

Egypt: Supreme Constitutional Court invalidates Shura Council, Constituent Assembly

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On June 2, Egypt's Supreme Constitutional Court (SCC) ruled that the Shura Council, the upper house of the Egyptian parliament, and the Constituent Assembly, which drafted Egypt's post-Mubarak constitution, were illegitimate.

Before the June 2 rulings, the SCC had already declared the People's Assembly, the lower house of the Egyptian parliament, illegal in June 2012. In both cases, the SCC declared the two houses of parliament unconstitutional on the grounds that the election law under which the bodies were elected in February 2012 “violated articles 37 and 39 of the constitutional declaration.”

The court stated that the electoral law discriminates “against independent candidates because it allowed political parties to compete for the one third of seats reserved for independents, while it stripped independents of the right to compete for the two third of seats reserved for party-based candidates.”

Based on this ruling the SCC also invalidated the Islamist-dominated Constituent Assembly last Sunday, stating that a number of its members had been selected from the illegitimate Shura Council.

Thus, according to the highest judicial power in Egypt, the new Egyptian constitution has no legal foundation. Egyptian constitutional expert Raafat Fouda confirmed this, commenting: “This implies that the constitution of this country, which gave the current president his powers, is unofficial.”

However, according to Fouda, the SCC “took into account the political implications of creating a legislative vacuum.” That is, the SCC stopped short from dissolving the Shura Council to avoid a major crisis of the post-Mubarak Egyptian state.

The SCC ruling is shot through with contradictions. According to the ruling, the Shura Council can continue its work until new parliamentary elections are held. After the dissolution of the People's Assembly and the constitutional referendum last December, the Shura Council is functioning as the legislative branch of the Egyptian state and, according to article 230 of the new constitution, is immune to dissolution.

Also, the constitution is expected to remain in place despite the fact that the body that drafted it has been declared invalid.

Both rulings will be referred back to the Supreme Administrative Court (Shura Council case) and the Administrative Court (Constituent Assembly case).

The ruling reflects bitter differences inside the Egyptian ruling class between the ruling Islamists of the Muslim Brotherhood and more secular loyalists of former dictator Hosni Mubarak, who was toppled by mass working class struggles in 2011. The judiciary, dominated by Mubarak loyalists who fear a loss of influence inside the Egyptian state machine since Islamist President Mohamed Mursi came to power last summer, is seeking to undermine the Brotherhood's position.

More broadly, however, the ruling once more highlights the fraud of the so-called “democratic transition” announced by all factions of the bourgeois political establishment in the aftermath of Mubarak's ouster. The institutions created by the Egyptian ruling elite since 2011—with the support of US and European imperialism, as well as pseudo-left forces like Egypt's Revolutionary Socialists (RS)—are devoid of any legal foundation, let alone popular legitimacy.

The Shura Council elections in January-February

2012 were marked by the lowest voter turnout since Mubarak's ouster. Only eight percent of the electorate went to the ballot boxes to cast their vote, mainly for Islamist parties. Currently the Shura Council is dominated by the Freedom and Justice Party, the political arm of the Muslim Brotherhood (MB), and the Salafist Nur Party.

The constitution was also passed in a referendum amid low voter turnout, violence and allegations of fraud, in December last year. Modeled after the 1971 constitution which formed the basis of Mubarak's dictatorship, it upholds the privileges and power of the Egyptian military. The constitutional referendum was preceded and succeeded by mass protests against Mursi and the ruling MB, which were brutally suppressed by the security forces and the Egyptian military.

The “democratic transition” has been nothing more than a cynical façade for the Egyptian bourgeoisie and its imperialist allies to suppress and stifle the mass movement of the Egyptian working class, maintain authoritarian rule in Egypt, and defend their power and wealth. This bitter experience shows that the working class cannot rely on the undemocratic institutions created since 2011—which are now officially extra-legal, as well—to achieve any of its social or democratic aspirations.

Working class struggles will not produce any lasting victories unless they are based on an independent socialist perspective and a struggle to take power. As the *World Socialist Web Site* insisted from the beginning of the mass struggles against Mubarak, the Egyptian proletariat can realize its aims only if it overthrows the Egyptian capitalist state, creates its own genuinely democratic institutions of state power, and reorganizes economic and political life on a socialist basis.

In order to prepare for such an enormous struggle, the Egyptian working class must develop a revolutionary leadership and build an Egyptian section of the ICFI as its own political party.

This requires a conscious break with all the bourgeois forces that presented themselves as opponents or critics of the Mubarak dictatorship, advocating the myth of a “democratic transition” of Egyptian capitalism and the bankrupt perspective that democracy can be built in Egypt based on the rotten institutions created by the Egyptian bourgeoisie after the ouster of Mubarak.

The ruling MB which dominates the Shura Council praised the SCC's ruling. Sobhi Saleh, a leading official of the Islamist Freedom and Justice Party (FJP), the political arm of the MB, and a member of the Shura Council's Legislative and Constitutional Affairs Committee, announced that that “the ruling is not expected in any way to strip the Shura Council of exercising complete legislative power.” He argued that the SCC “observed the political interests of the country by keeping legislative powers in the hands of the Shura Council.”

The opposition National Salvation Front (NSF)—a coalition of liberal, Nasserite and pseudo-left parties—commented on the ruling from the standpoint of factions of the ruling elite which seek to integrate themselves into the state machine and block an independent movement of the working class.

On Twitter after the ruling, NSF leader Mohamed ElBaradei commented, “The verdict of the Supreme Constitutional Court is an expected outcome of the political bullying that toppled legitimacy and led to the state of collapse we are living in.” He added, “Back to square one: Shura council and the constituent assembly declared unconstitutional. Consensus on new constitutional framework [is the] only way out.”

For the Egyptian working class, however, the question is not to make some legal modifications to the bankrupt project of a “democratic transition” overseen by the Egyptian army and its Islamist allies. As the post-Mubarak Egyptian state continues to sink into crisis, the decisive task of the working class is to resume mass struggles on an internationalist and socialist perspective and to overthrow capitalism.



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