



Constitutional Design and Democracy: Analyzing Brazil and Egypt

Andrea Melaragno, Loyola University Chicago

RESEARCH QUESTION AND THESIS

This research project intends to answer the following question: Can democracy be created solely based on constitutional design? If not, what does it accomplish and what other variables are needed to bring about a democracy?

Using the countries of Brazil and Egypt, I demonstrate that the inclusion of democratic principles and political processes in a constitution does not guarantee the existence of democracy. The development of democratic principles, however, does lead to constitutional changes and creates the need to rewrite constitutional documents.

CASE SELECTION

The countries of Brazil and Egypt were selected based on their Freedom House Global Freedom Scores of 73 and 18, respectively.¹

Using the Freedom House Global Freedom Scores for case selection allowed me to select two countries with drastically different democracies. Although Brazil and Egypt are both established as democracies, citizens enjoy far different degrees of freedom and political stability. These differences are reflected in their respective constitutions.

DEFINING DEMOCRACY

Robert Dahl outlines five criteria for democratic processes: 1) Effective participation, 2) Equality in voting, 3) Gaining enlightened understanding, 4) Exercising final control over the agenda, 5) Inclusion of adults.²

Larry Diamond notes the following elements of liberal democracy: “the absence of reserved domains of power for the military or other actors not accountable to the electorate”, “it requires the horizontal accountability of officeholders to one another”, and “it encompasses extensive provisions for political and civic pluralism as well as for individual and group freedoms.”³

Larry Diamond further designates the Freedom House Global Freedom Scores as a reliable indicator of liberal democracy. Diamond states, “Freedom House annually rates political rights (of contestation, opposition, and participation) and civil liberties for the nations of the world. . . The ‘free’ rating in the Freedom House survey is the best available empirical indicator of liberal democracy.”³

REFERENCES

- ¹ Freedom House. 2022. *Global Freedom Scores*.
- ² Dahl, Robert A. 1998. *On Democracy*. New Haven: Yale University Press.
- ³ Diamond, Larry Jay. 1999. *Developing Democracy : Toward Consolidation*. Baltimore: Johns Hopkins University Press.

Table 1: Summary of Brazil Analysis

	1891	1937	1946	1967	1988
Separation of Powers	The separation of powers is explicitly established in Article 15	The separation of powers is not explicitly established, power is situated in the executive branch	The separation of powers is not explicitly established power is shared by the executive and legislative branches	The separation of powers is explicitly established in Article 6, but power remains situated in the executive branch	The separation of powers is explicitly established in Article 2
Civil Rights	The Bill of Rights is included in Section II of the constitution	Individual rights and warranties outlined in Article 122	Individual rights and guarantees outlined in Chapter II of the constitution, Article 141	Individual rights and guarantees outlined in Chapter IV of the constitution, Article 150	Individual and collective rights and duties outlined in Chapter I of the constitution, Article 5
Political Parties	No explicit mention of parties in the constitution	Political parties were disbanded by President Vargas in 1937	No explicit mention of parties in the constitution, but the two ruling presidents were considered anti-party men, taking measures to weaken parties	Parties were heavily regulated before being disbanded by the military government	Reintroduced to the political system, represent overlap between the executive and legislative branches
Type of Government	Republic	Republic	Federative Republic under a representative regime	Federative Republic under a representative regime	Federative Republic under a representative regime

BRAZIL TAKEAWAYS

Table 1 shows the evolution of democratic principles in Brazilian constitutions from 1891 to 1988. One of the most notable takeaways rests in the separation of powers. The concentration of political power in the executive demonstrates the need for executive removal procedures and power restrictions. Similarly, it highlights the importance of political parties in political processes. Political parties were not explicitly mentioned in the constitution until 1967, where they remained subject to heavy regulations which dissuaded their independent creation.

Table 2: Summary of Egypt Analysis

	1923	1956	1971	2014
Separation of Powers	Legislative and executive powers vested in the King	Shared legislative and executive powers of the President	No explicit separation of powers, power is concentrated in the executive branch and awarded to the President	Shared legislative and executive powers of the President, power remains concentrated in the executive branch
Civil Rights	Part II of the constitution outlines the rights and duties of Egyptians	The Bill of Rights is included in Chapter III of the constitution and is composed of Articles 30 to 63	Part III of the constitution outlines public freedoms, rights, and duties for Egyptians	Chapter III of the constitution outlines public rights, freedoms, and duties for Egyptians
Political Parties	Political parties are not explicitly mentioned in the Constitution of 1923	Established a one-party system, which was eventually replaced by the subsequent Constitution of 1971	Despite the establishment of a multi-party system, the government did little to encourage the creation of political parties. The independent creation of political parties was dissuaded by the government	The right to form political parties is protected in Article 74 of the constitution, but they remain subject to legal restrictions and possible dissolution by a judicial ruling
Type of Government	Constitutional monarchy	Republic	Democratic state	Semi-presidential Republican system of government

EGYPT TAKEAWAYS

Table 2 shows the evolution of democratic principles in Egyptian constitutions from 1923 to 2014. The shared powers of the executive and legislature provide a legislative check on the power of the president. Still though, it is important to note that even in Egypt’s contemporary constitution, power remains concentrated in the executive branch. The right to form political parties represents a paramount shift, as they were not explicitly mentioned in the 1923 constitution but are explicitly outlined and protected in the 1988 constitution. Although they are protected, parties remain subject to regulations and face possible dissolution by judicial ruling.