majority—leaves a great deal in the hands of the legislature. This creates opportunities for manipulation of the electoral laws in order to influence the election of the president.

## Conclusion

The stated advantages of semi-presidentialism over parliamentary or presidential systems lie in the electoral implication that the president will have cross-cutting political appeal, and in the greater accountability that the form offers. While both Tunisia and Egypt have adopted semi-presidential constitutions, the 2014 Tunisian constitution tracks more closely than does Egypt's 2014 constitution the two reasons that are offered to justify semi-presidentialism's comparative advantage. Leaving crucial details of the electoral system to the determination of ordinary law creates the opportunity for dominant legislative parties to construct electoral rules that favour or disadvantage specific parties or people.



Similarly, leaving unclear the division of executive power between the president and the prime minister may lead to conflict and inefficient government.<sup>148</sup> If the power-sharing arrangement is to work, and deliver a comparatively superior mechanism for holding the government accountable, it must at the very least be clear in the text of the constitution which executive powers and functions the president and prime minister are respectively afforded.