

Why and How SCAF must fold in Egypt?

SCAF one source of legitimacy was their popular backing, now that they have lost it, they've lost what legitimacy they had

Chibli Mallat, Tuesday 22 Nov 2011

In large part because of the Supreme Council of the Armed Forces (SCAF) the revolution against Mubarak and the old regime was nonviolent. When on 31 January 2011 its then obscure leaders refused to shoot at unarmed demonstrators at the behest of Mubarak, the revolution won, and the dictator had to flee.

With the loss of thirty innocent lives in the Maspero massacre on October 9, and the ongoing Tahrir square violence against unarmed demonstrators, the brutal undemocratic character reminiscent of the old regime is being cruelly exposed. The government did well to resign. SCAF is now alone. If it appoints another nondescript government, it will fare no better. If it appoints a military government, it will have transformed itself into a junta of the worst type, bringing the country into huge turmoil over months, while finding itself completely isolated domestically and internationally.

The only way forward is for SCAF to fold and disband, and to be replaced by a transitional government of the revolutionary forces.

This is an unfortunate and unnecessary development. When Mubarak was forced to leave on 11 February 2011, SCAF retained an immense popularity because of its contribution to the new logic in the country, a logic where people choose their leaders freely, and where people can decide to bring the regime down if they so wish. The legitimacy of government depends on the people. Period. This is the central lesson of the Egyptian nonviolent revolution. When large unarmed demonstrations march in the cities and villages of Egypt shouting '*al-sha'b yurid isqat al-nazam*', the people want to bring the down the regime, they must be heard. The people, by definition, retain the legitimacy of their government.

What legitimacy in contrast does SCAF have, having suspended the constitution, then requested a team of jurists to amend it in a matter of ten days, then put it to referendum, then completely reneged on that text by issuing a constitutional declaration gleaned out of thin air, then ordered parliamentary elections according to an arbitrarily decided law, while vaguely promising presidential elections in accordance with a constitution yet to be written? What legitimacy can result from such a morass?

The question that the SCAF generals need to ask themselves is the following: What legitimacy do they have left? The answer is none. Nobody has elected them, nowhere in the constitution is a 'SCAF' mentioned, and its practices raise significant questions on how it differs from Mubarak. On the day after Mubarak's departure, revolutionary Egypt woke up to an unnoticed and foreboding sign: the first visitor to SCAF amongst the world's 190+ world leaders was the Sudanese genocidal dictator. A cascade of other troubling signs followed, including the erratic constitutional steps, and most dramatically the two hallmarks of the Egyptian public scene since Mubarak's fall: the continuation of a state of emergency and arbitrary laws, and the arrest and trial by military courts of 13,000 Egyptians, more than all of the trials under thirty years of the previous regime. In the past few weeks, the repression of unarmed demonstrators taking to the street, in Maspero then in Tahrir, further narrowed the gap between the ancient and the new regimes. For Egyptians today, there is little difference left between Mubarak and Tantawi.

SCAF must therefore fold. The best way to do so without plunging the country into chaos is the rapid emergence of a transitional government consisting of the largest possible number of Egyptian personalities who actively opposed Mubarak, including some leading women and men from the youth movement. This transitional council would be tasked with one priority: to pass an electoral law that ensures the free and fair election of a constituent assembly, which will also appoint a transitional government until the constitution is agreed and new elections are decided. This stands for an improved Tunisian model, and ensures that the live forces of the revolution are placed in charge of the country until elections under a new constitution institutionalize the right of the Egyptian citizens to choose their leaders; -- and bring them down when, like SCAF, they consider themselves grander than the people.

Chibli Mallat is Visiting Professor in Islamic Legal Studies at Harvard Law School and author of 'Revising Egypt's Constitution: A Contribution to the Constitutional Amendment Debate', [Harvard International Law Journal](#), February 2011