

# Request for a UN-led investigation into the death of former Egyptian President, Dr Mohammed Morsi



THIS REPORT HAS BEEN PREPARED  
BY GUERNICA 37 - NOV 2019

GUERNICA  
37  
INTERNATIONAL JUSTICE CHAMBERS

الجلسة الثورية المصرية  
Egyptian Revolutionary Council- ERC



مؤسسة قرطبة  
The Cordoba Foundation

# Request for a UN-led investigation into the death of former Egyptian President, Dr Mohammed Morsi

15 November 2019

## Acknowledgments

This 'Report' has been drafted and submitted at the request of those instructing the 'Legal Team', namely the family of Dr Mohammed Morsi, and the Egyptian Revolutionary Council.

It was drafted and reviewed by the legal team comprised of Toby Cadman, Almudena Bernabeu, and Carl Buckley.

Published by The Guernica Group -- Guernica 37 International Justice Chambers,  
9 Fisher's Lane, Chiswick, London W4 1RX.

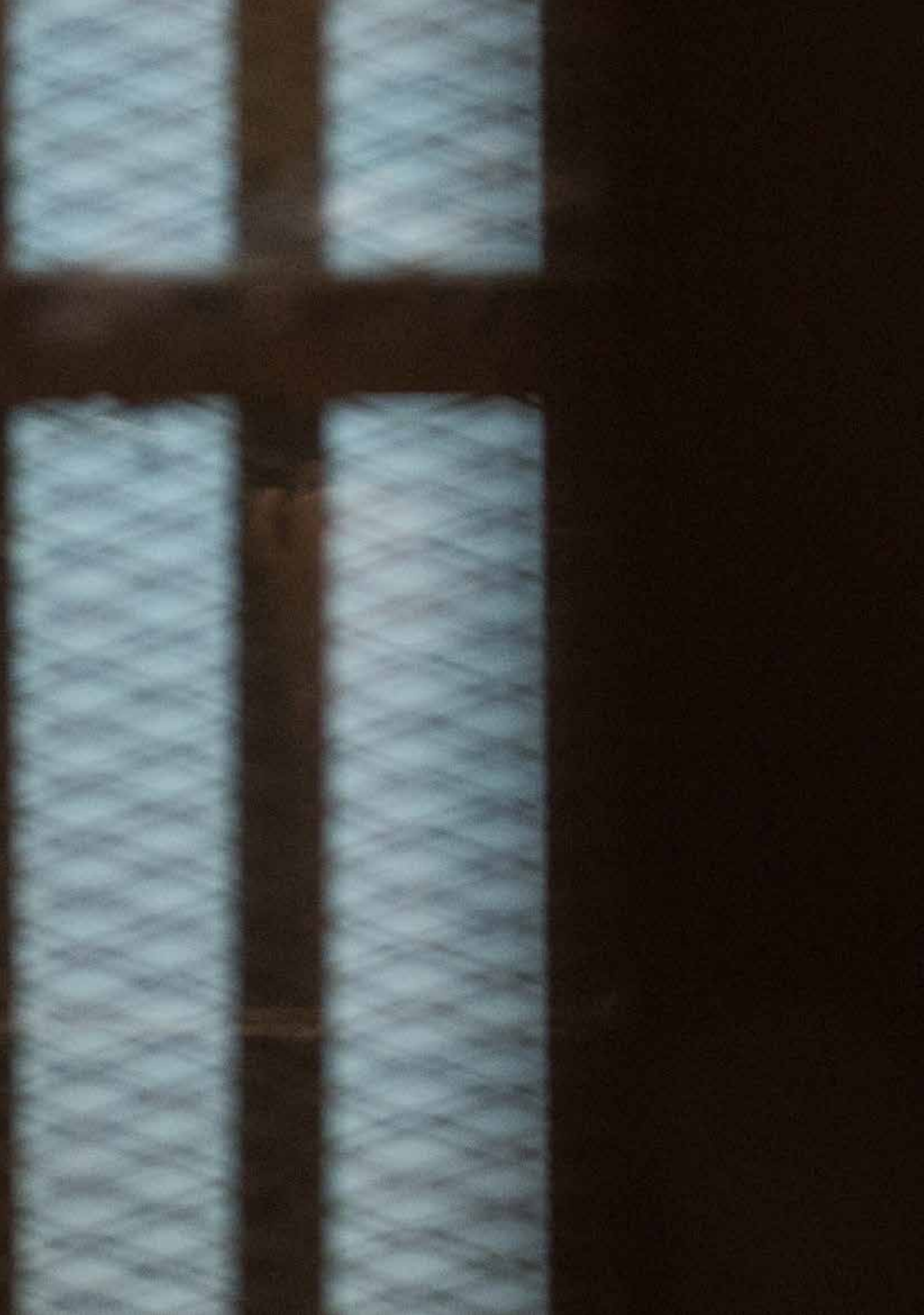
Guernica 37 International Justice Chambers is a Barristers Chambers registered in England and Wales and is authorised and regulated by the Bar Standards Board of England and Wales.

[www.guernica37.com](http://www.guernica37.com) © Guernica 37 International Justice Chambers 2019. All rights reserved.

The contents of this publication may be freely used and copied for educational and other non-commercial purposes, provided that any such reproduction is accompanied by an acknowledgment of Guernica 37 International Justice Chambers as the source.

# TABLE OF CONTENTS

EXECUTIVE SUMMARY	7
INTRODUCTION	11
HISTORICAL CONTEXT	15
MORSI ARREST AND DETENTION	51
DOMESTIC LEGISLATIVE FRAMEWORK AND VIOLATIONS	59
INTERNATIONAL TREATY OBLIGATIONS AND VIOLATIONS	71
THEMATIC MANDATE HOLDERS	77
TREATY BODY SUBMISSION AND JUSTIFICATION	87
NECESSITY FOR A UN-MANDATED INVESTIGATION	89
AUTHORITY	93









# Executive Summary

- 1.1. This detailed legal submission is to serve two primary purposes.
- 1.2. First, it seeks to provide an overview of the overall situation in Egypt since the revolution, focusing on the deterioration in the protection of human rights and the erosion of the rule of law since the forced removal of Dr Mohamed Morsi from power, and thereafter, under the presidency of Abdel Fattah Saeed Hussein Khalil el-Sisi.
- 1.3. Secondly, the report considers Dr Morsi as a specific case, detailing the treatment that he suffered at the hands of the State, treatment that amounted to torture, and treatment that, it is alleged, contributed to his recent death.
- 1.4. The conclusion to be drawn, is that given the circumstances of Dr Morsi's death, the abject and overt refusal to provide him with appropriate medical care, the treatment that amounts to torture on any objective assessment, and further, detention and trial replete with numerous and substantial fair trial violations, there must be an investigation into that which has occurred and that which *is* occurring in Egypt today.
- 1.5. That investigation, as considered later in this report, can only really be one that has been mandated by the United Nations and its Special Rapporteurs, both given the gravity of the position, and the ongoing refusal of Egypt to engage in any process that would seek to investigate or address the fair trial violations being committed on a massive scale in Egypt.
- 1.6. In making the above submission, it is essential that the issues concerning Dr Morsi and his treatment, are considered in the wider context of Egypt since the Tahrir Square uprisings, as this is not the just the collapse, and death of one man, but rather, the collapse and death of a revolution and the hope of a better Egypt.
- 1.7. The death of Dr Morsi is indicative of that which all civilians face should they come to the attention of the Security Services, particularly those civilians that dare offer a voice in opposition, or a criticism of the ruling regime, and again, this can be tracked back to what the revolution promised, and what has since been prevented.
- 1.8. Just as Dr Morsi, since the coup, has always been seen as a threat to the ruling regime, any opposition that is allowed to develop is also a threat.

- 1.9. In a wider context however, and as discussed in Part 3 of this submission, Dr Morsi, and the opposition, whether they support him or otherwise, are not just a threat to those that rule Egypt i.e. the Sisi regime, but also a clear and present threat to the deeper power base within Egypt, and one that has grown exponentially in its influence and power over the decades, namely the Armed Forces.
- 1.10. As Part 3 of this reports note, the Supreme Council of the Armed Forces (SCAF) has an inordinate amount of power in Egypt, and arguably, has the power to remove and impose its rulers.
- 1.11. Dr Morsi winning the election was a threat to this position, and any resurgent opposition today would also be deemed a threat, and thus, both have had to be neutralised.
- 1.12. With this increase in oppression, the frequency and gravity of human rights violations increases exponentially, and accordingly, as does the impunity with which the perpetrators act.
- 1.13. Dr Morsi, and his subsequent death, is therefore symbolic of what which is happening to thousands of others, who, like the former President, and as explained in subsequent section of this report, have been denied their liberty, their right to legal counsel, their right to a fair trial, their right to medical treatment, and their right not to be tortured.
- 1.14. Dr Morsi, and the failures of the Egyptian Government to address both his complaints, and those of some of the international community, will become synonymous with the plight of every citizen seeking freedom of authoritarian rule.
- 1.15. A central theme of this submission is that given the death of Dr Morsi, and the treatment he suffered, treatment that may well have brought about, or at the very least contributed to his death, and investigated is clearly warranted.
- 1.16. Further, it is equally clear, that Egypt has no intention of undertaking an investigation, as it has failed to investigate any other suspicious event, or event that warrants inquiry, including the massacre of over a thousand protesters following the Raba'a protest.
- 1.17. Egypt has, on more than one occasion been the subject of requests from various countries and relevant national and supranational bodies, all of which have been roundly ignored.
- 1.18. A comparison is therefore drawn with the position following the murder of Jamal Khashoggi, in that his death was at the hands of the state (Saudi Arabia), and it became abundantly clear that Saudi Arabia had no intention of undertaking an independent and credible investigation into that which occurred.



- 1.19. As a direct consequence, the Special Procedures branch of the UN, and specifically, Agnes Callamard, the ‘Special Rapporteur on extrajudicial, summary or arbitrary executions’, undertook its own investigation as per its mandate.
- 1.20. The position of this submission, as continually referenced through the below sections, is that where a state refuses to investigate such a crime, it is incumbent upon the relevant organ of the UN to do so, and further, with Khashoggi, it might be seen that precedent has been set.
- 1.21. This is of particular relevance when the issues pertaining to the treatment and death of Dr Morsi are squarely within the mandates of various UN Special Rapporteurs, as discussed in Part 7 of this report, and thus it cannot be argued that there isn’t either the required specialisms, or mandate holders, to commence the appropriate investigation into that which occurred.
- 1.22. Further to this point, the situation in Egypt is so dire, and as already discussed, effects the civilian population so widely, on a day-to-day basis, that it is essential that an appropriate assessment is undertaken so that the same can be brought before the UN for further consideration.



# Introduction

- 2.1. On 17 June 2019, Dr Mohammed Morsi collapsed during a Court hearing in Cairo, and was later pronounced dead, following an apparent sudden heart attack.
- 2.2. His death followed a period of detention of some 6 years, having been arrested in July 2013 after a military *coup d'état* that forcibly removed him from his democratically held office as President, an office he held for one year prior to the coup.
- 2.3. The treatment of Dr Morsi whilst in custody has on numerous occasions been referred to as 'Torture', and it is clear that on any definition of the term, such treatment would satisfy it.
- 2.4. As a consequence, it can be credibly alleged that the treatment he suffered has had a direct effect on his health, exacerbating pre-existing medical conditions, and resulting in the development of new ones.
- 2.5. Further, there is weight to the argument that such treatment has brought about his death.
- 2.6. This treatment must also be considered in light of the systematic fair trial violations that Dr Morsi suffered over that period of 6 years which have again, given their mental effect, had a demonstrable effect on his physical and mental well-being.
- 2.7. This report seeks to highlight the background to the death of Dr Morsi, as his detention cannot be viewed in isolation, and thereafter, discuss that which he suffered as a result of systematic policy of oppression, torture, and otherwise ill treatment; policies that are not limited to the detention of the former President, but are endemic within the State of Egypt under President Sisi.
- 2.8. The death of Dr Morsi however can be viewed as a watershed moment for the pursuit of accountability in Egypt today.
- 2.9. In the last 6 years, we have borne witness to massive and flagrant human rights violations in Egypt, from the murder of over 1,000 protesters in Raba'a Square, to the mass trials lasting half of a day but have purported to hear the cases of over 300 defendants at once, many of whom being sentenced to death, to the banning of opposition political groups, to the arrest and detention of those who dare to offer an opinion that does not accord with that of the ruling party.
- 2.10. Despite the above, and despite the world watching in horror at that which is occurring, nothing has

been done to challenge the Egyptian Government, and President Sisi is still welcomed with open arms by many in the international community.

- 2.11. Human Rights are not rights that are subject to the political will of a State, they are fundamental, they are universal, and where there is a violation, there must be consequences.
- 2.12. The UN has previously called for an independent investigation<sup>1</sup> into the death of Dr Morsi, however, these calls have been ignored.
- 2.13. Accordingly, just as there was an outcry at the murder of Jamal Khashoggi that led to a formal investigation being commenced by the Special Rapporteur on Extra-Judicial Killings,<sup>2</sup> the death of Dr Morsi ought to justify a similar independent UN-led investigation, given it is clear that no such investigation will be undertaken domestically, and even if such an investigation was commissioned in Egypt, it is unlikely in the extreme that any such investigation would be anything other than a 'white-wash'.
- 2.14. In highlighting the position in Egypt with regard to Dr Morsi, the intention of this report is to request that the UN mandate an investigatory team to consider the case of, and determine not only his cause of death, but that which led up to his death and whether anyone is criminally responsible.
- 2.15. It is respectfully submitted that having regard to that which is discussed below, not only is such a UN-led investigation warranted, but, without such an investigation, the Government of Egypt will continue to act with complete impunity in the knowledge that there is little, if any, consequences for its actions given the inaction and omissions of the international community thus far.
- 2.16. The UN is therefore implored to take appropriate action and investigate the death of Dr Mohammed Morsi.

---

<sup>1</sup> <https://www.theguardian.com/world/2019/jun/18/mohamed-morsi-buried-as-detention-conditions-denounced-as-torture>

<sup>2</sup> <https://news.un.org/en/story/2019/06/1040951>

نعم لتسرعية



لا لانتقلاب





# Historical Context

- 3.1. In considering the position in Egypt today, it is essential that consideration be given to that which came before.
- 3.2. The position facing ordinary Egyptians today, and the treatment suffered by Dr Morsi, is a direct consequence of the events after the revolution, and a direct consequence of the fear of certain quarters within the Egyptian Military that their influence would be reduced, something that they were not prepared to allow to happen.
  - a. ***Revolution***
- 3.3. Hosni Mubarak ruled Egypt for almost 30 years, following the assassination of Anwar Sadat in 1981 until 11 February 2011, when the Egyptian Revolution, starting on 25 January, resulted in his downfall. Several factors explain the fall of Mubarak and the Revolution in Egypt.
- 3.4. Firstly, citizens rebelled against the high level of oppression and authoritarianism. Mubarak's rise as President in 1981 inaugurated the third period of military autocratic rule.
- 3.5. During the 1980s several political actors, including the Muslim Brotherhood (MB), had been allowed to participate in the Egyptian elections in what was seen as 'controlled democracy',<sup>3</sup> this positive trend ended in the 1990s. After 10 years, Mubarak no longer needed to seek the legitimisation of his power. Thus, the State Security Apparatus responded with restrictions and violence on political opposition.<sup>4</sup>
- 3.6. Several political parties boycotted the 1990 elections due to the lack of political reform, the approval of a discriminatory electoral law and the maintaining of the Emergency Law. With this boycott an oppressive period began, especially for the opposition such as MB, several of whose leaders were arrested.<sup>5</sup>
- 3.7. The 1995 elections were characterised by violent clashes between supporters of the opposition and the Egyptian police. The lack of plurality and demonstrable electoral fraud became evident when

---

3 Frampton, M. and Rosen, E. (2013): "Reading the Runes? The United States and the Muslim Brotherhood as seen through the Wikileaks Cables", *The Historical Journal*, Vol. 56, Issue 3, p. 833.

4 Ghanem, A. and Mustafa, M. (2011): "Strategies of electoral participation by Islamic movements: the Muslim Brotherhood and parliamentary elections in Egypt and Jordan, November 2010", *Contemporary Politics*, Vol. 17, No. 4, p. 399.

5 *Ibid.*

the only member of MB elected was later disqualified for ‘membership of a banned organisation’.<sup>6</sup>

- 3.8. Egyptian political and social history between the 1990 and into the first decade of the 21<sup>st</sup> century was characterised by widespread political persecution, electoral irregularities,<sup>7</sup> large-scale beatings,<sup>8</sup> arbitrary arrests,<sup>9</sup> lack of pluralism, the closure of several newspapers,<sup>10</sup> the banning of certain political organisations<sup>11</sup> and the detention without charges of members of the political opposition,<sup>12</sup> who were often judged in military court trials.<sup>13</sup> In the 2000 and 2005 elections, more than 1,600 and 800 members of MB were detained respectively,<sup>14</sup> including several candidates.<sup>15</sup>
- 3.9. The 2010 elections were described as “*one of the most flagrantly oppressive, undemocratic and fraudulent displays of authoritarian rule*”.<sup>16</sup> The National Democratic Party (NDP), the official party of the regime, won 85% of the parliamentary seats,<sup>17</sup> confirming the continuation of the autocratic system.
- 3.10. Before and during the elections the regime undertook a crackdown on the opposition, especially on MB, which lost all 88 seats that it had won in 2005 elections. This corrupt and despotic offensive further eroded Egyptians’ freedom of expression, of information, of political participation, and even their right to physical safety, thus being a factor that definitively contributed to the organisation of the 25 January Revolution: “*the suppression of all opposing voices by the authoritarian regime was more than the Egyptian people could bear*”.<sup>18</sup>

---

6 Aknur, M. (2013): “The Muslim Brotherhood in Politics in Egypt: From Moderation to Authoritarianism?”, *Review of International Law and Politics (Uluslararası Hukuk ve Politika)*, Issue 33, p.12.

7 Davis, N. J. and Robinson, R. V. (2009): “Overcoming Movement Obstacles by the Religiously Orthodox: The Muslim Brotherhood in Egypt, Shas in Israel, Comunione e Liberazione in Italy, and the Salvation Army in the United States”, *American Journal of Sociology*, Vol. 114, No. 5, p.1320.

8 *Ibid.*

9 Ghanem, A. and Mustafa, M. (2011): “Strategies of electoral participation by Islamic movements: the Muslim Brotherhood and parliamentary elections in Egypt and Jordan, November 2010”, *Contemporary Politics*, Vol. 17, No. 4, p.400; Frampton, M. and Rosen, E. (2013): “Reading the Runes? The United States and the Muslim Brotherhood as seen through the Wikileaks Cables”, *The Historical Journal*, Vol. 56, Issue 3, p.833; and Aknur, M. (2013): “The Muslim Brotherhood in Politics in Egypt: From Moderation to Authoritarianism?”, *Review of International Law and Politics (Uluslararası Hukuk ve Politika)*, Issue 33, p.8 and 12.

10 Aknur, M. (2013): “The Muslim Brotherhood in Politics in Egypt: From Moderation to Authoritarianism?”, *Review of International Law and Politics (Uluslararası Hukuk ve Politika)*, Issue 33, p. 13; and Farag, M. (2012): “Egypt’s Muslim Brotherhood and the January 25 Revolution: new political party, new circumstances”, *Contemporary Arab Affairs*, Vol. 5, No. 2, p.214.

11 Ghanem, A. and Mustafa, M. (2011): “Strategies of electoral participation by Islamic movements: the Muslim Brotherhood and parliamentary elections in Egypt and Jordan, November 2010”, *Contemporary Politics*, Vol. 17, No. 4, p.400; and Aknur, M. (2013): “The Muslim Brotherhood in Politics in Egypt: From Moderation to Authoritarianism?”, *Review of International Law and Politics (Uluslararası Hukuk ve Politika)*, Issue 33, p.11.

12 Aknur, M. (2013): “The Muslim Brotherhood in Politics in Egypt: From Moderation to Authoritarianism?”, *Review of International Law and Politics (Uluslararası Hukuk ve Politika)*, Issue 33, p.12.

13 *Ibid.*

14 *Ibid.*

15 Farag, M. (2012): “Egypt’s Muslim Brotherhood and the January 25 Revolution: new political party, new circumstances”, *Contemporary Arab Affairs*, Vol. 5, No. 2, p.216-217.

16 *Idem*, p.216.

17 Inter-parliamentary Union (2012): “Egypt. Majlis Al-Chaab (People’s Assembly)”, available at: [http://www.ipu.org/parline-e/reports/2097\\_E.htm](http://www.ipu.org/parline-e/reports/2097_E.htm), last accessed 3rd August 2015; and Aknur, M. (2013): “The Muslim Brotherhood in Politics in Egypt: From Moderation to Authoritarianism?”, *Review of International Law and Politics (Uluslararası Hukuk ve Politika)*, Issue 33, p.13.

18 Farag, M. (2012): “Egypt’s Muslim Brotherhood and the January 25 Revolution: new political party, new circumstances”, *Contemporary Arab Affairs*, Vol. 5, No. 2, p.217.

- 3.11. The second catalyst behind the popular uprising was the increasing social and economic inequality. In 2011, 22% of the Egyptian population lived below the poverty line and 12.4% of the labour force was unemployed.<sup>19</sup> High levels of inflation had been constant during the intervening years,<sup>20</sup> which had damaged the living standards of the majority of the citizens. It is estimated that the Egyptian economy in the first decade of the 21<sup>st</sup> century was mainly controlled by approximately 20-25 family-owned conglomerates that constituted a “*tiny group of state-nurtured and corrupt super-capitalists*” that surrounded Mubarak’s family.<sup>21</sup>
- 3.12. The air of revolution blown in from the Tunisian Spring arrived in Egypt at the beginning of 2011, when the Egyptian citizens started to mobilise.
- 3.13. Before even the 2005 elections, the *Kifayah* (Enough) movement organised protests calling for pluralistic democratic reform. This, coupled with the calling of various industrial strikes, put into question the legitimacy of the regime and originated a new Egyptian “*culture of protest*”.<sup>22</sup> These movements constituted the embryo of the Egyptian Spring.
- 3.14. The renowned Revolution of 25 January, which started as a spontaneous, “*non-politicised, non-religious, youth-led demonstration*”,<sup>23</sup> succeeded in overthrowing Mubarak in just 18 days of massive, consistent and cohesive public protests in Tahrir Square, joined by citizens of the most diverse educational backgrounds and social origins.<sup>24</sup>
- 3.15. At the outset, the MB, “*fearing a confrontation with security forces*”<sup>25</sup> did not officially join the protests. They were pessimistic about the fate of the unrest and considered that they risked becoming once again, the target of the security forces’ violence.<sup>26</sup> However, the organisation did ask some of their more renowned members, such as parliamentarians or journalists, to get involved in the protests.<sup>27</sup>

---

19 Eisa Election Witnessing Mission (2012): “The People’s Assembly and Shura Council Elections. November 2011-February 2012”, *EISA Election Witnessing Mission Report Egypt*, n. 43, available at: <http://dspace.africaportal.org/jspui/bitstream/123456789/33379/1/egy2012eomr.pdf?1>, last accessed: 3rd July 2015.

20 The Carter Center (2012): “Final Report of the Carter Center Mission to Witness the 2011-2012 Parliamentary Elections in Egypt, available at: ” [http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/egypt-2011-2012-final-rpt.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/egypt-2011-2012-final-rpt.pdf), last accessed: 3rd July 2015, p.6.

21 Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, p.53.

22 Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, p.54.

23 Al-Awadi, H. (2013): “Islamists in power: the case of the Muslim Brotherhood in Egypt”, *Contemporary Arab Affairs*, Vol. 6, No. 4, p.539.

24 Farag, M. (2012): “Egypt’s Muslim Brotherhood and the January 25 Revolution: new political party, new circumstances”, *Contemporary Arab Affairs*, Vol. 5, No. 2, p. 217.

25 Al-Awadi, H. (2013): “Islamists in power: the case of the Muslim Brotherhood in Egypt”, *Contemporary Arab Affairs*, Vol. 6, No. 4, p.540.

26 *Idem*, p.541.

27 *Ibid*.

- 3.16. As the MB neither obliged nor forbade its members to join the protests, several members participated on an individual basis, particularly younger members, who considered that the MB should take a more active role in the demonstrations.<sup>28</sup> They joined the peaceful protests and together sang its chants of “*Bread, Freedom and Human Dignity*” that evolved to “*The people want to overthrow the regime*”.<sup>29</sup> The non-violent character of the protests perfectly suited the spirit of the MB, a group that had always been committed to peaceful participation in public affairs to promote social change.
- 3.17. Despite the direct warning of Mubarak’s security forces not to cooperate with the protests,<sup>30</sup> the MB began to formally collaborate with the revolution on 28 January 2011,<sup>31</sup> joining the feeling of indignation, but without attempting to implement any political agenda: “*the MB was careful not to give a religious slant to the revolution*”.<sup>32</sup>
- 3.18. The management skills and political experience of the MB proved to be helpful and beneficial to the Revolution, as the Brothers controlled several security checkpoints during the protests and supplied diverse basic provisions.<sup>33</sup> This active participation is what encouraged Mubarak to accuse the MB of being the force behind the scenes of the Revolution.<sup>34</sup>
- 3.19. Mubarak addressed the Egyptian nation three times: on 29 January, and, 1 and 10 February. In his speeches, apart from reminding the people of his purported achievements,<sup>35</sup> he promised to implement reforms, create a new government, dissolve the parliament created following the rigged 2010 elections and not to present his candidacy in the next presidential elections. He appointed Omar Suleiman as vice-president<sup>36</sup> and Ahmed Shafiq as prime minister,<sup>37</sup> thus converting Suleiman to the *de facto* next leader of Egypt.<sup>38</sup>

---

<sup>28</sup> *Idem*, p. 540 and 542.

<sup>29</sup> *Idem*, p. 539.

<sup>30</sup> *Idem*, p. 541.

<sup>31</sup> *Ibid*.

<sup>32</sup> Farag, M. (2012): “Egypt’s Muslim Brotherhood and the January 25 Revolution: new political party, new circumstances”, *Contemporary Arab Affairs*, Vol. 5, No. 2, p. 217.

<sup>33</sup> *Idem*, p. 218.

<sup>34</sup> Weber, P. (2013): “Modernity, Civil Society, and Sectarianism: The Egyptian Muslim Brotherhood and the *Takfir* Groups”, *Voluntas: International Journal of Voluntary and Nonprofit Organizations*, Vol. 4, No. 2, p.510; and Al-Awadi, H. (2013): “Islamists in power: the case of the Muslim Brotherhood in Egypt”, *Contemporary Arab Affairs*, Vol. 6, No. 4, p.540.

<sup>35</sup> Al-Awadi, H. (2013): “Islamists in power: the case of the Muslim Brotherhood in Egypt”, *Contemporary Arab Affairs*, Vol. 6, No. 4, p.539-540.

<sup>36</sup> The Carter Center (2012): “Final report of the Carter Center Mission to witness the 2011-2012 Parliamentary Elections in Egypt, available at: ” [http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/egypt-2011-2012-final-rpt.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/egypt-2011-2012-final-rpt.pdf), last accessed: 3rd July 2015, p.7.

<sup>37</sup> Inter-parliamentary Union (2012): “Egypt. Majlis Al-Chaab (People’s Assembly)”, available at: [http://www.ipu.org/parline-e/reports/2097\\_E.htm](http://www.ipu.org/parline-e/reports/2097_E.htm), last accessed 3rd August 2015.

<sup>38</sup> The Carter Center (2012): “Final Report of the Carter Center Mission to Witness the 2011-2012 Parliamentary Elections in Egypt, available at: ” [http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/egypt-2011-2012-final-rpt.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/egypt-2011-2012-final-rpt.pdf), last accessed: 3rd July 2015, p.7.



- 3.20. On 2 February 2011, the Security Forces fiercely attacked protesters in Tahrir Square, in what came to be known as the ‘Battle of Camel’.<sup>39</sup> Young members of the MB effectively protected the Square, and Muslim Brothers from different regions joined the protests.<sup>40</sup>
- 3.21. On 10 February 2011, after several days of demonstrations, that had been joined by tens of millions of citizens,<sup>41</sup> the Army were deployed, and a curfew imposed.<sup>42</sup> On that day, the SCAF (Supreme Council of the Armed Forces), chaired by Commander-in-Chief and Defence Minister, Field Marshal Hussein Tantawi,<sup>43</sup> issued its Decree Number One, “*signalling that the military had taken over*”.<sup>44</sup> One day later, Suleiman announced Mubarak’s stepping down.
- 3.22. On 13 February 2011, the SCAF issued its first Constitutional Declaration,<sup>45</sup> suspending the 1971 Constitution and dissolving the 2010 parliament.<sup>46</sup> The SCAF promised to call elections within six months,<sup>47</sup> but the Declaration provided it with the whole executive and legislative authority until a new parliament was elected.<sup>48</sup>
- 3.23. This military event determined the conclusion of the Revolution and is intimately related to the third factor for Mubarak’s ousting:<sup>49</sup> the progressive marginalization of the Army.
- 3.24. Mubarak’s policies had benefitted and empowered the Ministry of Interior, including its security forces, and the economic elite. Mubarak wanted his son Gamal to succeed him as ruler. The MB were seen as a challenge to Gamal’s succession.<sup>50</sup> The succession decision not only meant the continuity of the authoritarian regime, but also, interestingly, the “*final and most serious blow to the army’s position*”.<sup>51</sup>

---

39 Al-Awadi, H. (2013): “Islamists in power: the case of the Muslim Brotherhood in Egypt”, *Contemporary Arab Affairs*, Vol. 6, No. 4, p.540.

40 *Ibid*, p.542.

41 El-Beshry, T. (2013): “Relationship between state and religion: Egypt after the revolution”, *Contemporary Arab Affairs*, vol. 6, n. 3, p.409.

42 Al-Awadi, H. (2013): “Islamists in power: the case of the Muslim Brotherhood in Egypt”, *Contemporary Arab Affairs*, Vol. 6, No. 4, p.539.

43 Inter-parliamentary Union (2012): “Egypt. Majlis Al-Chaab (People’s Assembly)”, available at: [http://www.ipu.org/parline-e/reports/2097\\_E.htm](http://www.ipu.org/parline-e/reports/2097_E.htm), last accessed 3rd August 2015.

44 The Carter Center (2012): “Final Report of the Carter Center Mission to Witness the 2011-2012 Parliamentary Elections in Egypt, available at: ” [http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/egypt-2011-2012-final-rpt.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/egypt-2011-2012-final-rpt.pdf), last accessed: 3rd July 2015, p.8.

45 The Carter Center, (2012): “Presidential Elections in Egypt. Final Report. May-June 2012”. Available at: [http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/egypt-final-presidential-elections-2012.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/egypt-final-presidential-elections-2012.pdf), last accessed: 3rd July 2015, p.6, footnote 11.

46 Inter-parliamentary Union (2012): “Egypt. Majlis Al-Chaab (People’s Assembly)”, available at: [http://www.ipu.org/parline-e/reports/2097\\_E.htm](http://www.ipu.org/parline-e/reports/2097_E.htm), last accessed 3rd August 2015.

47 *Ibid*.

48 The Carter Center, (2012): “Presidential Elections in Egypt. Final Report. May-June 2012”. Available at: [http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/egypt-final-presidential-elections-2012.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/egypt-final-presidential-elections-2012.pdf), last accessed: 3rd July 2015, p.6 footnote 11.

49 Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, p. 53.

50 Zahid, M. (2010): “The Egyptian nexus: the rise of Gamal Mubarak, the politics of succession and the challenges of the Muslim Brotherhood”, *The Journal of North African Studies*, vol. 15, n. 2, p.228.

51 Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, p.53.

- 3.25. Despite its political decline, the Army had maintained a privileged position since the 1952 'Revolution'.<sup>52</sup> Senior officers were often given high executive positions after their retirement,<sup>53</sup> and the 'civil defence' institutions were controlled by military officers such as Field Marshal Tantawi, who was the Commander-in-Chief and the Minister of Defence.<sup>54</sup>
- 3.26. The Army also enjoyed economic privileges derived from the State, which maintained its elite position.<sup>55</sup> High-ranking officers also benefited from "*corruption-ridden privatisation deals*" by being appointed "*to prestigious positions in recently privatised public sector enterprises*".<sup>56</sup>
- 3.27. The most lucrative activity for the Army however was the process of land reclamation and urban resettlements.<sup>57</sup> It was also responsible for constructing a canal; a project for which it received substantial funds.<sup>58</sup> Moreover, the Army profited from the sale or the development of vast amounts of land; while the Army is legally entitled to seize public land to defend the nation, it has used this power for commercial purposes, speculating with the land price and building tourist resorts and residences.<sup>59</sup> The Army has been implicated in several corruption scandals linked with its land sale activities.<sup>60</sup>
- 3.28. It is evident that the Army's economic power is exceptional. However, the extent of the Army's budget and its economic power is impossible to estimate given that most of its economic activity, even if unrelated to national security, is protected as classified military secret. Therefore, the relative importance of the Army on the Egyptian economy is a proscribed public discussion and escapes from the oversight of state institutions. Indeed, disclosing information in regard to this topic could constitute a crime in Egypt.<sup>61</sup>
- 3.29. This incredible level of economic influence in the country put the military at loggerheads with the business class, supported by Mubarak, but especially, by his son Gamal. The business class, through its influence on the press, began to question the economic privileges afforded to the Army and the assignment of significant levels of public funds.

---

<sup>52</sup> *Idem*, p.52.

<sup>53</sup> Frisch, H. (2013): "The Egyptian Army and Egypt's 'Spring'", *Journal of Strategic Studies*, vol. 36, n.2, p.181.

<sup>54</sup> *Idem*, p.182.

<sup>55</sup> *Idem*, p.184.

<sup>56</sup> Abul-Magd, Z. (2011): "The Army and the Economy in Egypt", *Jadaliyya*, 23<sup>rd</sup> December 2011, available at: <http://www.jadaliyya.com/pages/index/3732/the-army-and-the-economy-in-egypt>, last accessed: 18<sup>th</sup> August 2015.

<sup>57</sup> Frisch, H. (2013): "The Egyptian Army and Egypt's 'Spring'", *Journal of Strategic Studies*, vol. 36, n. 2, p.185.

<sup>58</sup> *Idem*, p.186.

<sup>59</sup> Abul-Magd, Z. (2011): "The Army and the Economy in Egypt", *Jadaliyya*, 23<sup>rd</sup> December 2011, available at: <http://www.jadaliyya.com/pages/index/3732/the-army-and-the-economy-in-egypt>, last accessed: 18<sup>th</sup> August 2015.

<sup>60</sup> *Ibid*.

<sup>61</sup> *Ibid*.

- 3.30. The Revolution was the perfect opportunity for the Army to recover its leading role in politics. Seizing power was a way to control the outcome of the transitional process and the preservation of its economic influence and of its privileges.<sup>62</sup>
- 3.31. The Egyptian Army took power in Egypt on 10 February 2011, which was considered by many as crucial for the success of the revolution.<sup>63</sup>
- 3.32. The political movement of the 25 January Revolution lacked specific leaders, which on the one hand was positive — as it impeded the State security apparatus to target certain individuals and stop the movement by depriving it from its leadership;<sup>64</sup> — but on the other hand, once Mubarak stepped down, no one could continue the legacy of the Revolution, personalize its spirit and organize the masses into a new political and institutional project.
- 3.33. This lack of leadership afforded the Army a significant degree of power to control the situation and shape the post-Mubarak political outcome. The power of the Army was reinstated, although it promised to follow the spirit of the Revolution, organise democratic elections, strengthen democratic institutions and withdraw from politics once the Egyptian people were in a position to decide upon their own future.<sup>65</sup>
- 3.34. The SCAF became the institution that sought to govern the Egyptian transitional process. This institution, formed by 23 of the highest members of the Army, started developing a ‘guardian role’.<sup>66</sup>
- 3.35. Ahmed Shafiq, appointed by Mubarak, remained as Prime Minister until 3 March 2011. He, as member of the former regime, was under significant pressure to offer his resignation, which he eventually did.<sup>67</sup> Essam Sharaf, an engineer and academic, replaced Shafiq.<sup>68</sup>
- 3.36. Just days after the Revolution, a committee appointed by SCAF<sup>69</sup> and led by Judge Tarek El Bishry drafted a proposal to amend the suspended 1971 Constitution.<sup>70</sup> The Constitutional Amendment

---

62 El-Beshry, T. (2013): “Relationship between state and religion: Egypt after the revolution”, *Contemporary Arab Affairs*, vol. 6, n. 3, p.412.

63 Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, p.54.

64 El-Beshry, T. (2013): “Relationship between state and religion: Egypt after the revolution”, *Contemporary Arab Affairs*, vol. 6, n. 3, p.410.

65 Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, p.55.

66 Frisch, H. (2013): “The Egyptian Army and Egypt’s ‘Spring’”, *Journal of Strategic Studies*, vol. 36, n.2, p.180.

67 Luhnow, D. (2011): “Egypt PM Undone by TV Debate”, *The Wall Street Journal*, available at: <http://www.wsj.com/articles/SB10001424052748704076804576180862540155764>, last accessed: 3rd July 2015.

68 *Ibid.*

69 Inter-parliamentary Union (2012): “Egypt. Majlis Al-Chaab (People’s Assembly)”, available at: [http://www.ipu.org/parline-e/reports/2097\\_E.htm](http://www.ipu.org/parline-e/reports/2097_E.htm), last accessed 3rd August 2015.

70 The Carter Center, (2012): “Presidential Elections in Egypt. Final Report. May-June 2012”. Available at: [http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/egypt-final-presidential-elections-2012.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/egypt-final-presidential-elections-2012.pdf), last accessed: 3rd July 2015, p.6 footnote 10.

was subjected to a referendum vote on 19 March 2011<sup>71</sup>. Although the Constitution included certain elements that echoed the previous regime, MB supported the ‘yes’ option,<sup>72</sup> which received the vote of 77.3% of the electorate.<sup>73</sup>

- 3.37. Egyptians voted for the amendment to certain articles of the Constitution, including article 189, which gave any future parliament six months to convene a Constitutional Assembly, which in turn was obliged to present a Constitution draft within six months from the date of its first meeting.<sup>74</sup> Moreover, the amendments also eased the eligibility conditions to become candidate for the presidential elections,<sup>75</sup> limited the tenure of the presidency<sup>76</sup> and determined that “*the referendum on a new constitution would be held after a president was elected*”.<sup>77</sup>
- 3.38. Despite SCAF’s promise to conclude the transitional process by August 2011, the SCAF kept postponing the parliamentary elections,<sup>78</sup> which did not take place until the end of 2011, thus prolonging its stay in power. The SCAF also declared that the newly elected parliament would name a committee to write a new constitution but did not specify a timeframe for the presidential elections.<sup>79</sup>
- 3.39. The SCAF showed an authoritarian approach to governance on certain occasions before the parliamentary elections. For example, the Constitutional Amendment finally approved by the SCAF included articles that had not been subjected to referendum and it “*amended the election law without public consultations*”.<sup>80</sup> Moreover, article 28 of the Constitutional Amendment did not recognise a right to challenge decisions of the Presidential Election Commission (PEC).<sup>81</sup> Therefore, in general, there was a great concern among the revolutionaries about the ambiguity of the SCAF’s intentions and interests in respect to the transitional process.

---

71 Fotopoulos, T. (2012): “The Muslim Brotherhood and Islamic “democracy” in Egypt as part of the New World Order”, *The International Journal of Inclusive Democracy*, vol. 8, n. 1/2, p.14.

72 Farag, M. (2012): “Egypt’s Muslim Brotherhood and the January 25 Revolution: new political party, new circumstances”, *Contemporary Arab Affairs*, Vol. 5, No. 2, p.218.

73 *Ibid*.

74 The Carter Center, (2012): “Presidential Elections in Egypt. Final Report. May-June 2012”. Available at: [http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/egypt-final-presidential-elections-2012.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/egypt-final-presidential-elections-2012.pdf), last accessed: 3rd July 2015, p.6.

75 Inter-parliamentary Union (2012): “Egypt. Majlis Al-Chaab (People’s Assembly)”, available at: [http://www.ipu.org/parline-e/reports/2097\\_E.htm](http://www.ipu.org/parline-e/reports/2097_E.htm), last accessed 3rd August 2015.

76 *Ibid*.

77 The Carter Center, (2012): “Presidential Elections in Egypt. Final Report. May-June 2012”. Available at: [http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/egypt-final-presidential-elections-2012.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/egypt-final-presidential-elections-2012.pdf), last accessed: 3rd July 2015, p.6.

78 *Idem*, p.7.

79 Frisch, H. (2013): “The Egyptian Army and Egypt’s ‘Spring’”, *Journal of Strategic Studies*, vol. 36, n. 2, p.188-189.

80 Ottaway, M., (2011): “The Emerging Political Spectrum in Egypt”, *Carnegie Endowment for International Peace*, available at: <http://carnegieendowment.org/2011/10/10/emerging-political-spectrum-in-egypt/8kqp>, last accessed: 3rd July 2015.

81 The Carter Center, (2012): “Presidential Elections in Egypt. Final Report. May-June 2012”. Available at: [http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/egypt-final-presidential-elections-2012.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/egypt-final-presidential-elections-2012.pdf), last accessed: 3rd July 2015, p.4.

- 3.40. Finally, following court orders, “*the SCAF dissolved parliament, municipal councils and the NDP*”<sup>82</sup> and seized NDP’s assets,<sup>83</sup> however the judicial proceedings against previous regime leaders were to judge either criminal or financial charges, not their political decisions.
- 3.41. The SCAF “*did not seriously purge the Ministry of the Interior, which was soon able to reorganise and start exerting its power again, often in coordination with the army*”.<sup>84</sup> In June 2011 the Central Security Forces and the military police began to use violence to suppress the ‘Friday protests’ that opposed the SCAF and the military trials of civilian protesters, thus harking back to the authoritarianism of the previous regime.<sup>85</sup>
- 3.42. During November-December 2011 the clashes between the Central Security Forces and civilian protesters resulted in the deaths of approximately 100 people<sup>86</sup> after “*brutal methods*” of violence were used to suppress the demonstrations.<sup>87</sup> Protesters called for the end of the SCAF’s rule: they were “*for a civilian government, and against Tantawi*”.<sup>88</sup>
- 3.43. Once the Army received the support of the Ministry of Interior, plagued by members of the old regime, it only needed a political partner to ensure its power and fully control the transitional process. However, the NDP had disintegrated, and the *fulul* — remnants of the regime —, needed time to reorganise.

## b. *Parliamentary Elections*

### i. *Participating Parties*

- 3.44. In 2011, after almost 60 years of autocratic rule and authoritarian regimes, Egypt was facing the first democratic elections in its history.
- 3.45. Approximately two years before, the citizens had participated in one of the least pluralistic elections

82 Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, p.55, footnote 15.

83 Inter-parliamentary Union (2012): “Egypt. Majlis Al-Chaab (People’s Assembly)”, available at: [http://www.ipu.org/parline-e/reports/2097\\_E.htm](http://www.ipu.org/parline-e/reports/2097_E.htm), last accessed 3rd August 2015.

84 Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, p.55.

85 Farag, M. (2012): “Egypt’s Muslim Brotherhood and the January 25 Revolution: new political party, new circumstances”, *Contemporary Arab Affairs*, Vol. 5, No. 2, p.225.

86 Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, p.55. footnote 16.

87 BBC News, (2011): “Egyptian blog review: Anger at military”, 22nd November 2011, available at: <http://www.bbc.com/news/world-middle-east-15824114>, last accessed: 3rd July 2015.

88 *Ibid.*



that resulted in the acquisition of 85% of parliamentary seats by the NDP.<sup>89</sup>

- 3.46. The Revolution gave rise to a variety of political parties. More than 50 political parties and 6,500 independent candidates participated in the 2011-2012 parliamentary elections.<sup>90</sup>
- 3.47. Three types of groups dominated. First, the Islamist trend, formed by al-Wasat, the Islamist bloc and the Freedom and Justice Party (FJP). Second, the liberal parties more linked to the Army and the previous regime, in which the New Wafd and the Reform and Development-Misruna parties prevailed. Finally, there were two heterogeneous alliances that included a great variety of political ideologies centred on two issues: the fear of a growing trend towards an Islamisation of the Egyptian society (Egyptian Bloc) and the respect for the young ideals of the 25 January Revolution (The Revolution Continues Alliance).
- 3.48. However, members of the old regime remained among some of these groups, specifically members of the NDP.<sup>91</sup> They even founded several political parties, whose lists were plagued by remnants of the former administration,<sup>92</sup> a sign of the old elite “*fighting back*”.<sup>93</sup>
- 3.49. After the fall of the NDP, MB was “*the only mass-based, organised political force left in the country*”.<sup>94</sup> It was able to mobilise quicker than the rest of the politically-motivated and counted upon the support of the public due to its presence in community-life, its long-lasting provision of services and its participation in civil society organisations.<sup>95</sup>
- 3.50. In February 2011, MB, still a prohibited organisation, announced a milestone decision in the history of the organisation: the creation of a political party, the Freedom and Justice Party (FJP), to participate in the upcoming parliamentary elections.<sup>96</sup>

---

89 Inter-parliamentary Union (2012): “Egypt. Majlis Al-Chaab (People’s Assembly)”, available at: [http://www.ipu.org/parline-e/reports/2097\\_E.htm](http://www.ipu.org/parline-e/reports/2097_E.htm), last accessed 3rd August 2015; and Aknur, M. (2013): “The Muslim Brotherhood in Politics in Egypt: From Moderation to Authoritarianism?”, *Review of International Law and Politics (Uluslararası Hukuk ve Politika)*, Issue 33, p.13.

90 Xinhuanet (2011): “Backgrounder: Major blocs in Egypt’s parliamentary elections”, 29th November 2011, available at: [http://news.xinhuanet.com/english2010/world/2011-11/29/c\\_131275345.htm](http://news.xinhuanet.com/english2010/world/2011-11/29/c_131275345.htm), last accessed: 3rd July 2015.

91 Electionnaire (2011): “Egyptian Citizen Party (Al-Moaten Al-Misri)”, available at: <http://egypt.electionnaire.com/parties/?id=5>, last accessed: 3rd July 2015; Ahram Online (2011): “Hossam Badrawy”, 19 November 2011, available at: <http://english.ahram.org.eg/Elections2011/Whos-who/NewsContent/33/102/26716/Elections-/Whos-who/Hossam-Badrawy.aspx>, last accessed: 3rd July 2015.

92 Jadaliyya (2011): “Meet the National Democratic Party Offshoots”, 18 November 2011, available at: <http://www.jadaliyya.com/pages/index/3163/meet-the-national-democratic-party-offshoots>, last accessed: 3rd July 2015.

93 Ottaway, M., (2011): “The Emerging Political Spectrum in Egypt”, *Carnegie Endowment for International Peace*, available at: <http://carnegieendowment.org/2011/10/10/emerging-political-spectrum-in-egypt/8kqp>, last accessed: 3rd July 2015.

94 Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, p.55.

95 Al-Awadi, H. (2013): “Islamists in power: the case of the Muslim Brotherhood in Egypt”, *Contemporary Arab Affairs*, Vol. 6, No. 4, p.544.

96 Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, p.56.

- 3.51. The MB and FJP, related yet separate organisations, but both committed to the democratic values of the revolution, started to build a coalition of consensus that could ensure the positive development of the transitional process. The party called upon political parties, from all ideological backgrounds to work together<sup>97</sup> and prioritise the interests of the country.<sup>98</sup> As a result of these negotiations the Democratic Alliance for Egypt (DAE) surged.

ii. *Electoral System*

- 3.52. The Parliament is divided in two chambers, the ‘Lower House’ (People’s Assembly), comprised of 508 seats; and the ‘Upper House’ (Shura Council), comprised of 270 seats.
- 3.53. It was finally agreed that two thirds of the parliamentary seats would be contested by closed party-lists following the proportionality rule, and one third by individual candidates following the majoritarian rule.<sup>99</sup> It was also decided that political parties would be able to present party-affiliated candidates for the one-third of individual seats.
- 3.54. At-least one woman had to be included in every party list and the eligibility age was changed from 30 to 25 years old.<sup>100</sup>
- 3.55. Moreover, the SCAF would choose 10 members of the People’s Assembly<sup>101</sup> and the next president would choose 90 members of the Shura Council.<sup>102</sup> Jointly, these seats represent more than 10% of the parliamentary seats. As they are not democratically elected in the ballot boxes, the Eisa Election Witnessing Mission argued that these appointments compromised the principle of separation of powers.<sup>103</sup>

iii. *Elections Results*

- 3.56. The parliamentary elections were held from 28 November 2011 to 22 February 2012.

---

<sup>97</sup> Freedom and Justice Party (2011): “The Founding Statement of the Freedom and Justice Party”, available at: <http://www.fjponline.com/view.php?pid=1>, last accessed: 3rd July 2015.

<sup>98</sup> Jadaliyya (2011): “Freedom and Justice Party”, 22 November 2011, available at: <http://www.jadaliyya.com/pages/index/3154/freedom-and-justice-party>, last accessed: 3rd July 2015.

<sup>99</sup> El-Beshry, T. (2013): “Relationship between state and religion: Egypt after the revolution”, *Contemporary Arab Affairs*, vol. 6, n.3, p.413.

<sup>100</sup> Inter-parliamentary Union (2012): “Egypt. Majlis Al-Chaab (People’s Assembly)”, available at: [http://www.ipu.org/parline-e/reports/2097\\_E.htm](http://www.ipu.org/parline-e/reports/2097_E.htm), last accessed 3rd August 2015.

<sup>101</sup> *Ibid*; and Ahram Online (2012): “Egypt’s post-Mubarak legislative life begins amid tension and divisions”, 23 January 2012, available at: <http://english.ahram.org.eg/NewsContent/33/100/32384/Elections-/News/Egypt-postMubarak-legislative-life-begins-amid-te.aspx>, last accessed: 4th July 2015.

<sup>102</sup> Inter-parliamentary Union (2012): “Egypt. Majlis Al-Chaab (People’s Assembly)”, available at: [http://www.ipu.org/parline-e/reports/2097\\_E.htm](http://www.ipu.org/parline-e/reports/2097_E.htm), last accessed 3rd August 2015.

<sup>103</sup> Eisa Election Witnessing Mission (2012): “The People’s Assembly and Shura Council Elections. November 2011-February 2012”, *EISA Election Witnessing Mission Report Egypt*, n. 43, available at: <http://dspace.africaportal.org/jspui/bitstream/123456789/33379/1/egy2012eomr.pdf?1>, last accessed: 3rd July 2015.



الشهيد يونس  
الشهيد خولة

الشهيد يونس  
الشهيد خولة

الشهيد يونس  
الشهيد خولة

الشهيد يونس  
الشهيد خولة

الشهيد يونس  
الشهيد خولة





- 3.57. The voter turnout for the People's Assembly elections was around 60%.<sup>104</sup> More than 30 million people voted<sup>105</sup> in more than 50,000 polling stations.<sup>106</sup> Egyptians living abroad could vote from consulates and embassies and the vote was open to all those Egyptians over 18 that carry an identity card.<sup>107</sup>
- 3.58. According to the EISA Election Witnessing Mission Report, "*Egypt's parliamentary elections of 2011-2012 were conducted in a fair and credible manner. The people of the Arab Republic of Egypt were granted the space and opportunity to freely express their will at the polls in a free atmosphere and the candidates and parties enjoyed equal opportunity*".<sup>108</sup>
- 3.59. These parliamentary elections were probably the first free, transparent and fully democratic<sup>109</sup> elections in Egyptian history, and the FJP was the clear winner.<sup>110</sup>
- 3.60. The results showed the overwhelming preference for the Islamist option: the Democratic Alliance, the Islamist bloc and the Al-Wasat party, representing the whole Islamist political spectrum, won 360 out of the 508 seats and received the support of 70% of the population. The FJP gained control of 45% of the People's Assembly. The FJP controlled around 40% of both chambers, being the party with the greatest representation.
- 3.61. The Army, as the interim authority of the transition, did not show any willingness of handing over power to a civilian government,<sup>111</sup> and even less to a parliament led by the FJP. The SCAF's tendency to make unilateral decisions, including amendments of the Constitution, only exacerbated fears that the Army was not going to renounce its power.<sup>112</sup>

---

104 *Ibid.*; International Institute for Democracy and Electoral Assistance (2012): "Voter turnout data for Egypt", available at: <http://www.idea.int/vt/countryview.cfm?id=69>, last accessed: 4th July 2015; and Inter-parliamentary Union (2012): "Egypt. Majlis Al-Chaab (People's Assembly)", available at: [http://www.ipu.org/parline-e/reports/2097\\_E.htm](http://www.ipu.org/parline-e/reports/2097_E.htm), last accessed 3rd August 2015.

105 IkhwanWeb (2012): "Muslim Brotherhood and Freedom and Justice Party Statement on Egypt's Presidency", 1st April 2012, available at: <http://www.ikhwanweb.com/article.php?id=29837>, last accessed: 3rd July 2015.

106 The Carter Center (2012): "Final Report of the Carter Center Mission to Witness the 2011-2012 Parliamentary Elections in Egypt, available at: " [http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/egypt-2011-2012-final-rpt.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/egypt-2011-2012-final-rpt.pdf), last accessed: 3rd July 2015.

107 Abed Rabbo, A. (2011): "Egyptian Political Parties and Parliamentary Elections 2011/2012", *Arab Center for Research & Policy Studies*, available at: <http://english.dohainstitute.org/release/f3e63fe9-eeeb-49cc-884f-01bdc7a340eb>, last accessed: 4th July 2015.

108 Eisa Election Witnessing Mission (2012): "The People's Assembly and Shura Council Elections. November 2011-February 2012", *EISA Election Witnessing Mission Report Egypt*, n.43, available at: <http://dspace.africaportal.org/jspui/bitstream/123456789/33379/1/egy2012eomr.pdf?1>, last accessed: 3rd July 2015, p.50.

109 El-Beshry, T. (2013): "Relationship between state and religion: Egypt after the revolution", *Contemporary Arab Affairs*, vol. 6, n.3, p.416.

110 Data from: Eisa Election Witnessing Mission (2012): "The People's Assembly and Shura Council Elections. November 2011-February 2012", *EISA Election Witnessing Mission Report Egypt*, n.43, available at: <http://dspace.africaportal.org/jspui/bitstream/123456789/33379/1/egy2012eomr.pdf?1>, last accessed: 3rd July 2015.

111 Ottawa, M., (2011): "The Emerging Political Spectrum in Egypt", *Carnegie Endowment for International Peace*, available at: <http://carnegieendowment.org/2011/10/10/emerging-political-spectrum-in-egypt/8kqp>, last accessed: 3rd July 2015; and Farag, M. (2012): "Egypt's Muslim Brotherhood and the January 25 Revolution: new political party, new circumstances", *Contemporary Arab Affairs*, Vol. 5, No. 2, p.225.

112 Ottawa, M., (2011): "The Emerging Political Spectrum in Egypt", *Carnegie Endowment for International Peace*, available at: <http://carnegieendowment.org/2011/10/10/emerging-political-spectrum-in-egypt/8kqp>, last accessed: 3rd July 2015.

- 3.62. The Carter Centre in its report following its mission to the Egyptian parliamentary elections severely criticised the SCAF in its role as interim authority of the transition. The report criticised the military institution's failure to implement the necessary reforms and its lack of respect for human rights, which undermined the context in which the elections were held.<sup>113</sup>
- 3.63. After the elections, MB reported several disruptions and obstacles in the correct functioning of the parliament. MB complained about the government's failure to respond to parliamentary decisions, and the sharp slowdown in its performance. It added: "*then followed a long series of fabricated crises and failures, mismanagement and stubborn refusal to respond to the demands of the people, for which they started the Revolution. Ultimately, we reached what could be considered a total waste of the country's capabilities and resources. The risk of a precipitous free-fall and complete instability, as demonstrated in a state of chaos and utter lawlessness, and contrived economic and essential-living crises.*"<sup>114</sup>

iv. *Soft coup: dissolution of the People's Assembly*

- 3.64. The democratic deterioration and political tensions reached a high in June 2012, when the Army jointly with several other institutions dominated by Mubarak's elite — such as the judiciary, — organised a *soft coup d'état*<sup>115</sup> fearing a victory of MB in the Presidential elections. On 13 June 2012 the Supreme Constitutional Court (SCC) ordered the dissolution of the newly elected People's Assembly.<sup>116</sup> The SCAF disbanded the Assembly following the Court's decision,<sup>117</sup> and just four days later, on 17 June, it issued a Constitutional Declaration that subordinated the Egyptian presidency to its power.
- 3.65. The decision of the SCC nullifying the 2011-2012 elections for the People's Assembly constituted a clear judicial interference in the political process, a perversion of transition and a step backwards on the path of the 25 January Revolution. It was defined as a "*catastrophe in the history of the Egyptian judiciary*".<sup>118</sup> This decision demonstrated how the judiciary, an institution linked and nurtured by the former regime, still enjoyed immense power.

113 The Carter Center (2012): "Final Report of the Carter Center Mission to Witness the 2011-2012 Parliamentary Elections in Egypt, available at: " [http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/egypt-2011-2012-final-rpt.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/egypt-2011-2012-final-rpt.pdf), last accessed: 3rd July 2015.

114 IkhwanWeb (2012): "Muslim Brotherhood and Freedom and Justice Party Statement on Egypt's Presidency", 1st April 2012, available at: <http://www.ikhwanweb.com/article.php?id=29837>, last accessed: 3rd July 2015.

115 Hamid, S. (2011): "Brother President", *The Cairo Review of Global Affairs*, available at: <http://www.aucegypt.edu/GAPP/CairoReview/Pages/articleDetails.aspx?aid=223>, last accessed: 3rd July 2015.

116 *Ibid.*

117 ACE Project The Electoral Knowledge Network (2013): "The ACE Encyclopaedia: Legal Framework", available at: [http://aceproject.org/ace-en/topics/lf/lfc/lfc\\_eg](http://aceproject.org/ace-en/topics/lf/lfc/lfc_eg), last accessed: 4th July 2015.

118 ACE Project The Electoral Knowledge Network (2013): "The ACE Encyclopaedia: Legal Framework", available at: [http://aceproject.org/ace-en/topics/lf/lfc/lfc\\_eg](http://aceproject.org/ace-en/topics/lf/lfc/lfc_eg), last accessed: 4th July 2015.



- 3.66. Even if the electoral law and the electoral system was decided with significant consensus amongst the political actors, the SCC ruled that paragraph 1 of article 6 of Law 108-2011, on the structure of the membership of the People's Assembly was unconstitutional.<sup>119</sup> This declaration of unconstitutionality annulled the validity of the elections for one third of the seats that were individually contested and meant the dissolution of the Chamber.
- 3.67. According to the SCC, the fact that political parties could present individual candidates for one third of the seats — elected by majoritarian rule, — while independent candidates could not access the other two thirds of the seats — elected by party lists — “*violated the constitutional principle of equal rights*”.<sup>120</sup>
- 3.68. The SCC also annulled article 1 of Law 17-2012, which banned officials of the former regime from holding political office.
- 3.69. The SCAF had agreed with revolutionary forces to ban the participation of members of the former regime in the elections.<sup>121</sup> However, the SCAF continued to postpone this decision until after the deadline for nominations, thus allowing several members of the former NDP to contest the parliamentary elections “*under the banner of other parties or for individual seats*”.<sup>122</sup>
- 3.70. These decisions were contrary to the interests of the transition and were promoted by remnant institutions of the former regime. Far from constituting an independent exercise of justice, these verdicts showed a significant political nature and clearly benefited the interests of certain political groups at the expense of others.
- 3.71. Taking into account comparative law in several countries, the electoral system is built around political parties exclusively, and it is not considered that these systems violate the rights of all those who are not part of these parties. Giving individuals the opportunity to contest the elections provide greater rights to the citizens, whose participation in the electoral process does not necessarily depend on political parties. Allowing political parties to contest the same seats would not constitute a violation of rights in several other countries of the World.
- 3.72. The SCC decisions would also impact the performance, and even the validity, of the Constitutional

---

119 Sadek, G. (2012): “Egypt: Supreme Constitutional Court Decision Dissolves One-Third of the Parliament”, *Library of Congress*, 18th June 2012, available at: [http://www.loc.gov/lawweb/servlet/lloc\\_news?disp3\\_l205403195\\_text](http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205403195_text), last accessed: 4th July 2015.

120 *Ibid.*

121 Abed Rabbo, A. (2011): “Egyptian Political Parties and Parliamentary Elections 2011/2012”, *Arab Center for Research & Policy Studies*, available at: <http://english.dohainstitute.org/release/f3c63fe9-eeeb-49cc-884f-01bdc7a340eb>, last accessed: 4th July 2015.

122 *Ibid.*

Assembly. According to the Constitutional Declaration, this Assembly was obliged to present its proposal for the new Constitution before 11 December 2012, however, in October 2012 legal challenges related to the Constitutional Assembly “*were referred for decision to the SCC*”,<sup>123</sup> thus affecting the likelihood of a new constitution being approved within the provided timeframe.

- 3.73. Such political decisions sought to use the apparent legitimacy and objectivity of the law to challenge the democratic transition.<sup>124</sup>
- 3.74. However, although the judiciary had great interest in dissolving an Islamist-controlled parliament, it was not alone in these decisions. The SCAF recovered legislative powers after it dissolved the Assembly on the basis of the SCC ruling.<sup>125</sup>

c. ***Dr Morsi***

i. *As a Presidential Candidate*

- 3.75. The political consensus and democratic path that MB wanted to formulate after the Revolution was being hindered by certain political forces, notably, by the Army, the judiciary and the remnants of the former regime. The obstacles to the parliamentary and constituent activities —led by the FJP — were clear and threatened to paralyze the transitional process.
- 3.76. Given these extreme circumstances, in March 2012 the MB, in a joint statement with the FJP, finally announced that a candidate from the organization would contest the presidential elections. The motivation for the announcement was not to hijack the Revolution and seek to impose a theocratic regime, but rather, the Revolution was in danger of being lost and the FJP felt it incumbent on them to stand and save it.<sup>126</sup>
- 3.77. The MB considered it had a prominent and influencing role in Egyptian politics that put the organization in the position to protect the post-Revolutionary transition and ensure the transfer of power to a democratically elected president unlinked with Mubarak’s regime. Furthermore, Dr Mohammed Morsi, before becoming presidential candidate, explained that the MB’s decision to participate in the presidential elections responded to their inability to undertake the necessary

---

123 ACE Project The Electoral Knowledge Network (2013): “The ACE Encyclopaedia: Legal Framework”, available at: [http://aceproject.org/ace-en/topics/lf/lfc/lfc\\_eg](http://aceproject.org/ace-en/topics/lf/lfc/lfc_eg), last accessed: 4th July 2015.

124 Kandil, H. (2012): “Mohamed Morsi and the classic revolutionary trap”, *The Guardian*, 30 November 2012, available at: <http://www.theguardian.com/commentisfree/2012/nov/30/mohamed-morsi-revolutionary-trap-egypt>, last accessed: 4th July 2015.

125 Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, p. 58.

126 IkhwanWeb (2012): “Muslim Brotherhood and Freedom and Justice Party Statement on Egypt’s Presidency”, 1st April 2012, available at: <http://www.ikhwanweb.com/article.php?id=29837>, last accessed: 3rd July 2015.

reforms through the parliamentary mechanism.<sup>127</sup>

- 3.78. The first presidential candidate of MB was Khairat al-Shater, a proprietor of a computer company. He was one of the three deputy leaders of MB<sup>128</sup> and one of the strongest and most charismatic members of the organisation.<sup>129</sup> 56 out of the 108 members of the Shura Council voted for him.<sup>130</sup>
- 3.79. The Elections Committee disqualified al-Shater due to a previous conviction,<sup>131</sup> widely considered one of the many “*politically motivated convictions of the Mubarak era*”,<sup>132</sup> which damaged the position of MB, as al-Shater was one the strongest candidates and enjoyed wide popular support. Seemingly, this decision to disqualify was encouraged by the SCAF.<sup>133</sup>
- 3.80. Thus, MB had to present an alternative candidate: Dr Morsi was the resulting proposition.<sup>134</sup>
- 3.81. Dr Morsi, 60 years old and born in Sharqiya governorate,<sup>135</sup> completed his engineering studies in Cairo. His excellent academic performance allowed him to move to the United States to commence a PhD at the University of Southern California.<sup>136</sup>
- 3.82. He spent several years in the US, becoming assistant professor at California State University. Two of his children have American citizenship by birth.<sup>137</sup> During his years in California he focused on his professional career and was able to escape from the policies of oppression of the Egyptian regime.<sup>138</sup> However, as soon as he returned to Egypt, Dr Morsi began to develop his political career.
- 3.83. When Dr Morsi returned to Egypt, he held several important positions in MB, which he joined in

---

127 Awad, M. and El Madany, S. (2012): “In U-turn, Egypt’s Brotherhood names presidential candidate”, *Reuters*, 31 March 2012, available at: <http://www.reuters.com/article/2012/03/31/us-egypt-brotherhood-presidency-idUSBRE82U0DL20120331>, last accessed: 4th July 2015.

128 Awad, M. and El Madany, S. (2012): “In U-turn, Egypt’s Brotherhood names presidential candidate”, *Reuters*, 31 March 2012, available at: <http://www.reuters.com/article/2012/03/31/us-egypt-brotherhood-presidency-idUSBRE82U0DL20120331>, last accessed: 4th July 2015.

129 Hamid, S. (2011): “Brother President”, *The Cairo Review of Global Affairs*, available at: <http://www.aucegypt.edu/GAPP/CairoReview/Pages/articleDetails.aspx?aid=223>, last accessed: 3rd July 2015.

130 Awad, M. and El Madany, S. (2012): “In U-turn, Egypt’s Brotherhood names presidential candidate”, *Reuters*, 31 March 2012, available at: <http://www.reuters.com/article/2012/03/31/us-egypt-brotherhood-presidency-idUSBRE82U0DL20120331>, last accessed: 4th July 2015.

131 Al-Awadi, H. (2013): “Islamists in power: the case of the Muslim Brotherhood in Egypt”, *Contemporary Arab Affairs*, Vol. 6, No. 4; and <http://www.aucegypt.edu/GAPP/CairoReview/Pages/articleDetails.aspx?aid=223>.

132 The Carter Center, (2012): “Presidential Elections in Egypt. Final Report. May-June 2012”. Available at: [http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/egypt-final-presidential-elections-2012.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/egypt-final-presidential-elections-2012.pdf), last accessed: 3rd July 2015, p.35.

133 Frisch, H. (2013): “The Egyptian Army and Egypt’s ‘Spring’”, *Journal of Strategic Studies*, vol. 36, n.2, p.190.

134 Kirkpatrick, D.D. (2012): “Named Egypt’s Winner, Islamist Makes History”, *The New York Times*, 24th June 2012, available at: [http://www.nytimes.com/2012/06/25/world/middleeast/mohamed-morsi-of-muslim-brotherhood-declared-as-egypts-president.html?\\_r=0](http://www.nytimes.com/2012/06/25/world/middleeast/mohamed-morsi-of-muslim-brotherhood-declared-as-egypts-president.html?_r=0), last accessed: 4th July 2015.

135 Hamid, S. (2011): “Brother President”, *The Cairo Review of Global Affairs*, available at: <http://www.aucegypt.edu/GAPP/CairoReview/Pages/articleDetails.aspx?aid=223>, last accessed: 3rd July 2015.

136 *Ibid.*

137 *Ibid.*

138 Kirkpatrick, D.D. (2012): “Named Egypt’s Winner, Islamist Makes History”, *The New York Times*, 24th June 2012, available at: [http://www.nytimes.com/2012/06/25/world/middleeast/mohamed-morsi-of-muslim-brotherhood-declared-as-egypts-president.html?\\_r=0](http://www.nytimes.com/2012/06/25/world/middleeast/mohamed-morsi-of-muslim-brotherhood-declared-as-egypts-president.html?_r=0), last accessed: 4th July 2015.

1978.<sup>139</sup> He became one of the most prominent members of the new guard and progressively gained the support of the leadership. In the early 1990s he joined the Guidance Bureau,<sup>140</sup> the highest decisive body of the organisation.

- 3.84. During Mubarak's era, he fulfilled the role of head of the Brotherhood's parliamentary bloc from 2000 to 2005,<sup>141</sup> being an 'independent' member of the People's Assembly.<sup>142</sup> He was also the person responsible for MB's political affairs,<sup>143</sup> and developed valuable experience in "*multiparty democracy and coalition-building*".<sup>144</sup>
- 3.85. Dr Morsi was imprisoned in 2008 by the Mubarak regime following MB's success in the 2005 elections, and again during the 25 January Revolution.<sup>145</sup>
- 3.86. After the Revolution he achieved a further, more notable role, serving as founding chairman and president of the FJP.<sup>146</sup> He succeeded al-Shater as presidential candidate MB, enjoying Shater's full support and trust.<sup>147</sup>
- 3.87. The fact that he was the second candidate of MB damaged his political position as the media started to criticize that he was "*the spare tire*" candidate.<sup>148</sup>
- 3.88. However, although he was accused of lacking the charisma and strong character of his predecessor, he was an extremely well-prepared candidate, a good manager with wide experience in Egyptian politics and institutions<sup>149</sup> and the politician, who gave one of the best speeches ever heard in the recent Egyptian history.<sup>150</sup>

139 Al-Awadi, H. (2013): "Islamists in power: the case of the Muslim Brotherhood in Egypt", *Contemporary Arab Affairs*, Vol. 6, No. 4.

140 Din Wa Dawla (2012): "Egypt's presidential elections: a choice between a feloul- or ikhwan-regime?", 11th June 2012, available at: <https://dinwdawla.wordpress.com/2012/06/11/1-egypts-presidential-elections-a-choice-between-a-feloul-or-ikhwan-regime/>, last accessed: 4th July 2015.

141 Hamid, S. (2011): "Brother President", *The Cairo Review of Global Affairs*, available at: <http://www.aucegypt.edu/GAPP/CairoReview/Pages/articleDetails.aspx?aid=223>, last accessed: 3rd July 2015.

142 Din Wa Dawla (2012): "Egypt's presidential elections: a choice between a feloul- or ikhwan-regime?", 11th June 2012, available at: <https://dinwdawla.wordpress.com/2012/06/11/1-egypts-presidential-elections-a-choice-between-a-feloul-or-ikhwan-regime/>, last accessed: 4th July 2015.

143 Al-Awadi, H. (2013): "Islamists in power: the case of the Muslim Brotherhood in Egypt", *Contemporary Arab Affairs*, Vol. 6, No. 4.

144 Kirkpatrick, D.D. (2012): "Named Egypt's Winner, Islamist Makes History", *The New York Times*, 24th June 2012, available at: [http://www.nytimes.com/2012/06/25/world/middleeast/mohamed-morsi-of-muslim-brotherhood-declared-as-egypts-president.html?\\_r=0](http://www.nytimes.com/2012/06/25/world/middleeast/mohamed-morsi-of-muslim-brotherhood-declared-as-egypts-president.html?_r=0), last accessed: 4th July 2015.

145 *Ibid.*

146 Al-Awadi, H. (2013): "Islamists in power: the case of the Muslim Brotherhood in Egypt", *Contemporary Arab Affairs*, Vol. 6, No. 4; and <https://dinwdawla.wordpress.com/2012/06/11/1-egypts-presidential-elections-a-choice-between-a-feloul-or-ikhwan-regime/>.

147 Kirkpatrick, D.D. (2012): "Named Egypt's Winner, Islamist Makes History", *The New York Times*, 24th June 2012, available at: [http://www.nytimes.com/2012/06/25/world/middleeast/mohamed-morsi-of-muslim-brotherhood-declared-as-egypts-president.html?\\_r=0](http://www.nytimes.com/2012/06/25/world/middleeast/mohamed-morsi-of-muslim-brotherhood-declared-as-egypts-president.html?_r=0), last accessed: 4th July 2015; and Hamid, S. (2011): "Brother President", *The Cairo Review of Global Affairs*, available at: <http://www.aucegypt.edu/GAPP/CairoReview/Pages/articleDetails.aspx?aid=223>, last accessed: 3rd July 2015.

148 Hamid, S. (2011): "Brother President", *The Cairo Review of Global Affairs*, available at: <http://www.aucegypt.edu/GAPP/CairoReview/Pages/articleDetails.aspx?aid=223>, last accessed: 3rd July 2015.

149 Al-Awadi, H. (2013): "Islamists in power: the case of the Muslim Brotherhood in Egypt", *Contemporary Arab Affairs*, Vol. 6, No. 4.

150 Hamid, S. (2011): "Brother President", *The Cairo Review of Global Affairs*, available at: <http://www.aucegypt.edu/GAPP/CairoReview/Pages/articleDetails.aspx?aid=223>, last accessed: 3rd July 2015.

- 3.89. His politics<sup>151</sup> reflected the two main ideological references of MB, namely the protection of Islamic values and democracy. Like the FJP, the principles of Political Islam directed and underpinned Dr Morsi's candidacy, and so he promoted the defence of Islamic values and law in the Egyptian State.
- 3.90. In general, Dr Morsi's campaign advanced and replicated the FJP's political program<sup>152</sup>. He shared the party's centrist and open understanding of Islamic values and supported the maintenance of *shari'a* in the Constitution.<sup>153</sup>
- 3.91. However, despite the essential role of Islam in Dr Morsi's campaign, he also stressed equality between citizens and the inclusiveness of different religious groups in the State, which calmed Copts' fears.<sup>154</sup>
- 3.92. He rejected a theocratic, military or despotic vision of the Egyptian state and supported the separation of powers, pluralism, accountability of rulers, and the respect of national sovereignty expressed in democratic elections.
- 3.93. Dr Morsi had moderate Islamic political views and was a firm defender of democracy. In fact, he sought to implement systems of direct democracy at the local level, support civil society organisations, encourage press freedom and decrease the minimum age to run for public office,<sup>155</sup> which was in line with the young spirit of the Revolution.
- 3.94. Dr Morsi also showed a firm support for fundamental rights and tried to reconcile human rights with the Islamic tradition.<sup>156</sup> Dr Morsi also followed the FJP's programme on economy and foreign relations.
- 3.95. Despite the similarities between Dr Morsi's proposals and the FJP's program, his candidacy faced deep criticism. Members and supporters of liberal parties, who controlled most of the media, easily influenced the public opinion,<sup>157</sup> and started a direct and significant smear campaign against Dr

---

151 Din Wa Dawla (2012): "Egypt's presidential elections: a choice between a feloul- or ikhwan-regime?", 11th June 2012, available at: <https://dinwdawla.wordpress.com/2012/06/11/1-egypts-presidential-elections-a-choice-between-a-feloul-or-ikhwan-regime/>, last accessed: 4th July 2015; and Din Wa Dawla (2012): "The program of Mohammed Morsi: economic development in an Islamic democracy", 21st June 2012, available at: <https://dinwdawla.wordpress.com/2012/06/21/4-the-program-of-mohammed-morsi-economic-development-in-an-islamic-democracy/>, last accessed: 4th July 2015.

152 Din Wa Dawla (2012): "The program of Mohammed Morsi: economic development in an Islamic democracy", 21st June 2012, available at: <https://dinwdawla.wordpress.com/2012/06/21/4-the-program-of-mohammed-morsi-economic-development-in-an-islamic-democracy/>, last accessed: 4th July 2015.

153 *Ibid.*

154 Din Wa Dawla (2012): "The program of Mohammed Morsi: economic development in an Islamic democracy", 21st June 2012, available at: <https://dinwdawla.wordpress.com/2012/06/21/4-the-program-of-mohammed-morsi-economic-development-in-an-islamic-democracy/>, last accessed: 4th July 2015.

155 *Ibid.*

156 *Ibid.*

157 El-Beshry, T. (2013): "Relationship between state and religion: Egypt after the revolution", *Contemporary Arab Affairs*, vol. 6, n. 3.

Morsi.

3.96. Dr Morsi was accused of being a radical Islamist, an incompetent politician or 'loyalist' to MB,<sup>158</sup> all but unsubstantiated criticisms. First, he showed great moderation in all his proposals and actions and promised to build a civil state based on democratic values and peaceful participation in politics. Second, he had excellent intellectual preparation, good management and language skills, and extensive political experience. Finally, the 'loyalty' critique lacked meaning in a comparative perspective; in the majority of political systems, Presidents and Prime Ministers are presented and supported by parties that deeply influence the decisions of the politicians. This influence is considered normal and even expected in a healthy democracy and is part of party politics.

3.97. In general, the accusations against members of Islamists parties were so irrational as to include the unrealistic rumour that "*Islamist parliamentarians were trying to legalise necrophilia*".<sup>159</sup>

ii. *Presidential Elections*

3.98. The 2012 Presidential Elections were the first time in Egyptian history that the Egyptian population was able to freely and democratically elect its Head of State.

3.99. The elections caused great enthusiasm among citizens, consequently, approximately 50% of the electorate participated: 46.42% in the first round<sup>160</sup> and 51.85% in the second round.<sup>161</sup>

3.100. The diversity of candidates was a signal of a pluralistic democracy; and voters, committed to the transitional process, queued long hours to participate in the elections.<sup>162</sup>

3.101. The first round took place on 23 and 24 May 2012.<sup>163</sup> Dr Morsi and Shafiq were the two candidates that received the largest support: 5.8 and 5.5 million votes respectively,<sup>164</sup> consequently they

---

158 Kirkpatrick, D.D. (2012): "Named Egypt's Winner, Islamist Makes History", *The New York Times*, 24th June 2012, available at: [http://www.nytimes.com/2012/06/25/world/middleeast/mohamed-morsi-of-muslim-brotherhood-declared-as-egypts-president.html?\\_r=0](http://www.nytimes.com/2012/06/25/world/middleeast/mohamed-morsi-of-muslim-brotherhood-declared-as-egypts-president.html?_r=0), last accessed: 4th July 2015; Hamid, S. (2011): "Brother President", *The Cairo Review of Global Affairs*, available at: <http://www.aucegypt.edu/GAPP/CairoReview/Pages/articleDetails.aspx?aid=223>, last accessed: 3rd July 2015; and Abou-Bakr, A.J. (2012): "Mohamed Morsi, the Muslim Brotherhood, and Why the Revolution Continues", *E-International Relations*, available at: <http://www.e-ir.info/2012/08/23/mohamed-morsi-the-muslim-brotherhood-and-why-the-revolution-continues/>, last accessed: 4th July 2015.

159 Hamid, S. (2011): "Brother President", *The Cairo Review of Global Affairs*, available at: <http://www.aucegypt.edu/GAPP/CairoReview/Pages/articleDetails.aspx?aid=223>, last accessed: 3rd July 2015.

160 Din Wa Dawla (2012): "Egypt's presidential elections: a choice between a feloul- or ikhwan-regime?", 11th June 2012, available at: <https://dinwadawla.wordpress.com/2012/06/11/1-egypts-presidential-elections-a-choice-between-a-feloul-or-ikhwan-regime/>, last accessed: 4th July 2015.

161 The Carter Center, (2012): "Presidential Elections in Egypt. Final Report. May-June 2012". Available at: [http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/egypt-final-presidential-elections-2012.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/egypt-final-presidential-elections-2012.pdf), last accessed: 3rd July 2015, p.5.

162 Mabrouk, M.F. (2012): "Egypt's Difficult Choice: The First Round Is Over, Now Comes the Hard Part", *Brookings*, 29th March 2012, available at: <http://www.brookings.edu/research/opinions/2012/05/29-egypt-mabrouk>, last accessed: 4th July 2015.

163 The Carter Center, (2012): "Presidential Elections in Egypt. Final Report. May-June 2012". Available at: [http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/egypt-final-presidential-elections-2012.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/egypt-final-presidential-elections-2012.pdf), last accessed: 3rd July 2015, p.63.

164 Din Wa Dawla (2012): "Egypt's presidential elections: a choice between a feloul- or ikhwan-regime?", 11th June 2012, available at: <https://>



progressed to the second round.

- 3.102. Although both rounds of the presidential elections were conducted in a fair and transparent manner, the political context was very different in each of them: on 14 June 2012, between the first and the second round, the SCC declared the parliamentary elections unconstitutional and dissolved the People's Assembly.<sup>165</sup>
- 3.103. This decision was intimately linked with the presidential elections: "*it was widely assumed that the Islamist-dominated Parliament was being removed to either weaken Dr Mohamed Morsi should he win the election or to lay the groundwork for a "restoration" of the former regime in the case of a Shafiq victory*".<sup>166</sup>
- 3.104. This decision was "*a political earthquake*"<sup>167</sup> that increased the uncertainty surrounding the transitional process and placed into question the independence of the judiciary. By the time the second round of the presidential elections took place, the only political and real outcome of the Revolution had been nullified, the sole constitutional reference had been shaped by the military and there was no consensus on the next steps to take to draft a new constitution and complete the political transition.
- 3.105. The second round of the presidential elections took place on 16 and 17 June 2012. The Islamists unified around Dr Morsi's candidacy,<sup>168</sup> and then "*despite the military's efforts to reduce the Brotherhood's new political power*",<sup>169</sup> Dr Morsi won the presidential elections, receiving the support of 51.7% of the voters.
- 3.106. The delicate situation of Egypt's transition and the uncertainty about the Constitutional process made these elections especially relevant. The president would be able to appoint a civil executive cabinet and 90 members of the Shura Council. But most importantly, the new president would enjoy a relevant position to encourage the Constitutional drafting.
- 3.107. Dr Morsi's victory provided the necessary popular support and recognition to stand against the

---

dinwdawla.wordpress.com/2012/06/11/1-egypts-presidential-elections-a-choice-between-a-feloul-or-ikhwan-regime/, last accessed: 4th July 2015.

165 The Carter Center, (2012): "Presidential Elections in Egypt. Final Report. May-June 2012". Available at: [http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/egypt-final-presidential-elections-2012.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/egypt-final-presidential-elections-2012.pdf), last accessed: 3rd July 2015.

166 *Idem*, p.12.

167 *Ibid*.

168 Hamid, S. (2011): "Brother President", *The Cairo Review of Global Affairs*, available at: <http://www.aucegypt.edu/GAPP/CairoReview/Pages/articleDetails.aspx?aid=223>, last accessed: 3rd July 2015; and Din Wa Dawla (2012): "Egypt's presidential elections: a choice between a feloul- or ikhwan-regime?", 11th June 2012, available at: <https://dinwdawla.wordpress.com/2012/06/11/1-egypts-presidential-elections-a-choice-between-a-feloul-or-ikhwan-regime/>, last accessed: 4th July 2015.

169 Aknur, M. (2013): "The Muslim Brotherhood in Politics in Egypt: From Moderation to Authoritarianism?", *Review of International Law and Politics (Uluslararası Hukuk ve Politika)*, Issue 33, p.2-3.

undemocratic decisions of the judiciary and the military,<sup>170</sup> fight against the corrupted system,<sup>171</sup> eliminate the traces of the autocratic regime and promote the revolutionary change demanded in Tahrir.

- 3.108. The result of the elections increased the tensions between the FJP and the military. Far from accepting their electoral defeat, the Army did not share FJP's broad democratic support and resisted handing over power to a FJP's government.
- 3.109. The military had promised to hand over power to the democratically-elected president on 30 June 2012;<sup>172</sup> however, two weeks before, as soon as it was clear that Dr Morsi had won the presidential elections, the Army, jointly with the remnants of the former regime, commenced a political manoeuvre that resulted in catastrophic consequences for the transitional process.
- 3.110. On 17 June 2012, while "*votes were being counted in the presidential elections*",<sup>173</sup> the SCAF issued a Constitutional Addendum that "*effectively subordinated the new Egyptian president to the SCAF*."<sup>174</sup>
- 3.111. With this Declaration, announced just three days after the SCC dissolved the People's Assembly, the SCAF granted itself the legislative powers of the Assembly: the SCAF would be in charge of the legislative activity until a new parliament was elected.
- 3.112. Moreover, the Addendum stripped the incoming president of some of his key powers<sup>175</sup> and transferred them to the SCAF. The military would become an independent body beyond the reach of the new president, who could not take decisions on any issues related to the armed forces. According to the Carter Centre "*effectively, the new president would be sharing power with the unelected military council for which there were no accountability mechanisms*".<sup>176</sup>
- 3.113. The SCAF re-imposed martial law by giving the Army the ability to suppress popular unrests and detain civilians. The Addendum tacitly recognized the SCAF as an influential State institution that would continue its activities even after the presidential elections.

---

170 Din Wa Dawla (2012): "Egypt's presidential elections: a choice between a feloul- or ikhwan-regime?", 11th June 2012, available at: <https://dinwawla.wordpress.com/2012/06/11/1-egypts-presidential-elections-a-choice-between-a-feloul-or-ikhwan-regime/>, last accessed: 4th July 2015.

171 *Ibid.*

172 Kirkpatrick, D. (2012): "Named Egypt's Winner, Islamist Makes History", *The New York Times*, 24th June 2012, available at: [http://www.nytimes.com/2012/06/25/world/middleeast/mohamed-morsi-of-muslim-brotherhood-declared-as-egypts-president.html?\\_r=0](http://www.nytimes.com/2012/06/25/world/middleeast/mohamed-morsi-of-muslim-brotherhood-declared-as-egypts-president.html?_r=0), last accessed: 5th July 2015.

173 The Carter Center, (2012): "Presidential Elections in Egypt. Final Report. May-June 2012". Available at: [http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/egypt-final-presidential-elections-2012.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/egypt-final-presidential-elections-2012.pdf), last accessed: 3rd July 2015, p.3.

174 Pioppi, D. (2013): "Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan", *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, p.58.

175 Frisch, H. (2013): "The Egyptian Army and Egypt's 'Spring'", *Journal of Strategic Studies*, vol. 36, n. 2, p. 181.

176 The Carter Center, (2012): "Presidential Elections in Egypt. Final Report. May-June 2012". Available at: [http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/egypt-final-presidential-elections-2012.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/egypt-final-presidential-elections-2012.pdf), last accessed: 3rd July 2015, p.3, p.13.

- 3.114. Most importantly, through the Addendum the SCAF gave itself “*a veto over provisions of a planned permanent Constitution*”,<sup>177</sup> and the power to appoint a new Constituent Assembly “*if a barrier shall arise that shall prevent the Constituent Assembly from completing its work*”<sup>178</sup>. With this Addendum, the Army would become the *de facto* Constituent power.
- 3.115. This Constitutional Addendum further determined that in case the SCAF or other parties wanted to object to the text of the new draft constitution, they should “*refer the matter to the High Constitutional Court*”, which would issue a binding decision within seven days. The inclusion of this amendment illustrated not only the SCAF’s willingness to determine the outcome of the constitutional process but also its deep influence on the SCC, a court that would undemocratically and arbitrarily determine the constitutional will.
- 3.116. Finally, the SCAF also reshaped the timetable for the transition.<sup>179</sup> The SCAF movement was already considered a ‘constitutional coup’, but there were additional fears that the military was going to complete the *coup d’état* through the judiciary. The announcement of the result of the elections was being delayed,<sup>180</sup> thus increasing the suspicions that the SCC would seek to annul votes from the presidential elections and declare Shafiq as new president of Egypt. In fact, public institutions and offices “*closed early for fear of violence*”.<sup>181</sup>
- 3.117. To fight these fears, thousands of citizens occupied Tahrir Square to protect the transitional process, stop the coup and force the Army to step down and hand over power to Dr Morsi.
- 3.118. After a week of popular pressure, the SCAF accepted Dr Morsi’s victory, and he promised to attempt to reverse the terrible consequences of the June soft coup.<sup>182</sup> However, despite the FJP’s and Dr Morsi’s democratic victories in both elections, the fight for the real power was far from over.<sup>183</sup>

### iii. Dr Morsi in “Power”

- 3.119. Dr Morsi created an inclusive government comprised by only a few members of MB, members

---

177 Kirkpatrick, D. (2012): “Named Egypt’s Winner, Islamist Makes History”, *The New York Times*, 24th June 2012, available at: [http://www.nytimes.com/2012/06/25/world/middleeast/mohamed-morsi-of-muslim-brotherhood-declared-as-egypts-president.html?\\_r=0](http://www.nytimes.com/2012/06/25/world/middleeast/mohamed-morsi-of-muslim-brotherhood-declared-as-egypts-president.html?_r=0), last accessed: 5th July 2015.

178 Art. 60 (bis) of the Constitutional Addendum.

179 The Carter Center, (2012): “Presidential Elections in Egypt. Final Report. May-June 2012”. Available at: [http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/egypt-final-presidential-elections-2012.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/egypt-final-presidential-elections-2012.pdf), last accessed: 3rd July 2015, p.13.

180 *Ibid.*

181 Kirkpatrick, D. (2012): “Named Egypt’s Winner, Islamist Makes History”, *The New York Times*, 24th June 2012, available at: [http://www.nytimes.com/2012/06/25/world/middleeast/mohamed-morsi-of-muslim-brotherhood-declared-as-egypts-president.html?\\_r=0](http://www.nytimes.com/2012/06/25/world/middleeast/mohamed-morsi-of-muslim-brotherhood-declared-as-egypts-president.html?_r=0), last accessed: 5th July 2015.

182 *Ibid.*

183 The Carter Center, (2012): “Presidential Elections in Egypt. Final Report. May-June 2012”. Available at: [http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/egypt-final-presidential-elections-2012.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/egypt-final-presidential-elections-2012.pdf), last accessed: 3rd July 2015, p.2.

of many other parties, and even members of the transitional government,<sup>184</sup> and inclusive of two woman and a Coptic Cristian. This in essence weakened his power: “*out of 36 ministries, only five went to MB-FJP members (higher education, youth, housing, information and manpower), all relatively minor ministries and hardly sufficient to implement the MB-FJP programme*”.<sup>185</sup>

- 3.120. However, Dr Morsi did not succeed in his aim to reconvene the People’s Assembly, as it was considered by many an unlawful act.<sup>186</sup>
- 3.121. From the beginning Dr Morsi struggled against the SCAF, which delayed handing the power over until August 2012. In an attempt to consolidate his power and the transitional process, Dr Morsi announced in November 2012 a 7-article Constitutional Declaration.<sup>187</sup> Dr Morsi’s opponents accused him of authoritarianism. He responded to the popular protests against his Constitutional Declaration by reforming and annulling its main precepts.<sup>188</sup> He also attempted to open a national dialogue in search of consensus; but sadly, the opposition boycotted it.<sup>189</sup>
- 3.122. The Constitution was approved in referendum on 15 and 22 December 2012,<sup>190</sup> with the support of 64% of the voters.<sup>191</sup> The new government, however, faced many challenges. The actors who obstructed the drafting of a new Constitution were the SCAF — with its undemocratic intent to control and veto the drafting process — and the judiciary, whose continuous threat to dissolve the Assembly impeded the correct functioning of the Constituent chamber.
- 3.123. In addition, apart from the economic and security crisis, “*two years after the revolution and six months after Dr Morsi’s election, Egypt was increasingly polarised and ungovernable, while the country’s majority party, the MB-FJP, was still far from having gained a stable position inside state institutions*”.<sup>192</sup> Dr Morsi had succeeded in annulling the June SCAF Constitutional Declaration thus, with the People’s Assembly dissolved;

---

184 El-Din, G.E. (2012): “Egypt PM Qandil makes some surprise, controversial ministerial choices”, *Abram Online*, 3rd August 2012, available at: <http://english.ahram.org.eg/News/49380.aspx>, last accessed: 5th July 2015; Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, p. 59.

185 Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, p.59.

186 ACE Project The Electoral Knowledge Network (2013): “The ACE Encyclopaedia: Legal Framework”, available at: [http://aceproject.org/ace-en/topics/lfc/lfc\\_eg](http://aceproject.org/ace-en/topics/lfc/lfc_eg), last accessed: 4th July 2015.

187 See Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, p.61.

188 Özhan, T. (2013): “New Egypt versus the *Felook*: Struggle for Democracy”, *Insight Turkey*, Vol. 15, No.18.

189 Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, p.62.

190 *Ibid*.

191 Martini, J. and Worman, S.M. (2013): “Voting Patterns in Post-Mubarak Egypt”, *Rand Corporation*, available at: [http://www.rand.org/content/dam/rand/pubs/research\\_reports/RR200/RR223/RAND\\_RR223.pdf](http://www.rand.org/content/dam/rand/pubs/research_reports/RR200/RR223/RAND_RR223.pdf), last accessed: 4th July 2015.

192 Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, pp.63-64

the Shura Council was exercising the legislative power. Yet, the judiciary blocked every law and every action proposed;<sup>193</sup> consequently, Dr Morsi and the FJP were precluded from undertaking the promised reforms.

- 3.124. Even after the approval of the Constitution, Dr Morsi was incapable of controlling the State institutions and bureaucracy and counterbalancing the power of those who were boycotting his authority. Although Dr Morsi's government proposed laws on NGOs, on demonstrations and on judicial reform, none of this legislation was approved before July 2013.<sup>194</sup>
- 3.125. More importantly, the Supreme Constitutional Court annulled the electoral law on three occasions, impeding the call for parliamentary elections indefinitely.<sup>195</sup> In June 2013 the Court announced its verdict declaring the unconstitutionality of the parliamentary elections for the Shura Council and of the Constituent Assembly. Although the Court did not dissolve the Shura Council and respected the new Constitution, this decision "*damaged the already weak legitimacy of the political institutions*"<sup>196</sup> and arrived eighteen months after the celebration of the elections; an act that destabilised the whole transitional process.

d. ***Dr Morsi's Removal***

- 3.126. Forces opposed to Dr Morsi called a massive demonstration on 30 June 2013, the date that marked the first anniversary of his rule.<sup>197</sup> The Army gave Dr Morsi 48 hours to satisfy the "*people's demands*",<sup>198</sup> or otherwise it would impose its own "*roadmap*".<sup>199</sup>
- 3.127. Three days later, on 3 July 2013, after his refusal to resign, the Army relieved Dr Morsi — the first democratically elected President of Egypt — of his functions "*in what amounted to a military coup*".<sup>200</sup>
- 3.128. The Army suspended the 2012 Constitution,<sup>201</sup> announced the formation of a "*technocratic interim government*",<sup>202</sup> and soon after Adli Mansour — a senior member of the judiciary under Mubarak's

---

193 *Idem*, p.64.

194 *Ibid.*

195 *Ibid.*

196 *Ibid.*

197 *Idem*, p.65.

198 BBC News (2015): "Profile: Egypt's Mohammed Morsi", 21st April 2015, available at: <http://www.bbc.com/news/world-middle-east-18371427>, last accessed: 5th July 2015; and Pioppi, D. (2013): "Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan", *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, p.65.

199 BBC News (2015): "Profile: Egypt's Mohammed Morsi", 21st April 2015, available at: <http://www.bbc.com/news/world-middle-east-18371427>, last accessed: 5th July 2015.

200 Al-Awadi, H. (2013): "Islamists in power: the case of the Muslim Brotherhood in Egypt", *Contemporary Arab Affairs*, Vol. 6, No. 4, p.545.

201 Marshall, R. (2013): "The Coup That Wasn't: When Policy Overrides the Facts", *Washington Report on Middle East Affairs*, September 2013, available at: <http://www.wrmea.org/2013-september/the-coup-that-wasnt-when-policy-overrides-the-facts.html>, last accessed: 5th July 2015.

202 BBC News (2015): "Profile: Egypt's Mohammed Morsi", 21st April 2015, available at: <http://www.bbc.com/news/world-middle-east-18371427>,

regime, — became President. Yet, in practice the country was ruled by the General Abdul Fattah el-Sisi — “*the leader of the coup and the army’s top commander*”.<sup>203</sup>

- 3.129. Dr Morsi disappeared for several weeks,<sup>204</sup> he was detained and retained in an unknown location.<sup>205</sup> The Army also imprisoned various members of the government and of the MB,<sup>206</sup> culminating in a prototypical *coup d’état*.
- 3.130. The overwhelming majority of authors agree that it was a military coup,<sup>207</sup> but the official version given by the new regime was that the military intervention was demanded by the people of Egypt and that the Army was only responding to the will of the people, as occurred in the Revolution of 25 January 2011.
- 3.131. In addition, there are clear indications that the military, far from just taking the opportunity to seize power in a delicate political context of popular unrest, had an interest and relevant role in preparing the crisis and instigating the coup
- 3.132. After the coup the Army appeared as a hero able to provide the long-awaited normality to the country.<sup>208</sup> The military proclaimed itself the *saviour of stability* in contrast to the Muslim Brotherhood-created chaos. This is the image that prevailed in the Army’s speeches before the coup. Abdul-Fattah al-Sisi — Minister of Defence and Commander-in-Chief of the Armed Forces at that time — declared that at the end of June 2013 the political crisis could “*lead to a collapse of the state*”,<sup>209</sup> and that the army would “*intervene to stop Egypt from slipping into a dark tunnel of civil fighting and killing, or sectarianism, or collapse of state institutions*”.<sup>210</sup>
- 3.133. The MB was promptly declared the enemy of the State. Soon after the military coup, al-Sisi called

---

last accessed: 5th July 2015.

203 Marshall, R. (2013): “The Coup That Wasn’t: When Policy Overrides the Facts”, *Washington Report on Middle East Affairs*, September 2013, available at: <http://www.wrmea.org/2013-september/the-coup-that-wasnt-when-policy-overrides-the-facts.html>, last accessed: 5th July 2015.

204 BBC News (2015): “Profile: Egypt’s Mohammed Morsi”, 21st April 2015, available at: <http://www.bbc.com/news/world-middle-east-18371427>, last accessed: 5th July 2015.

205 Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, p.65.

206 Marshall, R. (2013): “The Coup That Wasn’t: When Policy Overrides the Facts”, *Washington Report on Middle East Affairs*, September 2013, available at: <http://www.wrmea.org/2013-september/the-coup-that-wasnt-when-policy-overrides-the-facts.html>, last accessed: 5th July 2015.

207 Saleh, M. (2013): “Political Islam: One Step Backwards Towards a Leap Forward”, in Tadros, S. (2014): “Islamist Responses to the ‘End of Islamism’”, *Current Trends in Islamist Ideology*, Vol. 16, p.43; Al-Awadi, H. (2013): “Islamists in power: the case of the Muslim Brotherhood in Egypt”, *Contemporary Arab Affairs*, Vol. 6, No. 4, p.539; and Marshall, R. (2013): “The Coup That Wasn’t: When Policy Overrides the Facts”, *Washington Report on Middle East Affairs*, September 2013, available at: <http://www.wrmea.org/2013-september/the-coup-that-wasnt-when-policy-overrides-the-facts.html>, last accessed: 5th July 2015.

208 BBC News (2015): “Profile: Egypt’s Mohammed Morsi”, 21 April 2015, available at: <http://www.bbc.com/news/world-middle-east-18371427>, last accessed: 5th July 2015.

209 *Ibid.*

210 El-Dabh, B. (2013): “June 30: Tamarod and Its Opponents”, *Middle East Institute*, 26th June 2013, available at: <http://www.mei.edu/content/june-30-tamarod-and-its-opponents>, last accessed: 5th July 2015.



upon Egyptians to grant him “*a popular mandate in order to ‘confront terrorism’*”<sup>211</sup> The narrative of anger and fear against the MB became so grave that the organisation became “*not only an enemy of the revolution, but a terrorist group threatening the nation’s borders*”<sup>212</sup> Therefore, the coup not only resulted in Dr. Morsi’s fall, but it also became the starting point of one of the “*worst waves of repression*” in the history of the Muslim Brotherhood.<sup>213</sup>

#### e. **Military Run Government**

- 3.134. On 3 July 2013, a coup d’état orchestrated by different forces in Egypt, deposed President Morsi and commenced a militarily-supervised second transition for the country, and one that has granted unlimited and unchecked powers to the Army and to the former ruling elite.
- 3.135. On the same day, the Armed Forces issued a statement, read by General el-Sisi on TV, announcing a new roadmap for a second transition.<sup>214</sup> It proclaimed the establishment of a new military-backed interim Government that took control of all the legislative and executive powers in Egypt, and run the affairs of the country “*during the transitional period until the election of a new president*”.<sup>215</sup> In their statement, the Armed Forces did not explicitly mention any period of military rule,<sup>216</sup> but granted the President of the interim Government the relevant authority to issue Constitutional Declarations.<sup>217</sup> Despite there being an interim civilian government, Sisi, became the *de facto* leader of the country.<sup>218</sup>
- 3.136. The Government, replicating the actions taken by the SCAF in the aftermath of Mubarak’s ousting, issued two relevant Constitutional Declarations. The first one, on 5 July 2013, ordered the dissolution of the Shura Council.<sup>219</sup> With this movement, the interim Government completed the legal and political process of power accumulation. Second, and even more important than the first, on 8 July 2015, the interim President announced the approval of a Constitutional Declaration with thirty-three articles that determined “*the system of the State*”<sup>220</sup> during the transition. It also set a timeline

---

211 Monier, E. I. and Ranko, A. (2013): “The Fall of the Muslim Brotherhood: implications For Egypt”, *Middle East Policy*, Vol. 20, No. 4, p.116.

212 *Ibid.*

213 Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator: Italian Journal of International Affairs*, Vol. 48, No. 4, p. 51.

214 Egyptian Armed Forces (2013): “Statement by the Armed Forces on Thursday, 3 July 2013”, *State Information Service*, available at: <http://www.sis.gov.eg/En/Templates/Articles/tmpArticles.aspx?CatID=2861#.Vhd3laKwAx4>, last accessed: 9th October 2015.

215 *Ibidem.*

216 Kirkpatrick, D.D. (2013): “Army Ousts Egypt’s President; Morsi Is Taken Into Military Custody”, *The New York Times*, 3rd July 2013, available at: <http://www.nytimes.com/2013/07/04/world/middleeast/egypt.html>, last accessed: 5th December 2015.

217 Egyptian Armed Forces (2013): “Statement by the Armed Forces on Thursday, 3 July 2013”, *State Information Service*, available at: <http://www.sis.gov.eg/En/Templates/Articles/tmpArticles.aspx?CatID=2861#.Vhd3laKwAx4>, last accessed: 9th October 2015.

218 Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator*, Vol. 48, No. 4, December, p.65.

219 Interim President of the Republic of Egypt (2013): “Constitutional Declaration 5 July, 2013”, *State Information Service*, available at: <http://www.sis.gov.eg/En/Templates/Articles/tmpArticles.aspx?CatID=2665#.Vhd3u6KwAx4>, last accessed: 9th October 2015.

220 World Intellectual Property Organisation (2013): “Egypt. Constitutional Declaration of July 8, 2013”, available at: <http://www.wipo.int/wipolex/>

for the approval of Constitutional reforms to be finalised before and the presidential and only then parliamentary elections.<sup>221</sup>

- 3.137. This process is wholly different, and even contrary, to the one followed after the ousting of President Mubarak. In the first Egyptian transition, elections were called prior to the drafting of a new constitution in order to establish the Constituent Assembly reflecting the political preferences of the Egyptian people.
- 3.138. In contrast, this second constitutional process taking place in 2014 neither prioritized nor followed the political will of voters. The 50-member Constituent Assembly, re-drafting the 2012 Constitution, contained only two representatives from Islamists ideology, but no members of the MB or FJP,<sup>222</sup> which did not reflect the voters' preferences for Islamist trend reflected in the 2012 parliamentary and presidential elections.
- 3.139. Moreover, in the drafting process more than two thirds of Articles of the 2012 Constitution were either removed or modified.<sup>223</sup> Several actors denied the legitimacy of the Constitutional Assembly and the document it presented MB called to boycott the referendum in which Egyptian voters supposed approve the new 2014 Constitution.<sup>224</sup> This boycott was responded to with massive arrests and murderous violence by the state security authorities<sup>225</sup>.
- 3.140. Transparency International concluded that the *"the political context in the run-up to the referendum impaired conditions to hold a free and fair referendum compared with international standards"*.<sup>226</sup> Many other issues with the conduct of the referendum were also reported
- 3.141. Despite this, the vote was held on 14 and 15 January 2014 and 98.1% of the voters showed support for the new text, although the voter turnout was low, a mere 38.6%.<sup>227</sup> It expanded the power

---

en/details.jsp?id=13116, last accessed: 9th October 2015.

221 Interim President of the Republic of Egypt (2013): "Constitutional Declaration 8 July, 2013", *World Intellectual Property Organization*, available at: <http://www.wipo.int/edocs/lexdocs/laws/en/eg/eg048en.pdf>, last accessed: 10th October 2015.

222 Al-Youm, A-M. (2013): "We were not invited to participate in the Committee of 50, says Brotherhood", *Egypt Independent*, 2nd September 2013, available at: <http://www.egyptindependent.com/news/we-were-not-invited-participate-committee-50-says-brotherhood>, last accessed: 13th October 2015.

223 Auf, Y. (2013): "Egypt's Constitutional Committees", *Atlantic Council*, 5th September 2013, available at: <http://www.atlanticcouncil.org/en/blogs/egyptsource/egypt-s-constitutional-committees>, last accessed: 13th October 2015.

224 Ahram Online (2013): "Egypt's pro-Morsi coalition to boycott constitutional referendum", 22nd December 2013, available at: <http://english.ahram.org.eg/News/89799.aspx>, last accessed: 13th October 2015.

225 For instance, Amnesty International (2014): "Egypt: Roadmap to Repression. No end in sight to human rights violations", 23 January 2014, p.5, available at: <https://www.amnesty.org/en/documents/MDE12/005/2014/en/>, last accessed: 5th December 2015.

226 Transparency International Secretariat (2014): "Transparency International makes recommendations after observing Egypt referendum", *Transparency International*, 16th January 2014, available at: [http://www.transparency.org/news/pressrelease/transparency\\_international\\_makes\\_recommendations\\_after\\_observing\\_egypt\\_refe](http://www.transparency.org/news/pressrelease/transparency_international_makes_recommendations_after_observing_egypt_refe), last accessed: 13th October 2014 (emphasis added).

227 Ahram Online (2014): "Official vote result: 98.1% approves Egypt's post-June 30 constitution", 18th January 2014, available at: <http://english.ahram.org.eg/News/91874.aspx>, last accessed: 13th October 2015.

of three key state institutions: the military, the police and the judiciary.<sup>228</sup> The deficiencies of the Constitutional text were so manifest that only two months after the referendum, the Carter Centre was calling upon Egyptian society and institutions to introduce amendments to it with the aim to “*strengthen the core principles of democratic governance and bring the constitution better into alignment with Egypt’s international political and human rights obligations*”.<sup>229</sup>

- 3.142. The military takeover guaranteed the continuation of the status-quo, so the economic elite showed a renewed willingness to invest in the country. After Dr Morsi’s ousting “*most state prosecutions of big businessmen*” were dismissed,<sup>230</sup> and Sisi decided to paralyze any reforms started by the previous executive and continue the public policies and methods of work from Mubarak’s era. Neither the security forces nor the police were reformed. Moreover, both the appointment of Adly Mahmud Mansour, the chief justice of the SCC, as interim President, and the marked judicial composition of the ‘Expert Committee’ to draft the new Constitution, granted the Egyptian judiciary a prominent position in the new state.
- 3.143. The military coup marked the starting point of “*one of the worst waves of repression in the [Muslim Brotherhood’s] history*”.<sup>231</sup> The group has even been defined as terrorist, and thus the term ‘Muslim Brother’ has become a criminal concept in Egypt. The MB and thousands of its members are facing brutal persecution: arbitrary arrests, imprisonment, torture, death sentences after deeply flawed mass trials, seizure of assets without court orders, closure of TV channels, charity organisation etc.
- 3.144. Dr Morsi and his top aides were arrested without legal basis,<sup>232</sup> detained by the military and held incommunicado<sup>233</sup> in an unknown location.<sup>234</sup> He was later accused of complicity for the death of protesters in 2012 demonstrations in Cairo.<sup>235</sup> In the following years, Dr Morsi was tried in different

---

228 Kingsley, P. (2014): “Egypt’s new constitution gets 98% ‘yes’ vote”, *The Guardian*, 18th January 2014, available at: <http://www.theguardian.com/world/2014/jan/18/egypt-constitution-yes-vote-mohamed-morsi>, last accessed: 13th October 2015; and Carnegie Endowment (2013): “Comparing Egypt’s Constitutions”, available at: <http://carnegieendowment.org/files/Comparing-Egypt-s-Constitutions.pdf>, last accessed: 13th October 2015.

229 Carter Center (2014): “Carter Center Urges Dialogue and Constitutional Change to Strengthen Democratic Governance in Egypt”, 12th March 2014, p. 1, available at: <http://www.cartercenter.org/resources/pdfs/news/pr/egypt-constitution-031214.pdf>, last accessed: 14th October 2014.

230 Sowers, J. (2015): “Activism and Political Economy in the New-Old Egypt”, *International Journal of Middle East Studies*, Vol. 47, p. 142, available at: [http://www.researchgate.net/publication/272365688\\_Activism\\_and\\_Political\\_Economy\\_in\\_the\\_NewOld\\_Egypt](http://www.researchgate.net/publication/272365688_Activism_and_Political_Economy_in_the_NewOld_Egypt), last accessed: 5th December 2015.

231 Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator*, Vol. 48, No. 4, December, p.51.

232 UN Working Group on Arbitrary Detention (2014): “Opinions adopted by the Working Group on Arbitrary Detention at its sixty-eighth session, 13–22 November 2013, No. 39/2013 (Egypt)”, 4th April 2014, UN Doc A/HRC/WGAD/2013/39, par. 28, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/132/53/PDF/G1413253.pdf?OpenElement>, last accessed: 5th December 2015.

233 Pioppi, D. (2013): “Playing with Fire. The Muslim Brotherhood and the Egyptian Leviathan”, *The International Spectator*, Vol. 48, No. 4, December, p.51.

234 Human Rights Watch (2013): “Egypt: Halt Arbitrary Action Against Brotherhood, Media”, 8th July 2013, available at: <https://www.hrw.org/news/2013/07/08/egypt-halt-arbitrary-action-against-brotherhood-media>, last accessed: 5th December 2015.

235 Africa Research Bulletin (2013): “Crackdown on Muslim Brotherhood”, Vol. 50, Issue 8, August 2013, p.19819, available at: <http://onlinelibrary.wiley.com/doi/10.1111/j.1467-825X.2013.05288.x/abstract>, last accessed: 5th December 2015.

trials for several charges, receiving various life sentences, the longest being 25 years, a few of which he successfully appealed and for one a re-trial has been ordered during which he died at court in June 2019.<sup>236</sup>

- 3.145. Apart from Dr Morsi and his top aides, in July 2013 the Egyptian Army arrested 38 other senior aides of the Government, and public leaders from the MB and its political group, the FJP.<sup>237</sup>
- 3.146. Later in 2013, the Ministry of Social Solidarity “*dissolved the Brotherhood as a nongovernmental organisation*”.<sup>238</sup> In addition, the FJP was dissolved and precluded from participating in elections,<sup>239</sup> which excluded the Brotherhood from the media, civil society, and political life.<sup>240</sup> Despite the severity of the crackdown, the MB continued calling for a peaceful resistance against the military coup.<sup>241</sup>
- 3.147. Thereafter, harassment expanded to other organisations and individuals ideologically distant from Political Islam as part of a state-promoted way of silencing and marginalisation of political dissent.<sup>242</sup> Citizens opposed to the military coup or to the military trials or complaining about the limitation of political and human rights were arbitrarily arrested. Human Rights Watch reported that at least 16,000 Egyptians have been arrested,<sup>243</sup> and several human rights NGOs raided.<sup>244</sup>
- 3.148. As already mentioned, the new military regime had decided to give primacy to the presidential elections before the parliamentary ones. Sisi was elected as the President in May 2014 facing one other candidate. The Army, the judiciary, state institutions, almost all public and private media, the business elite and many political parties and movements — including a section of the Tamarod<sup>245</sup>—

236 BBC (2019): “Mohammed Morsi’s trials and convictions”, 17 June 2019 available at <https://www.bbc.com/news/world-middle-east-24772806>, last accessed on 21 August 2019.

237 Kirkpatrick, D.D. (2013): “Army Ousts Egypt’s President; Morsi Is Taken Into Military Custody”, *The New York Times*, 3rd July 2013, available at: <http://www.nytimes.com/2013/07/04/world/middleeast/egypt.html>, last accessed: 5th December 2015

238 Whitson, S. L. (2013): “The Government Cracks Down, and Egypt Shrugs”, *Human Rights Watch*, published in LA Times, 24th December 2013, available at: <https://www.hrw.org/news/2013/12/24/government-cracks-down-and-egypt-shrugs>, last accessed: 5th December 2015.

239 Dunne, M., and Williamson, S. (2014): “Egypt, Counterterrorism and the politics of alienation”, *Carnegie Endowment for International Peace*, 20th August 2014, available at: <http://carnegieendowment.org/2014/08/20/egypt-counterterrorism-and-politics-of-alienation>, last accessed: 5th December 2015.

240 Siegel, A. (2014): “Tweeting Beyond Tahrir: Ideological Diversity and Political Tolerance in Egyptian Twitter Networks”, p. 8, available at: [http://smapp.nyu.edu/SMAPP\\_Website\\_Papers\\_Articles/TweetingBeyondTahrir.pdf](http://smapp.nyu.edu/SMAPP_Website_Papers_Articles/TweetingBeyondTahrir.pdf), last accessed: 5th December 2015; and Dunne, M., and Williamson, S. (2014): “Egypt, Counterterrorism and the politics of alienation”, *Carnegie Endowment for International Peace*, 20th August 2014, available at: <http://carnegieendowment.org/2014/08/20/egypt-counterterrorism-and-politics-of-alienation>, last accessed: 5th December 2015.

241 Al Jazeera (2014): “Egypt issues presidential election law”, 8th March 2014, available at: <http://www.aljazeera.com/news/middleeast/2014/03/egypt-presidential-election-law-201438141520330512.html>, last accessed: 15th October 2015.

242 Puddington, A. (2014): “The Democratic Leadership Gap”, *Journal of Democracy*, Vol. 25, No. 2, April 2014, p. 78.

243 Human Rights Watch (2014): “Egypt Elections Amidst Political Repression”, 28th May 2014, New York, available at: <https://www.hrw.org/news/2014/05/28/egypt-elections-amidst-political-repression>, last accessed: 5th December 2015.

244 Carter Center (2014): “Carter Center Urges Inclusive Constitutional Reform Process and Increased Political Space Ahead of Egypt’s Referendum”, 6th January 2014, available at: <http://www.cartercenter.org/resources/pdfs/news/pr/egypt-010614.pdf>, last accessed: 14th October 2015.

245 BBC News (2014): “Hamdeen Sabahi: Egypt presidential candidate”, 16th May 2014, available at: <http://www.bbc.com/news/world-middle-east-27441418>, last accessed: 16th October; and The Economist Intelligence Unit (2014): “The Sisi Phenomenon”, New York, available at: <http://search.proquest.com/docview/1498140915?accountid=9630>, last accessed: 1 October 2015.

supported Sisi.<sup>246</sup> His triumph was so widely expected that the elections were considered as “a formality”.<sup>247</sup> Although there were no violent incidents, the new protest law imposed such severe legal restrictions on the right to protest that the right was no longer recognizable in Egypt.<sup>248</sup> The voter turn-out numbers were low,<sup>249</sup> and several Egyptian citizens chose to boycott or not to participate in the ‘pre-decided’ elections.<sup>250</sup> Thus, international observers criticised the electoral process and denied its validity and legitimacy.<sup>251</sup>

3.149. Since the SCC’s declaration of unconstitutionality of the first democratically elected parliament in Egypt two years before, in June 2012, the country had lacked a lower house of parliament and most legislative functions had been carried out by the executive. Thus, without a parliament that could oversee his actions, Sisi became the only ruler of the country, with practically unlimited powers.

3.150. He issued legislation by Presidential decree, only subjected to a constitutionality test. The 2014 Constitution permitted the President to issue such legislation and assigned the new parliament the task to review these decrees within 15 days of its inauguration. It is, therefore, not surprising that the first round of the parliamentary elections only took place in October 2015, a year and a half after the Sisi’s investiture as President. Sisi has unilaterally issued 175 laws and decrees since taking office in June 2014<sup>252</sup>, under no legislative oversight.

3.151. The new electoral law passed in 2014, prioritising individual candidacies, was a legislation tailored to

---

246 Kingsley, P. (2014): “Sisi’s only rival to be president of Egypt vows he will fight on despite the odds”, *The Guardian*, 24th May 2014, available at: <http://www.theguardian.com/world/2014/may/24/sisi-president-elections-hamdeen-sabahi>, last accessed: 16th October 2015; and BBC News (2014): “Hamdeen Sabahi: Egypt presidential candidate”, 16th May 2014, available at: <http://www.bbc.com/news/world-middle-east-27441418>, last accessed: 16th October.

247 Kirkpatrick, D. (2014): “International Observers Find Egypt’s Presidential Election Fell Short of Standards”, 29th May 2014, available at: <http://www.nytimes.com/2014/05/30/world/middleeast/international-observers-find-fault-with-egypt-vote.html>, last accessed: 17th October 2015.

248 Jones, S. (2014): “To Many Egyptians, Presidential Elections Only Mean A New Dictator”, *The World Post*, 26th May 2014, available at: [http://www.huffingtonpost.com/2014/05/26/egypt-presidential-election\\_n\\_5392509.html](http://www.huffingtonpost.com/2014/05/26/egypt-presidential-election_n_5392509.html), last accessed: 16th October 2015.

249 Kingsley, P. (2014): “Abdel Fatah al-Sisi won 96.1% of vote in Egypt presidential election, say officials”, *The Guardian*, 3rd June 2015, available at: <http://www.theguardian.com/world/2014/jun/03/abdel-fatah-al-sisi-presidential-election-vote-egypt>, last accessed: 17th October 2015; and Kirkpatrick, D. D. (2014): “Egypt Scrambles to Raise Turnout in Presidential Vote”, *The New York Times*, 27th May 2014, available at: <http://www.nytimes.com/2014/05/28/world/egypt-presidential-election.html>, last accessed: 6th December 2015.

250 Jones, S. (2014): “To Many Egyptians, Presidential Elections Only Mean A New Dictator”, *The World Post*, 26th May 2014, available at: [http://www.huffingtonpost.com/2014/05/26/egypt-presidential-election\\_n\\_5392509.html](http://www.huffingtonpost.com/2014/05/26/egypt-presidential-election_n_5392509.html), last accessed: 16th October 2015; and Hendawi, H. & Michael, M. (2014): “Egypt Election 2014: Voters Head To The Polls To Elect Country’s Next President”, *Huffington Post*, 26th May 2014, available at: [http://www.huffingtonpost.com/2014/05/26/egypt-election-2014\\_n\\_5391202.html](http://www.huffingtonpost.com/2014/05/26/egypt-election-2014_n_5391202.html), last accessed: 16th October 2015.

251 Democracy International (2014): “Egypt Presidential Election Observation Report”, July 2014, p. 1, available at: <http://democracyinternational.com/sites/default/files/Egypt%20Presidential%20Election%20Observation%20Report%20%28ES%29%20-%20for%20web.pdf>, last accessed: 17th October 2015; European Union Election Observation Mission (2014): “Arab Republic of Egypt, Presidential Election, 26/27 May 2014 Final Report”, p. 6, available at: [http://www.eucom.eu/files/pressreleases/english/eucom-egypt2014-final-report\\_en.pdf](http://www.eucom.eu/files/pressreleases/english/eucom-egypt2014-final-report_en.pdf), last accessed: 17th October 2015; Kingsley, P. (2014): “Abdel Fatah al-Sisi won 96.1% of vote in Egypt presidential election, say officials”, *The Guardian*, 3rd June 2015, available at: <http://www.theguardian.com/world/2014/jun/03/abdel-fatah-al-sisi-presidential-election-vote-egypt>, last accessed: 17th October 2015; and Hudson, M. C. (2014): “Egypt’s Presidential Election: Turning a Corner?”, *Policy Update 2/2104*, 26th May 2014, National University of Singapore and Middle East Institute, available at: [https://mei.nus.edu.sg/index.php/website/new\\_TMPL/Policy-Update-2-2014](https://mei.nus.edu.sg/index.php/website/new_TMPL/Policy-Update-2-2014), last accessed: 5th December 2015.

252 Human Rights Watch (2015): “Egypt: Counterterrorism Law Erodes Basic Rights”, 19th August 2015, available at: <https://www.hrw.org/news/2015/08/19/egypt-counterterrorism-law-erodes-basic-rights>, last accessed: 8th December 2015.

reduce the chances of opposition parties, guarantee a parliamentary majority of members supporting the regime, and strengthen the President's position.<sup>253</sup>

- 3.152. In March 2015 the Supreme Administrative Court suspended the scheduled parliamentary elections after the SCC declared some of the regulatory provisions for the elections unconstitutional.<sup>254</sup> The SCC alleged that the distribution of seats per district was unfair and disproportionate.<sup>255</sup> State authorities confined themselves to modifying these unconstitutional provisions, providing more territorial equality between constituencies. Nevertheless, they did not attempt to undertake a more profound reform of the electoral legislation that could ensure a fairer representation of political parties and address the aforementioned criticisms.
- 3.153. Eventually, the parliamentary election that took place between October and December 2015 saw majority of the parliament seats taken by Sisi supporters.<sup>256</sup>
- 3.154. Sisi was re-elected in March 2018. Both, presidential and parliamentary, elections were characterised by low voter turnout, deficient electoral laws and suppression of electoral diversity explaining the elections results.
- 3.155. In April 2019, the parliament passed further Constitutional amendments, which were approved in a popular referendum in the same month. They extended Sisi's current presidential term to six years, gave him the possibility to run for President in the third term in 2024, thus potentially extending his rule until 2030, and bolstered the role of the military and expanded the president's power over judicial appointments.<sup>257</sup>
- 3.156. From 3 July 2013, the history of Egypt has been littered with accounts of extrajudicial killings,<sup>258</sup> enforced disappearances,<sup>259</sup> cruel torture,<sup>260</sup> brutal suppression of protests and an unsurmountable

---

253 El Fegier, M. (2014): "The Return to Authoritarianism and the Crisis of Citizenship Rights", *Arab Citizenship Review*, No. 6, Democracy and Citizenship in North Africa Arab Awakening: Challenges for EU and US foreign policy, October 2014, p.7, available at: [http://aei.pitt.edu/56776/1/egypt\\_arab\\_citizenship\\_review\\_oct2014.pdf](http://aei.pitt.edu/56776/1/egypt_arab_citizenship_review_oct2014.pdf), last accessed: 5th December 2015.

254 MENA (2015): "HEC: 3,417 candidates apply for running in parliamentary elections", 3rd September 2015, available at: <http://www.sis.gov.eg/En/Templates/Articles/tmpArticles.aspx?ArtID=96199#.ViYte6KwAx4>, last accessed: 20th October 2015.

255 Morsy, A. (2015): "A Delayed Transition: Egypt's Suspended Elections", *Middle East Institute*, 7th April 2015, available at: <http://www.mei.edu/content/at/delayed-transition-egypt%E2%80%99s-suspended-elections>, last accessed: 20th October 2015.

256 Reuters (2015): "Alliance loyal to Sisi dominates Egypt parliamentary election", 4 December 2015, available at <https://www.reuters.com/article/us-egypt-election-idUSKBN0TN25L20151204>, last accessed on 21 August 2019.

257 DW (2019): "Egypt's constitutional changes approved in referendum", 23 April 2019, available at <https://www.dw.com/en/egypt-constitutional-changes-approved-in-referendum/a-48452398>, last accessed on 21 August 2019.

258 Holtmann, P. (2013): "After the Fall: The Muslim Brotherhood's Post-Coup Strategy", *Perspectives on Terrorism*, Vol. 7, Issue 5, p.198, available at: <http://www.terrorismanalysts.com/pt/index.php/pot/article/view/303>, last accessed: 5th December 2015.

259 Mada Masr (2015): "Report: 215 cases of forced disappearances in August, September", 13th October 2015, available at: <http://www.madamasr>

260 Dunne, M., and Williamson, S. (2014): "Egypt, Counterterrorism and the politics of alienation", *Carnegie Endowment for International Peace*, 20th August 2014, available at: <http://carnegieendowment.org/2014/08/20/egypt-counterterrorism-and-politics-of-alienation>, last accessed: 5th December 2015.



and legalistic limitation of human rights and freedoms.<sup>261</sup> It is estimated that almost 37,000 citizens have been arrested and imprisoned on political grounds, of whom 1,700 have faced terrorist charges,<sup>262</sup> and most of whom – 22,000 – belong to the MB.<sup>263</sup> Civilians are being tried by military courts.<sup>264</sup> Thousands have been sentenced to death in deeply flawed mass trials defined as a “travesty of justice” by several international actors.<sup>265</sup> The enforcement of the NGO law,<sup>266</sup> the approval of the protest law,<sup>267</sup> of the new counter-terrorism law,<sup>268</sup> of the legislative restrictions on the press,<sup>269</sup> and arrests of journalists,<sup>270</sup> including the trials of three Al-Jazeera journalists,<sup>271</sup> silenced the political dissidence and eliminated the right to political participation. Such has been the level of oppression and of political manipulation that human rights organisations and international independent electoral commissions concluded that both the Constitutional referendum of 2014 and the Presidential elections, could not be considered legitimate expressions of popular will.

### 3.157. A particular episode stands out for its cruelty and barbarism: the massacres of 14 August 2013

261 Africa Research Bulletin (2013): “Crackdown on Muslim Brotherhood”, Vol. 50, Issue 8, August 2013, p.19818, available at: <http://onlinelibrary.wiley.com/doi/10.1111/j.1467-825X.2013.05288.x/abstract>, last accessed: 5th December 2015.

262 Amnesty International (2015): “Generation Jail: Egypt’s Youth go from Protest to Prison”, 29th June 2015, p. 2, available at: <https://www.amnesty.org/en/documents/document/?indexNumber=mde12%2f1853%2f2015&language=en>, last accessed: 8th December 2015.

263 Whitson, S. L. (2014): “Egypt’s Cover-Up”, *Human Rights Watch*, 13th August 2014, available at: <https://www.hrw.org/news/2014/08/13/egypts-cover>, last accessed: 8th December 2015; and Amnesty International (2013): “Urgent Action. Deposed President and aides incommunicado”, 26th July 2013, available at: <http://www.amnestyusa.org/sites/default/files/uua19613.pdf>, last accessed: 5th December 2015

264 Cairo Institute for Human Rights Studies (2014): “Egyptian State Practices Violate Constitutional and Legal Guarantees for the Right to a Fair Trial; Military Courts Not Independent”, 31st October 2014, available at: <http://www.cihrs.org/?p=9673&lang=en>, last accessed: 8th December 2015.

265 OHCHR (2014): “Pillay urges review of Egyptian laws and judicial procedures after latest “shocking” conviction of Al Jazeera journalists”, 23<sup>rd</sup> June 2014, available at: <http://ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=14757&LangID=E>, last accessed: 8th December 2015.

266 Amnesty International (2014): “Egypt: Roadmap to Repression. No end in sight to human rights violations”, 23<sup>rd</sup> January 2014, p. 24, available at: <https://www.amnesty.org/en/documents/MDE12/005/2014/en/>, last accessed: 5th December 2015; and Human Rights Council (2014): “Written statement submitted by Amnesty International, a non-governmental organization in special consultative status”, 25th session, 27th February 2014, UN Doc. A/HRC/25/NGO/87, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/114/29/PDF/G1411429.pdf?OpenElement>, last accessed: 8th December 2015.

267 Human Rights Council (2015): “Written statement submitted by the Egyptian Organization for Human Rights, a non-governmental organization in special consultative status”, 28<sup>th</sup> session, 27<sup>th</sup> February 2015, UN Doc. A/HRC/28/NGO/169, p. 2, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/038/20/PDF/G1503820.pdf?OpenElement>, last accessed: 8th December 2015. See also Article 19 (2015): “Egypt: ARTICLE 19 condemn deaths after clashes between police and protesters”, 26th January 2015, available at: <https://www.article19.org/resources.php/resource/37830/en/egypt-article-19-condemn-deaths-after-clashes-between-police-and-protesters>, last accessed: 8th December 2015; Human Rights Council (2015): “Information presented by the National Council for Human Rights of Egypt”, 28<sup>th</sup> session, 27<sup>th</sup> February 2015, UN Doc. A/HRC/28/NI/6, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/037/71/PDF/G1503771.pdf?OpenElement>, last accessed: 8th December 2015; and Human Rights Council (2014): “Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21”, Working Group on the Universal Periodic Review, 20<sup>th</sup> session, 8<sup>th</sup> August 2014, UN Doc. A/HRC/WG.6/20/EGY/3, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/113/86/PDF/G1411386.pdf?OpenElement>, last accessed: 8th December 2015.

268 Human Rights Council (2015): “Written statement submitted by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status”, 28<sup>th</sup> Session, 25<sup>th</sup> February 2015, UN Doc. A/HRC/28/NGO/138, p.3, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/035/50/PDF/G1503550.pdf?OpenElement>, last accessed: 8th December 2015.

269 Amnesty International (2015): “Memorandum: Egypt’s Draft Law on Counter Terrorism”, 12th August 2015, p.7, available at: <https://www.amnesty.org/en/documents/document/?indexNumber=mde12%2f2269%2f2015&language=en>, last accessed: 8th December 2015.

270 Nader, M. and Soliman, N. (2013): “Besieging the Truth”, *Cairo Institute for Human Rights Studies*, October 2013, p.13, available at: <http://www.cihrs.org/?p=7445&lang=en>, last accessed: 5th December 2015

271 Amnesty International (2014): “Egypt: Roadmap to Repression. No end in sight to human rights violations”, 23<sup>rd</sup> January 2014, p.21, available at: <https://www.amnesty.org/en/documents/MDE12/005/2014/en/>, last accessed: 5th December 2015

in Cairo's Raba'a and al-Nahda Squares, where tens of thousands of civilians had congregated to protest against the military coup. It is estimated that on that date around 1,000 overwhelmingly peaceful protesters died as a result of the excessive and disproportionate use of force by security forces.<sup>272</sup>

- 3.158. Violence against women has also reached 'endemic levels' during the rule of Sisi.<sup>273</sup> Moreover, more than 150 men under Sisi's rule have been arrested for sodomy and subjected to "*anal examinations*" to detect "*chronic homosexuals*".<sup>274</sup>
- 3.159. The regime is also infamous for the lack of accountability of its security forces regarding the above-mentioned human rights violations in the context of demonstrations,<sup>275</sup> or in general.
- 3.160. Such is the legacy thus far of the new military regime of Sisi.

---

272 Amnesty International (2014): "Egypt: Roadmap to Repression. No end in sight to human rights violations", 23rd January 2014, p.29, available at: <https://www.amnesty.org/en/documents/MDE12/005/2014/en/>, last accessed: 5th December 2015; and Human Rights Watch (2014): "Egypt: Rab'a Killings Likely Crimes against Humanity", 12th August 2014, available at: <https://www.hrw.org/news/2014/08/12/egypt-raba-killings-likely-crimes-against-humanity>, last accessed: 8th December 2015.

273 Africa Research Bulletin (2014): "Egypt, Al-Sisi Wins", Vol. 51, No. 6, June 2014, p.20162, available at: <http://onlinelibrary.wiley.com/doi/10.1111/j.1467-825X.2014.05730.x/abstract>, last accessed: 5th December 2015.

274 Dearden, L. (2015): "Egypt still using anal examinations to detect and imprison 'chronic homosexuals'", *Independent*, 17th February 2015, available at: <http://www.independent.co.uk/news/world/africa/egypt-still-using-anal-examinations-to-detect-and-imprison-chronic-homosexuals-10051103.html>, last accessed: 10th October 2015.

275 OHCHR (2014): "Press briefing note on Egypt", Spokesperson for the UN High Commissioner for Human Rights: Rupert Colville, 2nd December 2014, available at: <http://ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=15368&LangID=E>, last accessed: 8th December 2015.



# Dr Morsi Arrest and Detention

## a. *Circumstances of arrest*

- 4.1. The first mass protests against Dr Morsi's rule began in November 2012, the worst violence occurring on the evening of 5 December 2012 when pro and anti-Morsi supporters fought in the streets around the Federal Palace, resulting in hundreds being injured and at least 10 losing their lives, most of them Dr Morsi supporters.
- 4.2. In 2013, Egyptian protesters gathered in Tahrir Square to participate in what was called the second wave of Egypt's revolution, calling for the removal of President Mohammed Morsi who had only completed one year in office.<sup>276</sup>
- 4.3. Dr Morsi was ousted from power by a military-backed government on 3 July 2013, the army suspending the constitution and announcing the formation of a technocratic interim government ahead of new presidential elections.<sup>277</sup> The arrest of Dr Morsi was ordered by the then armed forces Chief and President Sisi, whereupon he was taken to an undisclosed location and held in incommunicado detention along with several of his aides for months in conditions amount to enforced disappearance.<sup>278</sup>

## b. *Human rights violations in detention*

- 4.4. Following his removal as President in 2013, Dr Morsi was effectively held incommunicado by reason of his detention in solitary confinement.<sup>279</sup> Following his arrest, the ousted president was held in a military facility that was not an official place of detention as defined by international standards and guidelines. A 17-minute recording of discussions between high-level ministers regarding Dr Morsi's detention was first published by satellite channel 'al-mukammaleen'.<sup>280</sup> During the recording, General Mamdouh Shahin appears to tell General Abbas Kamel that authorities failed to detain Dr Morsi in a prison run by Egypt's Interior Ministry, instead holding him in a building owned by military ground forces under the leadership of General Osama al-Gundi.<sup>281</sup> Having been urged by the Interior Minister to solve the crisis "in any way possible", General Kamel asks for the description

---

<sup>276</sup> <https://www.aljazeera.com/indepth/opinion/2015/06/revisiting-egypt-2013-military-takeover-150630090417776.html>

<sup>277</sup> <https://www.bbc.co.uk/news/world-middle-east-18371427>

<sup>278</sup> <https://www.amnesty.org/en/latest/news/2015/05/egypt-court-recommends-death-sentences-for-morsi-more-than-100-others/>

<sup>279</sup> <https://static1.squarespace.com/static/5a9301ef0dbda346e74d0bf9/t/5ab813ef562fa7d5141924a5/1522013169079/Detention+Review+Panel+for+President+Morsi+Report+March+2018.pdf>

<sup>280</sup> <https://www.middleeasteye.net/news/morsis-lawyers-call-un-investigate-sisi-leaks>

<sup>281</sup> <https://www.middleeasteye.net/news/morsis-lawyers-call-un-investigate-sisi-leaks>

of the building where Dr Morsi was initially held to be changed from an army installation to an interior Ministry prison.<sup>282</sup> By posting a new sign and putting up a prison fence around the building, state authorities took steps intended to aid judges in denying requests by defence attorneys to release Dr Morsi following his unlawful arrest and detention.<sup>283</sup>

- 4.5. Given the lack of any direct access to Dr Morsi during his detention, details of the conditions in which he was detained can only really be gathered from the brief meetings with his family in detention and from the comments made in open court during the various hearings when he appeared in the dock. In August 2015, Dr Morsi appeared in court stating that he had stopped eating due to fears for his life, the former president said that the food he had been given on July 21 and July 22 was going to lead to a “*major crime*”.<sup>284</sup> He called on the court to give him access to doctors, saying that he was suffering from worrying low blood sugar levels and that he wanted to meet with his defence team to discuss five incidents that he considered to be life threatening. It would appear that these requests were ignored, and thus in contravention of both constitutional and international norms.
- 4.6. The reality of the situation being that Dr Morsi was seen as a threat, and a problem for the burgeoning dictatorial regime, and thus ignoring a problem was deemed to be preferable to acknowledging an issue and therefore being forced to deal with both the instant problem, and the potential wider ramifications of unlawfully detaining the former president, and the appalling treatment meted out during that detention.
- 4.7. Whilst being detained, Dr Morsi suffered from diabetes, low blood sugar levels, high blood-pressure, gradual loss of vision in his left eye as a result of the lack of regular treatment for his diabetes, recurrent diabetic comas, bone and muscular pain, including an injury to the neck and spine as a consequence of being forced to sleep on a cement floor and deterioration of liver and kidney function due to malnutrition and the lack of follow-up assessment of his medical conditions.<sup>285</sup>
- 4.8. Given these severe medical conditions, it is of particular concern that the physician who examined Dr Morsi was a GP appointed by the State and wholly inadequate in assessing his needs; Dr Morsi required an assessment by a radiologist, a physiotherapist and ophthalmologist given his particular, and worsening medical conditions.

---

<sup>282</sup> <https://www.middleeasteye.net/news/morsis-lawyers-call-un-investigate-sisi-leaks>

<sup>283</sup> <https://www.aljazeera.com/indepth/opinion/2015/05/trials-mohamed-morsi-150502064220435.html>

<sup>284</sup> <https://www.aljazeera.com/news/2015/08/egypt-morsi-abstaining-prison-food-150808160818373.html>

<sup>285</sup> <https://static1.squarespace.com/static/5a9301ef0dbda346e74d0bf9/t/5ab813ef562fa7d5141924a5/1522013169079/Detention+Review+Panel+for+President+Morsi+Report+March+2018.pdf>

- 4.9. Abdullah Morsi, Dr Morsi's son, was only able to visit his father once whilst he was being detained in the Tora prison complex. Abdullah was able to visit his father at Burj al-Arab prison in Alexandria; however, the visit was only half an hour long. There were five prison officers present for the entire duration of the visit and so it was difficult for the family to openly communicate with him. Every subsequent request for a visit was refused without any basis or justification,<sup>286</sup> again, a failing that is in direct contravention of both the Egyptian constitution, and accepted international minimum standards for the treatment of prisoners.<sup>287</sup>
- 4.10. After approximately 5 months, Dr Morsi was transferred to the Tora Farm Prison. In June 2017, his wife, daughter and lawyer were allowed to visit the ousted president, however, only the women were allowed in to see him. Dr Morsi told his visitors that the food he was being given was not adequate for his needs. He had also told this to the court on numerous occasions. Dr Morsi's son attempted to visit his father at least once a month and on each occasion the prison guards, without any justification, turned him away.<sup>288</sup>
- 4.11. During a court hearing in 2017, Dr Morsi told the Court of the conditions of his detention. During a statement that was transcribed by his lawyer, Dr Morsi told the Court of his deteriorating health and requested a visit from specialist medical professionals that was refused. At his trial on 8 August 2015, Dr Morsi told the court that he believed the food given to him by the prison officers had been poisoned and told the Court that he was under threat.
- 4.12. Of paramount importance when considering the conditions of Dr Morsi's detention are the findings of the Detention Review Panel from 2018.<sup>289</sup> In a panel set up at the behest of Dr Morsi's family, the group investigated the conditions within which he was being detained. The Panel Chair wrote directly to the Egyptian Ambassador requesting assistance with the facilitation of a visit to Egypt to see Dr Morsi, however there was no official response. Of relevance to this submission, the panel made the following findings:<sup>290</sup>
- a) Dr Morsi was no ordinary power in that he was the elected President of Egypt. Every

---

286 <https://static1.squarespace.com/static/5a9301ef0dbda346e74d0bf9/t/5ab813ef562fa7d5141924a5/1522013169079/Detention+Review+Panel+for+President+Morsi+Report+March+2018.pdf>

287 [https://www.unodc.org/pdf/criminal\\_justice/UN\\_Standard\\_Minimum\\_Rules\\_for\\_the\\_Treatment\\_of\\_Prisoners.pdf](https://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf)

288 <https://static1.squarespace.com/static/5a9301ef0dbda346e74d0bf9/t/5ab813ef562fa7d5141924a5/1522013169079/Detention+Review+Panel+for+President+Morsi+Report+March+2018.pdf>

289 <https://static1.squarespace.com/static/5a9301ef0dbda346e74d0bf9/t/5ab813ef562fa7d5141924a5/1522013169079/Detention+Review+Panel+for+President+Morsi+Report+March+2018.pdf>

290 <https://static1.squarespace.com/static/5a9301ef0dbda346e74d0bf9/t/5ab813ef562fa7d5141924a5/1522013169079/Detention+Review+Panel+for+President+Morsi+Report+March+2018.pdf>



independent report considered made reference to the particularly harsh treatment currently faced by Members of the Muslim Brotherhood and Freedom & Justice Party. The Egyptian government had not given any cause to think that Dr Morsi was being treated any better.

- b) The Tora Prison complex, also known as Scorpion Prison had been very harshly condemned for its inability to treat prisoners in accordance with both Egyptian and international law.
- c) Allegations made by Dr Morsi, directly in his own words in his statement in November 2017, as well as the allegations made by his son Abdullah Morsi, appear to be consistent with allegations recorded by the UN, Human Rights Watch, Amnesty International and various news reports about the treatment of prisoners in Egypt.
- d) Dr Morsi was receiving inadequate medical care, particularly with regards to his diabetes and liver disease. The panel accepted the opinion that this inadequate care would likely lead to rapid deterioration of his long-term conditions, which would likely lead to premature death. The failure to provide Dr Morsi with adequate medical treatment was a breach of Egyptian Law and the Mandela rules.
- e) On balance of probabilities, the detention of President Morsi was below the standard expected by international standards for prisoners and would constitute cruel, inhuman and degrading treatment.

4.13. Following the announcement of the panel, reports emerged that Dr Morsi's son was threatened with arrest and the Egyptian Foreign Affairs Committee expressed dissatisfaction with the panel's request to visit Dr Morsi.<sup>291</sup> The Egyptian news subsequently reported that by virtue of Abdullah Morsi's request for the panel to review his father's detention, that he had lied and insulted Egypt. The media alleged that the British media were 'lying and fabricating' allegations in order to damage the human rights reputation of Egypt.<sup>292</sup> Furthermore, the Egyptian Foreign Relations Committee of the House of Representatives described the request to visit Dr Morsi as "*blatant and unacceptable interference in Egyptian affairs*" and went on to express concern about the relationship of some prominent British figures with the MB. Despite the various comments to the Egyptian media, the panel did not receive any formal communication from the Foreign Relations Committee, the Egyptian Embassy or the Government.

---

291 <https://static1.squarespace.com/static/5a9301ef0dbda346e74d0bf9/t/5ab813ef562fa7d5141924a5/1522013169079/Detention+Review+Panel+for+President+Morsi+Report+March+2018.pdf>

292 <https://static1.squarespace.com/static/5a9301ef0dbda346e74d0bf9/t/5ab813ef562fa7d5141924a5/1522013169079/Detention+Review+Panel+for+President+Morsi+Report+March+2018.pdf>

- 4.14. By failing to bring Dr Morsi directly before a Court, the Egyptian Government denied him his rights under Article 54 of the Constitution to see a Prosecutor within 24 hours to challenge the legality of his arrest.
- 4.15. Further, pursuant to Articles 9 and 14 of the ICCPR, to which Egypt is a State Party, anyone who is arrested shall be informed at the time of arrest, of the reasons of his arrest and shall be promptly informed of any charges against him and shall be entitled to take proceedings before a court, in order that the court may decide, without delay, on the lawfulness of his detention.<sup>293</sup>
- 4.16. Dr Morsi was not given any legal basis to justify his detention, nor was he notified of the charges brought against him or afforded the opportunity for a Judge to determine the legality of his detention.
- 4.17. During the initial period of arbitrary detention, Dr Morsi was questioned without his lawyer being present, such conduct being in clear violation of Article 54 of Egypt's constitution, which provides that investigations may not start unless the accused's lawyer is present.<sup>294</sup>
- 4.18. By a letter dated 7 August 2013, the Working Group on Arbitrary Detention transmitted the aforementioned allegations to the Government of Egypt requesting detailed information about the current situation of Dr Morsi and his advisors. The Government failed to respond to the allegations transmitted by the Group or request an extension.<sup>295</sup>

c. ***Fair Trial violations***

- 4.19. When a Head of State is deposed by the military and then put on trial, there is bound to be an assumption that any such case against them will have a strong political current. It therefore falls upon the authorities to prove that any investigations into the alleged offences are conducted effectively, independently and impartially. The Egyptian authorities had violated Dr Morsi's right to a fair trial even before he had reached the courtroom.<sup>296</sup> The fact that he was held incommunicado for months without judicial oversight and he didn't have a lawyer to represent him during investigations, it is our respectful submission that any subsequent trials were nothing but a façade based on inherently flawed procedures. In the post-coup realignment, the judiciary has stepped in to mask the arbitrariness and violence of the military's actions with the illusion of due process and legal procedure.<sup>297</sup>

---

<sup>293</sup> <http://hrlibrary.umn.edu/wgad/39-2013.html>

<sup>294</sup> [https://www.constituteproject.org/constitution/Egypt\\_2014.pdf](https://www.constituteproject.org/constitution/Egypt_2014.pdf)

<sup>295</sup> <http://hrlibrary.umn.edu/wgad/39-2013.html>

<sup>296</sup> <https://www.amnesty.org/download/Documents/MDE1214932015ENGLISH.pdf>

<sup>297</sup> <https://www.aljazeera.com/indepth/opinion/2015/05/trials-mohamed-morsi-150502064220435.html>

- 4.20. The ousted president was unable to appoint defence counsel, or to communicate with a defence team formed to represent him ahead of his trial that opened on 4 November 2013. On this occasion, Dr Morsi was to stand trial against 14 other senior figures from the Muslim Brotherhood, accused of inciting his supporters to murder a journalist and two opposition protesters, as well as ordering the torture and unlawful detention of others.<sup>298</sup> The charges related to clashes between opposition protesters and Muslim Brotherhood supporters outside the Ittihadiya Presidential Palace in Caro, December 2012.<sup>299</sup> The defence team were only able to obtain a copy of the 7,000 page case file on 30 October 2013, severely restricting the amount of time they had to prepare their defence.<sup>300</sup> The defence were also required to pay a sum equivalent to \$2,717 for the full case file.
- 4.21. The actions of the Egyptian authorities therefore clearly violate his right to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing under Article 14 ICCPR.<sup>301</sup>
- 4.22. Dr Morsi's defence lawyers had argued that the violations of due process were such as to render his trial null and void, under the principle in Egyptian law that "*what is built on null procedures is null*".<sup>302</sup> During the first hearing, he shouted from the dock that he was the victim of a 'military coup' and rejected the authority of the Courts to try him.<sup>303</sup> Dr Morsi was subsequently acquitted of murder but received a prison sentence of 20 years for ordering the torture and detention of protesters. He would later face numerous other charges before being sentenced to death, although this conviction was overturned.<sup>304</sup> The timing of Dr Morsi's conviction came just as the state was reaching the legal limit of its power to hold Dr Morsi without having convicted him of any crime.
- 4.23. On the same day that the Court convicted Dr Morsi in the Ittihadiyyah case, the judiciary announced a fresh set of charges against him, alleging that he incited protesters at Raba'a to commit violent acts. The judges were seemingly indifferent to the fact that Dr Morsi was being held incommunicado throughout the 6-week sit-ins that followed the military coup on July 3 and that the protesters were actually responding to the military's overthrow and detention of the President.<sup>305</sup>
- 4.24. During the Court hearings, Dr Morsi was kept in a cage with tinted glass, unable to see or be seen.

---

298 <https://www.bbc.co.uk/news/world-middle-east-18371427>

299 <https://www.bbc.co.uk/news/world-middle-east-18371427>

300 <https://www.amnesty.org/download/Documents/MDE1214932015ENGLISH.pdf>

301 <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

302 <https://www.amnesty.org/download/Documents/MDE1214932015ENGLISH.pdf>

303 <https://www.bbc.co.uk/news/world-middle-east-18371427>

304 <https://www.bbc.co.uk/news/world-middle-east-18371427>

305 <https://www.aljazeera.com/indepth/opinion/2015/05/trials-mohamed-morsi-150502064220435.html>

In a statement that was transcribed by Dr Morsi's defence lawyer in court, Dr Morsi told the Court that he could not hear the witnesses speaking or his own defence team. He was not able to correct a witness, for example, if something inaccurate was said about him.<sup>306</sup>

- 4.25. The ousted president was on trial for espionage when he died in court on 17 June 2019.
- 4.26. From the moment that Dr Morsi was arrested, it is clear to see that the treatment he endured at the hands of the Egyptian State was questionable at best and torturous at worst. The incommunicado detention and constant refusals to allow the ousted president to contact his family, as well as his chosen defence counsel, clearly violated not only domestic legislation, but also international standards and guidelines, including various treaties to which Egypt is a State Party. The detention was arbitrary not only as a result of its purely political agenda and the failure to inform the ousted president for the reasons of his detention, but also due to the fact that he was not afforded the opportunity at any point to challenge the basis of his detention. This conduct would therefore clearly breach not only the Egyptian constitution, but also various international treaties.
- 4.27. It is evident from the evidence gathered not only by the Detention Review Panel but also from Dr Morsi's statements in open court, that he had severe medical health conditions that were not treated appropriately or effectively by the Egyptian authorities. Due to the range of medical concerns, the former president required specialist attention, a request that was made various times in court but refused without any viable justifications as to why. It is therefore our respectful submission that the treatment of Dr Morsi, whilst being detained by the Egyptian authorities, constituted torture or other cruel or inhumane treatment.
- 4.28. Information gathered regarding the trials against Dr Morsi clearly demonstrates grave violations of due process and fair trial guarantees. The defence team were given inadequate time to prepare for trial in 2013 and the disparities in the treatment between the prosecution and defence only continued throughout the various "sham" hearings that Dr Morsi endured until his death earlier this year. Being kept in a glass cage, out of sight of the rest of the court, Dr Morsi reported on various occasions that he was unable to hear what witnesses were saying, therefore preventing him from being able to challenge the accuracy or vivacity of any evidence against him.

---

<sup>306</sup> <https://static1.squarespace.com/static/5a9301ef0dbda346e74d0bf9/t/5ab813ef562fa7d5141924a5/1522013169079/Detention+Review+Panel+for+President+Morsi+Report+March+2018.pdf>





# Domestic Legislative Framework and Violations

- 5.1. Following the death of Dr Morsi, the Egyptian authorities responded to critics asking them to trust the Egyptian law and the Egyptian judicial system.
- 5.2. This section covers elements of the Egyptian legal system and practice that is considered to be in violation of international norms and standards to show that Egyptian law, and in fact Egyptian due process, is not fit for purpose, making the case stronger for an independent investigation.
- 5.3. The laws cited cover a number of examples to demonstrated that the creation of laws in Egypt and their enforcement are highly plasticised.

## a. *Background*

- 5.4. The Egyptian legal system has evolved over centuries and has its origins in the Napoleonic Codes, Roman Law, and Islamic Shari'a.<sup>307</sup> The modern Egyptian legal system first emerged in 1874, when Egypt gained sovereignty from the Ottoman Empire in matters pertaining to legal and administrative regulation matters,<sup>308</sup> and by 1875, Egypt had formed its own national legal system.<sup>309</sup>
- 5.5. Egypt established its Supreme Court, the Supreme Constitutional Court, in 1969, to enforce the compliance of laws with the provisions of the Egyptian Constitution.<sup>310</sup> The Egyptian Constitution of 1971 further declared the judiciary independent and autonomous from the executive branch.<sup>311</sup>

## b. *Post 2011: An overview delirious*

- 5.6. In 2015, more than four years after the 25 January Revolution, Egyptian society continues to be regulated by Mubarak-era laws that significantly curtail rights and freedoms in the country.
- 5.7. After the dissolution of the People's Assembly by the Supreme Constitutional Court in 2012, Dr Morsi had a limited capacity to promote legal reforms; and despite the legislative activity of Sisi's rule, he has unilaterally issued 175 laws and decrees since taking office in June 2014,<sup>312</sup> under no

---

<sup>307</sup> Library of Congress: "Legal Research Guide: Egypt", 6<sup>th</sup> September 2015, available at: <https://www.loc.gov/law/help/legal-research-guide/egypt.php#introduction>.

<sup>308</sup> *Ibidem*.

<sup>309</sup> *Ibidem*.

<sup>310</sup> *Ibidem*.

<sup>311</sup> *Ibidem*.

<sup>312</sup> Human Rights Watch (2015): "Egypt: Counterterrorism Law Erodes Basic Rights", 19th August 2015, available at: <https://www.hrw.org/>



legislative oversight, the government Sisi has been dramatically selective with the laws they approve.

- 5.8. Several organisations noted the profound necessity in amending the Egyptian Penal Code to make its definition of torture consistent with the Convention against Torture and the 2014 Constitution,<sup>313</sup> the need to decriminalise defamation of public officials and of religion, and improve the protection of women against rape and other forms of sexual violence.<sup>314</sup> They also stressed that the Constitution and the Code of Military Justice facilitates unfair trials of civilians before military courts, and that neither the Labour Regulation nor the Telecommunications Act comply with international conventions.<sup>315</sup>
- 5.9. Further, given the precarious situation of prisoners in Egypt, these organisations called for an amendment of the Prisons Act No. 396, “*especially regarding places of detention, nutrition, health care, and rehabilitation of prisoners*”.<sup>316</sup> Moreover, Egypt has not ratified certain basic international human rights conventions, such as the Optional Protocol for the International Covenant for Civil and Political Rights, the International Convention for the Protection of All Persons from Enforced Disappearance, or the Rome Statute.
- 5.10. Despite all these criticisms, highlighted in the last Universal Periodic Review of Egypt, Sisi’s government has failed to promote meaningful reforms in these key areas.
- 5.11. Below is a list of examples that show why the Egyptian legal system should not be entrusted in dealing with the death of Dr Morsi.

**c. *Example 1: Laws relation to freedom of expression and association***

- 5.12. The most relevant example of this reformatory deficiency is Law No. 84 of 2002, regulating the work of associations and NGOs. According to every international expert, this law places “*arbitrary restrictions on freedom of association*”,<sup>317</sup> as it provides the Government with excessive powers to control the activities, registration and funding of NGOs and associations.<sup>318</sup> It also associates unreasonable

---

news/2015/08/19/egypt-counterterrorism-law-erodes-basic-rights, last accessed: 8th December 2015.

313 Human Rights Council (2014): “Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21”, Working Group on the Universal Periodic Review, 20<sup>th</sup> session, 8<sup>th</sup> August 2014, par. 6, UN Doc. A/HRC/WG.6/20/EGY/3, available at: [http://www.upr-info.org/sites/default/files/document/egypt/session\\_20\\_-\\_october\\_2014/a\\_hrc\\_wg.6\\_20\\_egy\\_3\\_e.pdf](http://www.upr-info.org/sites/default/files/document/egypt/session_20_-_october_2014/a_hrc_wg.6_20_egy_3_e.pdf), last accessed: 8th December 2015.

314 *Idem*, par. 20.

315 *Idem*, par. 23 and 24.

316 *Idem*, par. 6.

317 Amnesty International (2014): “Egypt: Roadmap to Repression. No end in sight to human rights violations”, 23rd January 2014, p. 24, available at: <https://www.amnesty.org/en/documents/MDE12/005/2014/en/>, last accessed: 5th December 2015

318 Human Rights Council (2014): “Written statement submitted by Amnesty International, a non-governmental organization in special consultative status”, 25th session, 27th February 2014, UN Doc. A/HRC/25/NGO/87, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/114/29/PDF/G1411429.pdf?OpenElement>, last accessed: 8th December 2015.

criminal penalties for non-compliance with the rules it sets,<sup>319</sup> and permits administrative authorities to dissolve NGOs without judicial order.<sup>320</sup>

- 5.13. This law, characteristic of a dictatorial regime, has resulted in the activities of NGO's and associations in Egypt being limited to a significant extent since Dr Morsi's ouster. Given the repressive legislation and the crackdown on dissent and criticism in Egypt, the situation for Egyptian civil society is desperate. NGOs are often portrayed publicly as "*foreign conspirators*" attempting to damage Egypt's image.<sup>321</sup> The obstacles placed on human rights organisation are so grave that most international NGOs have either closed their offices in Egypt or restricted their scope of activities.<sup>322</sup>
- 5.14. As an, example, in December 2013, "*security forces raided the Egyptian Centre for Economic and Social Rights*", and arrested several members of its staff.<sup>323</sup> Furthermore, a serious incident that gained global attention took place in August 2014, when senior staff of Human Rights Watch were denied entry to Egypt "*for security reasons*";<sup>324</sup> consequently they were prevented from launching a new report that analysed the violence used to disperse the peaceful sit-ins of Raba'a and al-Nahda squares.<sup>325</sup>
- 5.15. The Special Rapporteur on the Situation of Human Rights Defenders<sup>326</sup> expressed concerns about the undue restrictions placed on the peaceful work of civil society organisations by the Law No. 84, and highlighted that it has been the source of several communications to the system of human rights protection of the United Nations.<sup>327</sup> The Special Rapporteur also noted that the Egyptian Government, during the Universal Periodic Review, promised to undertake a reform of this law,<sup>328</sup> however, just one month after the Review, a "*travel ban was issued against three board of directors for the*

---

319 Human Rights Council (2015): "Report of the Special Rapporteur on the situation of human rights defenders, Michel Forst. Addendum.

Observation on communications transmitted to Governments and replies received", 28<sup>th</sup> session, 4<sup>th</sup> March 2015, UN Doc. A/HRC/28/63/Add.1, par. 497, available at: <http://www.ohchr.org/Documents/Issues/Defenders/A-HRC-28-63-Add-1.pdf>, last accessed: 8th December 2015.

320 Amnesty International (2014): "Egypt: Roadmap to Repression. No end in sight to human rights violations", 23rd January 2014, p.25, available at: <https://www.amnesty.org/en/documents/MDE12/005/2014/en/>, last accessed: 5th December 2015

321 *Idem*, p.23.

322 Human Rights Council (2015): "Written statement submitted by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status", 28<sup>th</sup> Session, 25<sup>th</sup> February 2015, UN Doc. A/HRC/28/NGO/138, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/035/50/PDF/G1503550.pdf?OpenElement>, last accessed: 8th December 2015; and El Fegieri, M. (2014): "Escalating reprisals against human rights defenders", *Cairo Institute for Human Rights Studies*, 1<sup>st</sup> September 2014, available at: <http://www.cihrs.org/?p=9138&lang=en>, last accessed: 8th December 2015.

323 Human Rights Council (2014): "Written statement submitted by Amnesty International, a non-governmental organization in special consultative status", 25<sup>th</sup> session, 27<sup>th</sup> February 2014, UN Doc. A/HRC/25/NGO/87, p.3, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/114/29/PDF/G1411429.pdf?OpenElement>, last accessed: 8th December 2015.

324 Roth, K. (2014): "Egypt's Tiananmen", *Human Rights Watch*, 12th August 2014, available at: <https://www.hrw.org/news/2014/08/12/egypt-tiananmen>, last accessed: 8th December 2015.

325 El Fegieri, M. (2014): "Escalating reprisals against human rights defenders", *Cairo Institute for Human Rights Studies*, 1<sup>st</sup> September 2014, available at: <http://www.cihrs.org/?p=9138&lang=en>, last accessed: 8th December 2015.

326 <https://www.ohchr.org/en/issues/srhrdefenders/Pages/SRHRDefendersIndex.aspx>

327 Human Rights Council (2015): "Report of the Special Rapporteur on the situation of human rights defenders, Michel Forst. Addendum. Observation on communications transmitted to Governments and replies received", 28<sup>th</sup> session, 4<sup>th</sup> March 2015, UN Doc. A/HRC/28/63/Add.1, par. 497, available at: <http://www.ohchr.org/Documents/Issues/Defenders/A-HRC-28-63-Add-1.pdf>, last accessed: 8th December 2015.

328 *Ibidem*.

- 5.16. Therefore, Sisi's executive has not only failed to undertake profoundly needed legal reforms to adapt the Egyptian legislation so as to bring it in line with current international standards, but also encouraged legal reforms that extraordinarily curbed basic freedoms in the country.

d. ***Example 2: Laws relating to detention and trials:***

- 5.17. The widespread character of arrests and judicial harassment in Egypt has been the focus of much analysis. Amnesty International published in June 2015 a report called "Generation Jail: Egypt's Youth go from Protest to Prison", which opined that Egyptian authorities are systematically jailing *"the country's youth for protesting, for their political activities, or their human rights activism"*,<sup>330</sup> and linked the massive and arbitrary arrests with the Protest Law. In practice, this law permitted Egyptian law enforcement authorities to detain thousands of citizens *"on copy-cat accusations of 'protesting without authorisation', taking part in political violence and committing public order offences"*.<sup>331</sup> In a written statement to the UN Human Rights Council the same organization confirmed that a thousand citizens have been arrested and imprisoned in Egypt without any respect for due process rights while they were *"peacefully expressing their opposition to the military"*.<sup>332</sup> Indeed, the UN High Commissioner for Human Rights has expressed concern about *"reports that numerous people have been arrested in connection with protests"*, and asked for their immediate release or lawful charge.<sup>333</sup>
- 5.18. Human Rights Watch documented numerous cases of arbitrary arrests and selective targeting of individuals *"based solely on their political objectives"*;<sup>334</sup> and according to Amnesty International, *"judicial proceedings initiated against perceived political opponents and critics appear to be increasingly politically motivated – aimed more at penalizing dissent rather than achieving justice"*.<sup>335</sup>
- 5.19. Egyptian authorities have justified the detentions and violation of standards on the basis of stability

---

329 Human Rights Council (2015): "Written statement submitted by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status", 28<sup>th</sup> Session, 25<sup>th</sup> February 2015, UN Doc. A/HRC/28/NGO/138, p. 2, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/035/50/PDF/G1503550.pdf?OpenElement>, last accessed: 8th December 2015.

330 Amnesty International (2015): "Generation Jail: Egypt's Youth go from Protest to Prison", 29th June 2015, p.3, available at: <https://www.amnesty.org/en/documents/document/?indexNumber=mde12%2f1853%2f2015&language=en>, last accessed: 8th December 2015.

331 *Ibidem*.

332 Human Rights Council (2014): "Written statement submitted by Amnesty International, a non-governmental organization in special consultative status", 25<sup>th</sup> session, 27th February 2014, UN Doc. A/HRC/25/NGO/87, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/114/29/PDF/G1411429.pdf?OpenElement>, last accessed: 8th December 2015.

333 OHCHR (2014): "Pillay appeals for restraint, investigations in wake of escalating violence in Egypt", 27<sup>th</sup> January 2014, available at: <http://ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=14199&LangID=E>, last accessed: 8th December 2015.

334 Human Rights Watch (2013): "Egypt: Morsy's Ex-Aides Forcibly Disappeared", 1st December 2013, available at: <https://www.hrw.org/news/2013/12/01/egypt-morsys-ex-aides-forcibly-disappeared>, last accessed: 5th December 2015

335 Amnesty International (2014): "Egypt: Roadmap to Repression. No end in sight to human rights violations", 23rd January 2014, p.33, available at: <https://www.amnesty.org/en/documents/MDE12/005/2014/en/>, last accessed: 5th December 2015

and security of the country<sup>336</sup> and the need to fight terrorism.<sup>337</sup> These concepts have simply become a pretext to continue the state policies of oppression.

- 5.20. However, the NGO SCOVA communicated to the UN Human Rights Council that Egyptian authorities were jailing a large number of citizens based on “*fabricated illegal justifications to rationalize the unlawful detention*”.<sup>338</sup> As a matter of fact, there are numerous instances of people having been detained and accused of invented charges.
- 5.21. Therefore, the judiciary and prosecution has played an important role in the arrest of thousands of political dissidents and on the suppression of critical voices to the new military regime. Below are more ways the judiciary and prosecution are relevant.
- 5.22. First, public prosecutors have showed a significant degree of selectivity in the choices of cases to investigate<sup>339</sup> and continued to fulfil the decades-long promise of impunity for law-enforcement authorities. For example, while 1,100 protesters were arrested during the dispersal of the sit-ins of Raba’a and al-Nahda,<sup>340</sup> security forces continue to be unaccountable for their role in the massacre that resulted in the death of over 1000 civilians.
- 5.23. Secondly, judicial authorities have adopted a policy of systematic and rampant use of pre-trial detention and maintained thousands of Egyptians in jail for prolonged periods of time<sup>341</sup> without a proper legal basis to justify their imprisonment or adequate legal protection. Last statistics released, in July 2014 showed that 7389 people remained in pre-trial detention “*in connection with the unrest surrounding Morsi’s overthrow*”<sup>342</sup> one year before. Pre-trial detention has, as a consequence, become “*a tool to impose prison sentences without trial*” in Egypt.<sup>343</sup>

---

336 Amnesty International (2015): “Generation Jail: Egypt’s Youth go from Protest to Prison”, 29th June 2015, p. 3, available at: <https://www.amnesty.org/en/documents/document/?indexNumber=mde12%2f1853%2f2015&language=en>, last accessed: 8th December 2015.

337 Hassan, B. e. (2014): “Pharaohs and Caliphs”, *Cairo Institute for Human Rights Studies*, 7th February 2014, available at: <http://www.cihrs.org/?p=8104&lang=en>, last accessed: 5th December 2015.

338 Human Rights Council (2013): “Written statement submitted by the Sudan Council of Voluntary Agencies (SCOVA), a non-governmental organization in special consultative status”, Human rights situations that require the Council’s attention, 10<sup>th</sup> September 2013, 24<sup>th</sup> session, UN Doc. A/HRC/24/NGO/97, p.2, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/168/57/PDF/G1316857.pdf?OpenElement>, last accessed: 8th December 2015.

339 Amnesty International (2014): “Egypt: Roadmap to Repression. No end in sight to human rights violations”, 23rd January 2014, p.33, available at: <https://www.amnesty.org/en/documents/MDE12/005/2014/en/>, last accessed: 5th December 2015

340 *Ibidem*.

341 El Fegieri, M. (2014): “Egypt’s Transition in Crisis: The Decline of Citizenship Rights”, *Arab Citizenship Review*, No. 4, Democracy and Citizenship in North Africa Arab Awakening: Challenges for EU and US foreign policy, April 2014, available at: <http://www.cihrs.org/?p=8552&lang=en>, last accessed: 5th December 2015.

342 Human Rights Watch (2015): “Egypt: Year of Abuses Under al-Sisi”, 8th June 2015, available at: <https://www.hrw.org/news/2015/06/08/egypt-year-abuses-under-al-sisi>, last accessed: 24th November 2015.

343 Cairo Institute for Human Rights Studies (2014): “Egyptian State Practices Violate Constitutional and Legal Guarantees for the Right to a Fair Trial; Military Courts Not Independent”, 31st October 2014, available at: <http://www.cihrs.org/?p=9673&lang=en>, last accessed: 8th December 2015.

5.24. As a matter of fact, although the Code of Criminal Procedure already allows prolonged periods of preventive detention,<sup>344</sup> Mansour passed a decree making pre-trial detention indefinite “*for persons accused of certain crimes*”.<sup>345</sup>

5.25. Third, the standard of evidence in these cases is very low and highly partial. Prosecutorial authorities usually place excessive weight on police reports and rely on this form of evidence “*without presenting any audio-visual or other material evidence linking the defendants to the crime*”.<sup>346</sup>

e. **Example 3: Selection of the Judiciary**

5.26. When it comes to judges, it is important to note that certain pro-Morsi judges, who have voiced dissent against state policies have been “*excluded from the judiciary or subjected to disciplinary measures*”;<sup>347</sup> and experts concluded that the Egyptian judiciary is not independent.<sup>348</sup>

f. **Example 4: Military Trials**

5.27. Through law, military trials of civilian citizens continue being a reality in Egypt. On 27th October 2013, a presidential decree expanded the jurisdiction of military courts, in a “*reincarnation of the infamous Emergency law used by Mubarak to silence his political opponents*”.<sup>349</sup> Moreover, the 2014 Constitution allows military courts to judge civilians, a provision that was the focus of much national and international criticism.

5.28. The military trial of civilians constitutes in itself a human rights violation and a breach of international standards concerning a fair trial,<sup>350</sup> but given the widely acknowledged procedural

---

344 Human Rights Council (2014): “Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21”, Working Group on the Universal Periodic Review, 20<sup>th</sup> session, 8<sup>th</sup> August 2014, UN Doc. A/HRC/WG.6/20/EGY/3, par. 56, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/113/86/PDF/G1411386.pdf?OpenElement>, last accessed: 8th December 2015

345 El Fegier, M. (2014): “Egypt’s Transition in Crisis: The Decline of Citizenship Rights”, *Arab Citizenship Review*, No. 4, Democracy and Citizenship in North Africa Arab Awakening: Challenges for EU and US foreign policy, April 2014, p. 2, available at: <http://www.cihrs.org/?p=8552&lang=en>, last accessed: 5th December 2015.

346 Amnesty International (2014): “Egypt: Roadmap to Repression. No end in sight to human rights violations”, 23rd January 2014, p. 34, available at: <https://www.amnesty.org/en/documents/MDE12/005/2014/en/>, last accessed: 5th December 2015

347 El Fegier, M. (2014): “The Return to Authoritarianism and the Crisis of Citizenship Rights”, *Arab Citizenship Review*, No. 6, Democracy and Citizenship in North Africa Arab Awakening: Challenges for EU and US foreign policy, October 2014, available at: [http://aei.pitt.edu/56776/1/egypt\\_arab\\_citizenship\\_review\\_oct2014.pdf](http://aei.pitt.edu/56776/1/egypt_arab_citizenship_review_oct2014.pdf), last accessed: 5th December 2015.

348 Cairo Institute for Human Rights Studies (2014): “Egyptian State Practices Violate Constitutional and Legal Guarantees for the Right to a Fair Trial; Military Courts Not Independent”, 31st October 2014, available at: <http://www.cihrs.org/?p=9673&lang=en>, last accessed: 8th December 2015.

349 Human Rights Council (2015): “Written statement submitted by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status”, 28<sup>th</sup> Session, 25<sup>th</sup> February 2015, UN Doc. A/HRC/28/NGO/138, p. 2, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/035/50/PDF/G1503550.pdf?OpenElement>, last accessed: 8th December 2015.

350 Cairo Institute for Human Rights Studies (2014): “Egyptian State Practices Violate Constitutional and Legal Guarantees for the Right to a Fair Trial; Military Courts Not Independent”, 31st October 2014, available at: <http://www.cihrs.org/?p=9673&lang=en>, last accessed: 8th December 2015.

irregularities and partiality of the Egyptian military trials,<sup>351</sup> subjecting civilians to their jurisdiction is an even graver affront to justice. Military trials in Egypt do not guarantee the necessary safeguards to ensure due process rights and fair trial standards, thus, encouraging arbitrary and politically-motivated prosecutions. For example, civilians appearing before a military court are not guaranteed the right to know the charges against them, nor access to an attorney.<sup>352</sup> Lawyers have difficulties in accessing the files of defendants and in calling witnesses; further, military judges are subjected to a strong military hierarchy, in that they are appointed by the Ministry of Defence, which limits their independence.<sup>353</sup> Astonishingly, military courts also have jurisdiction to try minors, which is a blatant breach of international law.<sup>354</sup>

- 5.29. In August 2014, the UN Working Group of Arbitrary Detention analysed the cases of five Egyptian citizens who were sentenced to a year imprisonment for, allegedly, being in the possession of ammunition “*with the intention of using them against the State security and general interest, as well as against the Constitution and the social and national unity of the State*”, and “entering a military zone”.<sup>355</sup> These civilians were sentenced by a military court, which treated them as ‘members of the Muslim Brotherhood’. However, the court neither presented relevant evidence proving the charges, nor guaranteed the presence of a lawyer. Egypt did not respond to the communication from the Working Group, so after analysing the evidence submitted, the group concluded that the detention of these citizens was “*in breach of articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights*”, and fell within “*category III of the arbitrary detention categories referred to by the Working Group*”.<sup>356</sup> This decision was relevant to the Egyptian system of justice, as the Working Group ruled on the unlawful and oppressive character of military trials:

*“The Working Group underlines that the trial of civilians, or decisions placing civilians in preventive detention, by military courts are in breach of the fundamental requirements of independence and impartiality*

---

351 Amnesty International (2014): “Egypt: Roadmap to Repression. No end in sight to human rights violations”, 23rd January 2014, p.22, available at: <https://www.amnesty.org/en/documents/MDE12/005/2014/en/>, last accessed: 5th December 2015; and Cairo Institute for Human Rights Studies (2014): “Egyptian State Practices Violate Constitutional and Legal Guarantees for the Right to a Fair Trial; Military Courts Not Independent”, 31st October 2014, available at: <http://www.cihrs.org/?p=9673&lang=en>, last accessed: 8th December 2015.

352 Cairo Institute for Human Rights Studies (2014): “Egyptian State Practices Violate Constitutional and Legal Guarantees for the Right to a Fair Trial; Military Courts Not Independent”, 31st October 2014, available at: <http://www.cihrs.org/?p=9673&lang=en>, last accessed: 8th December 2015.

353 *Ibidem*.

354 Human Rights Council (2015): “Written statement submitted by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status”, 28<sup>th</sup> Session, 25<sup>th</sup> February 2015, UN Doc. A/HRC/28/NGO/138, p.2, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/035/50/PDF/G1503550.pdf?OpenElement>, last accessed: 8th December 2015.

355 Working Group of Arbitrary Detention (2014): “Opinions adopted by the Working Group on Arbitrary Detention at its seventieth session (25–29 August 2014). No. 35/2014 (Egypt). Communication addressed to the Government on 18 June 2014”, Human Rights Council, 21<sup>st</sup> November 2014, UN Doc. A/HRC/WGAD/2014/35, par. 9, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/227/90/PDF/G1422790.pdf?OpenElement>, last accessed: 8th December 2015.

356 *Idem*, par. 20.



*and of guarantees for a fair trial as required by article 10 of the Universal Declaration of Human Rights, article 14 of the International Covenant on Civil and Political Rights and customary international law, as confirmed by the constant jurisprudence of the Working Group*".<sup>357</sup>

5.30. However, with this decision, the Working Group only confirmed its previous jurisprudence on military trials. On 23rd July 2014, it had already determined that the trial of 12 pro-Morsi protesters by a military court constituted a violation "*not only of their right to freedom of opinion and expression but also of their right to a fair trial*".<sup>358</sup> The Group, therefore, urged their liberation.

5.31. Despite the international community's condemnation of military trials of civilians, President Sisi issued decree 136/2014, which allowed the Army to protect "*critical and sensitive facilities*", including "*stations, power networks and towers, gas and oil fields, rail lines, road networks and bridges*",<sup>359</sup> a law that expanded the jurisdiction of military courts.<sup>360</sup> 2,280 civilians have been referred to military courts since the approval of this decree,<sup>361</sup> which received significant criticism from the UN High Commissioner for Human Rights.<sup>362</sup>

g. ***Examples 5: Due process:***

5.32. The Cairo Institute for Human Rights Studies reported blatant and widespread breaches of procedural law affecting the location of judicial and prosecutorial processes, the specificity of crimes and the standard of evidence:

*"Interrogations and court sessions take place in prisons, security directorates or police compounds. Eyewitnesses are no longer required to identify defendants. Warrants are issued by prosecutors after arrests. Brotherhood members are arrested based on their ranks in the organization rather than their involvement in crimes. When detainees ask to see a warrant, they may be hit over the head with the butt of a gun"*.<sup>363</sup>

---

<sup>357</sup> Idem, par. 17 (emphasis added).

<sup>358</sup> Working Group of Arbitrary Detention (2014): "Opinions adopted by the Working Group on Arbitrary Detention at its sixty-ninth session (22 April–1 May 2014) No. 10/2014 (Egypt). Communication addressed to the Government on 22 January 2014", Human Rights Council, 23rd July 2015, UN Doc. A/HRC/WGAD/2014/10, par. 24, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/093/79/PDF/G1409379.pdf?OpenElement>, last accessed: 8th December 2015.

<sup>359</sup> OHCHR (2014): "Press briefing note on Egypt", Spokesperson for the UN High Commissioner for Human Rights: Rupert Colville, 2nd December 2014, available at: <http://ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=15368&LangID=E>, last accessed: 8th December 2015.

<sup>360</sup> Cairo Institute for Human Rights Studies (2014): "Egyptian State Practices Violate Constitutional and Legal Guarantees for the Right to a Fair Trial; Military Courts Not Independent", 31st October 2014, available at: <http://www.cihrs.org/?p=9673&lang=en>, last accessed: 8th December 2015.

<sup>361</sup> Human Rights Watch (2015): "Egypt: Year of Abuses Under al-Sisi", 8th June 2015, available at: <https://www.hrw.org/news/2015/06/08/egypt-year-abuses-under-al-sisi>, last accessed: 24th November 2015.

<sup>362</sup> OHCHR (2014): "Press briefing note on Egypt", Spokesperson for the UN High Commissioner for Human Rights: Rupert Colville, 2nd December 2014, available at: <http://ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=15368&LangID=E>, last accessed: 8th December 2015.

<sup>363</sup> Hassan, B. e. (2014): "Pharaohs and Caliphs", *Cairo Institute for Human Rights Studies*, 7th February 2014, available at: <http://www.cihrs>.

5.33. Several organisations<sup>364</sup> reported additional violations of due process rights, alleging that detainees are often:

- a) *Precluded from contacting their families and lawyers,*
- b) *Held in unofficial places of detention,*
- c) *Interrogated without the presence of a lawyer,*
- d) *Not informed of the causes of their arrest,*
- e) *Charged under laws that do not meet international human rights standards, or*
- f) *Judged after prolonged delays.*

5.34. It is notable that Dr Morsi suffered each one of the above due-process violations and thus the policy of unfairness to those deemed a threat to the ruling class, is pervasive.

5.35. Moreover, Egyptian prosecutorial authorities frequently breach the principle of individual criminal responsibility, as on occasion dozens or even hundreds of citizens arrested in a particular incident are accused for the same criminal act<sup>365</sup> under a long list of identical charges, in what appears to be collective punishment, a practice forbidden in international and criminal law. Further, the charges are usually general and vague, including “*calling for the downfall of the regime*” or “*spreading fear among citizens*”,<sup>366</sup> which are hardly recognisable criminal offences and may violate the principle of legality. Numerous Egyptians have been condemned to particularly harsh sentences in these flawed trials. For example, a group of students from al-Azhar university were sentenced to 17 years imprisonment<sup>367</sup> after participating in an anti-coup protest, and thus sentenced for merely seeking to exercise an essential democratic right.

5.36. Nevertheless, despite ample evidence of procedural violations, the Egyptian delegation insisted in

---

org/?p=8104&lang=en, last accessed: 5th December 2015.

364 Amnesty International (2014): “Egypt: Roadmap to Repression. No end in sight to human rights violations”, 23rd January 2014, p. 14, available at: <https://www.amnesty.org/en/documents/MDE12/005/2014/en/>, last accessed: 5th December 2015; and Cairo Institute for Human Rights Studies (2014): “Egyptian State Practices Violate Constitutional and Legal Guarantees for the Right to a Fair Trial; Military Courts Not Independent”, 31st October 2014, available at: <http://www.cihrs.org/?p=9673&lang=en>, last accessed: 8th December 2015.

365 Amnesty International (2014): “Egypt: Roadmap to Repression. No end in sight to human rights violations”, 23rd January 2014, p.33, available at: <https://www.amnesty.org/en/documents/MDE12/005/2014/en/>, last accessed: 5th December 2015

366 OHCHR (2014): “Press briefing note on Egypt”, Spokesperson for the UN High Commissioner for Human Rights: Rupert Colville, 2nd December 2014, available at: <http://ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=15368&LangID=E>, last accessed: 8th December 2015.

367 Amnesty International (2014): “Egypt: Roadmap to Repression. No end in sight to human rights violations”, 23rd January 2014, p.15, available at: <https://www.amnesty.org/en/documents/MDE12/005/2014/en/>, last accessed: 5th December 2015

the UPR on the fact that “*all trials took place according to due process and international norms of fair trials*”.<sup>368</sup> In a blatant show of its shameless audacity, the delegation also added that the Protest Law was adopted “*in compliance with article 19 of ICCPR*”, that decisions to arrest and convict protesters are made “*after thorough investigations*”, and that “*no one is detained for his or her opinion or for exercising the right to freedom of expression*”.<sup>369</sup>

- 5.37. The above demonstrates that violations of due process rights and international standards of procedural justice have become one of the principal problems in Egypt. The arbitrariness showed by law enforcement agencies is of such a scale that numerous analysts define the country as a ‘police state’.
- 5.38. It is therefore submitted that the Egyptian legal system is not fit for purposes to independently investigate the death of Dr Mohammed Morsi, as it is the system that has given rise to abjectly unfair and discriminatory treatment of Dr Morsi, and the tens of thousands have suffered at the hands of the regime.
- 5.39. The legal system is now merely a further arm of the state, and has accordingly, been weaponised to do the bidding the dictatorial regime.

---

<sup>368</sup> Human Rights Council (2014): “Report of the Working Group on the Universal Periodic Review. Egypt”, *Universal Periodic Review*, 28th Session, 24th December 2014, par. 163, UN Doc. A/HRC/28/16, available at: <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Pages/ListReports.aspx>, last accessed: 8th December 2015.

<sup>369</sup> Idem, par. 117.







لا تخافوا من كبرياءكم  
فالكبرياء من الله  
والله هو الذي  
يخلق ما يشاء  
ويختار ما يريد  
والله هو الذي  
يخلق ما يشاء  
ويختار ما يريد

الى المجلس الاعلى للقوات المسلحة الشرفاء  
أطلقوا سراح  
الشيخ عمر عبد الرحمن

نعم لاجل احترام إرادة الشعب  
18 نوفمبر 2011

الشعب الحق  
ليس له أن يتحقق  
الشورى كاملة  
الشرطه (دمدمه)  
السلطه (دمدمه)

WE  
EGYPT

على المجلس العسكري  
أن يسلم  
السلطه

# International Treaty

## Obligations and Violations

6.1. The *Universal Declaration of Human Rights* (UDHR), adopted by the United Nations General Assembly at its 183rd session on 10 December 1948, though not legally binding is a fundamental document insofar as a global, including Egypt's, viewpoint on human rights is concerned.

6.2. Specific to members of the Organisation of Islamic Cooperation (OIC),<sup>370</sup> the *Cairo Declaration on Human Rights in Islam* (CDHRI) was compiled, its intention being to compliment the UDHR and keep to its central principles, but also to ensure that it was Shari'a compliant.<sup>371</sup>

### *a. The Universal Declaration of Human Rights (UDHR)*

6.3. It would be counter-productive to list each and every Article of the Declaration, however, it is essential, given the prevailing circumstances in Egypt that Articles 3, 5, 7, 9-13, and 18-20, are noted, in that every citizen, including Dr Morsi, has the:

- a) *Right to life, liberty, and security of person;*
- b) *Right not to be subjected to torture, or to cruel, inhuman or degrading treatment or punishment;*
- c) *Right to be deemed as equal before the law;*
- d) *Right not to be subjected to arbitrary arrest, detention, or exile;*
- e) *Right to a fair and public hearing by an independent and impartial tribunal;*
- f) *Right to be presumed innocent;*
- g) *Right not to be subjected to arbitrary interference with his privacy, family, home or correspondence;*
- h) *Right to freedom of movement and residence;*
- i) *Right to freedom of thought, conscience and religion;*
- j) *Right to freedom of opinion and expression; and*
- k) *Right to freedom of peaceful assembly*<sup>372</sup>

---

<sup>370</sup> Organisation of Islamic Cooperation, available at: <http://www.oic-oci.org/home/?lan=en>.

<sup>371</sup> The extent to which the CDHRI compliments, or, undermines the UDHR is examined later within this document.

<sup>372</sup> "The Universal Declaration of Human Rights", 10<sup>th</sup> December 1948, available at: <http://www.un.org/en/universal-declaration-human-rights>.



6.4. Those further UN treaties<sup>373</sup> to which Egypt is a State Party do not confer ‘further’ rights on citizens. Moreover, they develop, and specify those individual rights detailed above, providing relevant protections.

6.5. For example, the International Covenant on Civil and Political Rights, which Egypt ratified in, protects the following rights relevant to the present submission:

- a) *Article 6 – right to life;*
- b) *Article 7 – freedom from torture;*
- c) *Article 9 – freedom from arbitrary arrest;*
- d) *Article 10 – right of persons deprived of their liberty to be treated with humanity and with respect for their inherent dignity;*
- e) *Articles 14 and 16 – right to a fair trial;*
- f) *Article 17 – right to private and family life;*
- g) *Articles 18 and 19 – freedom of thought and consciousness;*
- h) *Articles 21 and 22 – freedom of assembly and association; and*
- i) *Article 26 – right to equality before the law without discrimination.*

6.6. However, Egypt failed to accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty.

6.7. Further, Egypt is also bound to the provisions of:

- a) *The Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, with no reservations, and thus by this, is bound by the obligations contained therein. It is incumbent on Egypt to send regular reports to the Committee Against Torture (CAT), the body responsible for monitoring, upon which the CAT will make recommendations.*
- b) *The Convention on the Elimination of All Forms of Discrimination against Women;*
- c) *The International Convention on the Elimination of All Forms of Racial Discrimination;*
- d) *The International Covenant on Economic, Social and Cultural Rights;*

---

<sup>373</sup> United Nations of Human Rights, Office of the High Commissioner: “Ratification Status for Egypt”, available at: [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=54&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=54&Lang=EN).

- e) *The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;*
- f) *The Convention of the Rights of the Child;*
- g) *The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;*
- h) *The Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography; and*
- i) *The Convention on the Rights of Persons with Disabilities.*

6.8. It is of note however that as yet, Egypt has failed to sign or become a State Party to the ‘International Convention for the Protection of all Persons from Enforced Disappearance’.<sup>374</sup>

6.9. The failure of Egypt to ratify certain conventions is in reality, immaterial, given its flagrant ignorance of those to which it is a state party and therefore bound.

#### ***b. The African Union***

6.10. As is noted above, it is not merely UN treaties to which Egypt is bound.

6.11. As a member of the ‘African Union’, Egypt is bound by the Constitutive Act<sup>375</sup> of that Union, and in particular Article 4 (m) – (p) of the Act, that reads:

*“Article 4 The Union shall function in accordance with the following principles: (...)*

*(m) respect for democratic principles, human rights, the rule of law and good governance;*

*(n) promotion of social justice to ensure balanced economic development;*

*(o) respect for the sanctity of human life, condemnation and rejection of impunity and political assassination, acts of terrorism and subversive activities;*

*(p) condemnation and rejection of unconstitutional changes of governments.”*

6.12. Freedom is the essential tenant of the Act, freedom of citizens; again, it falls to be considered as to whether Egypt demonstrates its adherence to the Act, and in doing so, reference (p) in that the seizing of power and the ousting of President Dr Morsi simply cannot be argued to be constitutional, given that it was achieved at the barrel of a gun, rather than the appropriate use of the ballot box.

---

<sup>374</sup> United Nations of Human Rights, Office of the High Commissioner: “Ratification of 18 International Human Rights Treaties”, available at: <http://indicators.ohchr.org>.

<sup>375</sup> “Constitutive Act of the African Union”, 11<sup>th</sup> July 2000, available at: <http://www.achpr.org/instruments/au-constitutive-act/>.

*c. African Charter of Human and Peoples Rights*

6.13. In addition, Egypt ratified the African Charter of Human and Peoples Rights, which guarantees protection of the following rights:

- a) *Article 3 – equality before the law;*
- b) *Article 4 – right to life;*
- c) *Article 5 – freedom from torture;*
- d) *Article 6 – freedom from arbitrary arrest;*
- e) *Article 7 – right to a fair trial;*
- f) *Article 8 – freedom of consciousness;*
- g) *Article 10 and 11 – freedom of assembly and association;*
- h) *Article 16 – right to physical and mental health;*

*d. The European Union*

6.14. The European Union, by its very nature, does not seek to enact instruments of international law in a manner that is either in accordance, or complimentary to unions such as the UN or the African Union.

6.15. It does however hold essential democratic rights and fundamental freedoms at its core and seeks to entrench those principles in the agreements it enters into with nations outside of the Union.

6.16. The issue is whether the policies of the Egyptian Government, and specifically, the regime of President Sisi, adheres to those obligations.

6.17. The simple fact of the matter is that it does not.

6.18. The association agreement with Egypt,<sup>376</sup> has as one of its core principles, at Article 2, the respect of democracy and its principles:

*“Relations between the Parties, as well as all the provisions of the Agreement itself, shall be based on respect of democratic principles and fundamental human rights as set out in the Universal Declaration on*

---

<sup>376</sup> <https://library.euneighbours.eu/content/eu-egypt-association-agreement>

*Human Rights, which guides their internal and international policy and constitutes an essential element of this Agreement.”*

- 6.19. It cannot be said on any assessment, that Egypt is acting in accordance with its obligations under the Agreement, and therefore again, the current Egyptian regime believes it can act as it wishes, with complete impunity.



# Thematic Mandate Holders

- 7.1. The situation, and therefore heads of complaint concerning Dr Morsi, and the lead-up to his death, are numerous. Accordingly, this complaint has been addressed to a number of relevant Special Rapporteurs, as the mandate of each empowers them to consider a specific element of the treatment and surrounding issues.
- 7.2. It is respectfully submitted that it would not appropriate for just one mandate holder to consider the issue(s), given that they cross into a number of different themes.
- 7.3. Further, the treatment suffered by Dr Morsi prior to his death, is indicative of a systematic policy of abuse being pursued by the Government of Egypt. A policy that is used to inflict further misery and oppression upon the prison estate generally, but of greater relevance, is that it is used disproportionately against those who are either members or supporters of the political opposition, or those who may otherwise seek to criticise the Government.
- 7.4. The Government of Egypt is therefore, operating a systematic policy of discrimination within that policy of oppression.
- 7.5. This policy pervades every facet of life for those who are deemed as being critics of, or disloyal to, the Government.
- 7.6. Again, this disproportionately effects those held in prison, as whilst being held in detention, they are at the mercy of the State, with no ability to secure better treatment elsewhere.
- 7.7. Accordingly, the treatment complained of, with specific reference to Dr Morsi, deserves the attention of the following Thematic Mandate Holders:
- a) *The Working Group on Arbitrary Detention;*
  - b) *Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions;*
  - c) *Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;*
  - d) *Special Rapporteur on the Right to Food;*
  - e) *Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression;*
  - f) *Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and*



*Mental Health;*

- g) *Special Rapporteur on the Independence of Judges and Lawyers; and*
- h) *Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms whilst Countering Terrorism.*

7.8. It is appropriate, for clarity, to briefly note and consider the mandate of each holder, so as to demonstrate the basis upon which it is submitted that each is empowered to consider elements of this complaint.

a. ***The Working Group on Arbitrary Detention (WGAD)***

7.9. The Mandate of the WGAD, was, following Human Rights Council resolution 33/30,<sup>377</sup> extended on 30 September 2016.

7.10. Its mandate, with specific reference to this submitted complaint, is at parts (a) to (d), in that it is empowered to:

*“(a) To investigate cases of deprivation of liberty imposed arbitrarily or otherwise inconsistently with the relevant international standards set forth in the Universal Declaration of Human Rights or in the relevant international legal instruments accepted by the States concerned;*

*(b) To seek and receive information from Governments and intergovernmental and non-governmental organizations, and receive information from the individuals concerned, their families or their representatives;*

*(c) To act on information submitted to its attention regarding alleged cases of arbitrary detention by sending urgent appeals and communications to concerned governments to clarify and to bring to their attention these cases;*

*(d) To conduct field missions upon the invitation of Government, in order to understand better the situations prevailing in countries, as well as the underlying reasons for instances of arbitrary deprivation of liberty;”*

7.11. It is evident that the situation complained of with regard to Dr Morsi falls within this mandate in that he is detained, and that detention is not in accordance with either domestic or international standards, and thus that detention therefore was arbitrary.

7.12. We would further highlight the mandate at part (d) above, in that the WGAD is mandated to undertake ‘field missions’.

---

<sup>377</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/228/05/PDF/G1622805.pdf?OpenElement>

7.13. With respect to the instant case, we would respectfully request that the WGAD seeks an invitation from the Government of Egypt so as to enable it to investigate the situation for itself and report back accordingly.

b. ***Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions***

7.14. On 22 June 2017, by virtue of resolution 33/15<sup>378</sup>, the Mandate of the Special Rapporteur was extended further.

7.15. With reference to the instant case, it is mandated to:

*“(a) To continue to examine situations of extrajudicial, summary or arbitrary executions in all circumstances and for whatever reason, and to submit his or her findings on an annual basis, together with conclusions and recommendations, to the Human Rights Council and the General Assembly, and to draw the attention of the Council to serious situations of extrajudicial, summary or arbitrary executions that warrant immediate attention or where early action might prevent further deterioration;*

*(b) To continue to draw the attention of the United Nations High Commissioner for Human Rights to serious situations of extrajudicial, summary or arbitrary executions that warrant immediate attention or where early action might prevent further deterioration;*

*(c) To respond effectively to information that comes before him or her, in particular when an extrajudicial, summary or arbitrary execution is imminent or threatened or when such an execution has occurred;*

*(d) To enhance further his or her dialogue with Governments, as well as to follow up on recommendations made in reports after visits to particular countries;*

*(e) To continue to monitor the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment, bearing in mind the comments made by the Human Rights Committee in its interpretation of article 6 of the International Covenant on Civil and Political Rights, as well as the Second Optional Protocol thereto;”*

7.16. Further, it is, whilst carrying out its mandate, empowered to:

*“(b) Undertake country visits to examine the situation of extrajudicial, summary or arbitrary executions in the respective country, and to formulate recommendations to the Government and other actors on upholding the right to life;”*

7.17. Since the removal of Dr Morsi as President, there have been innumerable allegations of extrajudicial, summary, or arbitrary executions having taken place in Egypt.

---

<sup>378</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/187/65/PDF/G1718765.pdf?OpenElement>

7.18. The death of Dr Morsi is therefore an example of much wider, and more systematic issue that is prevalent in today's Egypt; accordingly, it is respectfully submitted that a full investigation into the wider issues is required.

c. ***Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;***

7.19. In March 2017, by virtue of resolution 34/19<sup>379</sup>, the Mandate of the Special Rapporteur was extended further.

7.20. The mandate empowers three main activities, those being:

*“1) transmitting urgent appeals to States with regard to individuals reported to be at risk of torture, as well as communications on past alleged cases of torture;*

*2) undertaking fact-finding country visits; and*

*3) submitting annual reports on activities, the mandate and methods of work to the Human Rights Council and the General Assembly.”*

7.21. It is respectfully submitted to be beyond credible doubt that torture is systematic within today's Egypt, and accordingly a full investigation including a 'fact-finding country visit' is required.

7.22. Further, particular importance is attached to the ability of the Special Rapporteur to approach other thematic mechanisms with a view to a joint communication being submitted.

d. ***Special Rapporteur on the Right to Food***

7.23. State parties to the International Covenant on Economic, Social and Cultural Rights must respect their legal obligations, and those obligations as per Article 2.<sup>380</sup>

7.24. The Committee on Economic, Social and Cultural Rights sought to develop and clarify these obligations further in terms of the right to food, in its General Comment No.12, specifically that:

*“The obligation to respect existing access to adequate food requires States parties not to take any measures that result in preventing such access;*

*The obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals*

---

<sup>379</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/086/68/PDF/G1708668.pdf?OpenElement>

<sup>380</sup> <https://www.ohchr.org/en/professionalinterest/pages/cesscr.aspx>

*of their access to adequate food;*

*The obligation to fulfil (facilitate) means the State must pro-actively engage in activities intended to strengthen people's access to and utilisation of resources and means to ensure their livelihood, including food security;*

*Whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfil (provide) that right directly. This obligation also applies for persons who are victims of natural or other disasters.”<sup>381</sup>*

7.25. As per the OHCHR,

*“While all rights under the Covenant are meant to be achieved through progressive realisation, States have some minimum core obligations which are of immediate effect. They have the obligation to refrain from any discrimination in access to food as well as to means and entitlements for its procurement, on the grounds of race, colour, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status. States are further prohibited to take retrogressive measures, i.e. deliberate measures which result in the deterioration of current level of fulfilment of the right to food”.*<sup>382</sup>

7.26. As per the factual outline in this matter, Dr Morsi has been denied adequate food on a wholly political basis, and thus Egypt has failed to meet its obligations under the convention.

d. ***Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression***

7.27. On 21 March 2017, by virtue of resolution 34/18<sup>383</sup>, the Mandate of the Special Rapporteur was extended further.

7.28. Its mandate empowers the Special Rapporteur accordingly:

*“(a) To gather all relevant information, wherever it may occur, relating to violations of the right to freedom of opinion and expression, discrimination against, threats or use of violence, harassment, persecution or intimidation directed at persons seeking to exercise or to promote the exercise of the right to freedom of opinion and expression, including, as a matter of high priority, against journalists or other professionals in the field of information;*

*(b) To seek, receive and respond to credible and reliable information from Governments, non-governmental organizations and any other parties who have knowledge of these cases;*

*(c) To make recommendations and provide suggestions on ways and means to better promote and protect the right to*

---

381 <https://www.ohchr.org/EN/Issues/Food/Pages/FoodIndex.aspx>

382 *Ibid*

383 <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G17/071/20/PDF/G1707120.pdf?OpenElement>

*freedom of opinion and expression in all its manifestations; and*

*(d) To contribute to the provision of technical assistance or advisory services by the Office of the United Nations High Commissioner for Human Rights to better promote and protect the right to freedom of opinion and expression.”<sup>384</sup>*

7.29. Again, and as per those other thematic mandate holders, in the discharge of its mandate, the Special Rapporteur is empowered to “*undertake fact-finding country visits*”,<sup>385</sup> and thus it is respectfully submitted that such a visit ought to be requested here.

f. ***Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health***

7.30. State parties to the International Covenant on Economic, Social and Cultural Rights must respect their legal obligations, and those obligations as per Article 2.<sup>386</sup>

7.31. The Committee on Economic, Social and Cultural Rights sought to develop and clarify these obligations further in terms of the right to food, in its General Comment No.14,<sup>387</sup> specifically that:

*“The obligation to respect the right to health requires States to, inter alia, refrain from denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum seekers and illegal immigrants, to preventive, curative and palliative health services; abstain from enforcing discriminatory practices as a State policy; and abstain from imposing discriminatory practices relating to women’s health status and needs. (emphasis added)*

*The obligation to protect includes, inter alia, the duties of States to adopt legislation or to take other measures ensuring equal access to health care and health-related services provided by third parties. States should also ensure that third parties do not limit people’s access to health-related information and services.*

*The obligation to fulfil requires States parties, inter alia, to give sufficient recognition to the right to health in the national political and legal systems, preferably by way of legislative implementation, and to adopt a national health policy with a detailed plan for realizing the right to health. This obligation entails also the state to take positive measures that enable and assist individuals and communities to enjoy the right to health.*

*While all the rights under the Covenant are meant to be achieved through progressive realization, States have some minimum core obligations which are of immediate effect. These immediate obligations include the guarantees of non-discrimination and equal treatment, as well as the obligation to take deliberate, concrete and targeted steps towards the full realization of the right to health, such as the preparation of a national public health strategy and plan of action.*

*Progressive realisation means that States have a specific and continuing obligation to move as expeditiously and effectively*

---

384 <https://www.ohchr.org/en/issues/freedomofopinion/pages/opinionindex.aspx>

385 *Ibid*

386 <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

387 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G00/439/34/PDF/G0043934.pdf?OpenElement>

*as possible towards the full realization of the right to health”.*

- 7.32. Dr Morsi, despite having documented pre-existing health conditions, and further, despite developing both new conditions, and having those existing ones exacerbated whilst in custody, was denied appropriate healthcare solely on the basis of his political position, and his status as the previous President.
- 7.33. Accordingly, Egypt has failed in its obligations to its citizens.
- 7.34. As many of the other issues raised have sought to demonstrate, the treatment of Morsi is indicative of a much wider, and more systematic policy that has been adopted to all of those in custody who are deemed as members or supporters of an opposition group.
- 7.35. There is therefore, clear justification for an investigation on a thematic basis into the mass violations being committed by Egypt.

**g. *Special Rapporteur on the Independence of Judges and Lawyers***

- 7.36. On 19 June 2017, the mandate of the Special Rapporteur was extended, by virtue of resolution 35/11.<sup>388</sup>
- 7.37. That mandate empowering the Rapporteur to:

*“(a) To inquire into any substantial allegations transmitted to him or her and to report his or her conclusions and recommendations thereon;*

*(b) To identify and record not only attacks on the independence of the judiciary, lawyers and court officials but also progress achieved in protecting and enhancing their independence, and make concrete recommendations, including the provision of advisory services or technical assistance when they are requested by the State concerned;*

*(c) To identify ways and means to improve the judicial system, and make concrete recommendations thereon;*

*(d) To study, for the purpose of making proposals, important and topical questions of principle with a view to protecting and enhancing the independence of the judiciary and lawyers and court officials;*

*(e) To apply a gender perspective in his or her work;*

*(f) To continue to cooperate closely, while avoiding duplication, with relevant United Nations bodies, mandates and mechanisms and with regional organizations;*

---

<sup>388</sup> <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G17/167/07/PDF/G1716707.pdf?OpenElement>



*(g) To report regularly to the Council in accordance with its programme of work, and annually to the General Assembly.”*

7.38. In the discharge of its functions, the Rapporteur is empowered to:

*“(a) The Special Rapporteur acts on information submitted to his/her attention concerning alleged violations relating to the independence and impartiality of the judiciary and the independence of the legal profession by sending allegation letters and urgent appeals to concerned Governments to clarify and/or bring these cases to their attention. See Individual Complaints. The communications sent by the Special Rapporteur (both urgent appeals and allegations letters) are published in the next communication report of special procedures. Reports*

*(b) The Special Rapporteur conducts country visits upon the invitation of the relevant Government. The Special Rapporteur submits a report on the visit to the Human Rights Council, presenting his/her findings, conclusions and recommendations.*

*(c) The Special Rapporteur presents annual thematic reports to the Human Rights Council (June session) and the General Assembly highlighting important issues or areas of concern related to the mandate.”*

7.39. As is elucidated in other Chapters in this submission, Dr Morsi was explicitly prevented from having a fair trial, and given how obvious these violations were, violations that were not met with any challenge other than those of his own defence team, it is clear that there is a credible suggestion that the Egyptian judiciary is politically motivated and therefore not independent of the Executive.

h. ***Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism***

7.40. The Rapporteur is mandated by resolution 15/15,<sup>389</sup> to:

*“(a) To make concrete recommendations on the promotion and protection of human rights and fundamental freedoms while countering terrorism, including, at the request of States, for the provision of advisory services or technical assistance on such matters;*

*b) To gather, request, receive and exchange information and communications from and with all relevant sources, including Governments, the individuals concerned and their families, representatives and organizations, including through country visits, with the consent of the State concerned, on alleged violations of human rights and fundamental freedoms while countering terrorism;*

*c) To integrate a gender perspective throughout the work of his/her mandate;*

*d) To identify, exchange and promote best practices on measures to counter terrorism that respect human rights and*

---

<sup>389</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/167/28/PDF/G1016728.pdf?OpenElement>

*fundamental freedoms;*

*e) To work in close coordination with other relevant bodies and mechanisms of the United Nations, and in particular with other special procedures of the Council, in order to strengthen the work for the promotion and protection of human rights and fundamental freedoms while avoiding unnecessary duplication of efforts;*

*f) To develop a regular dialogue and discuss possible areas of cooperation with Governments and all relevant actors, including relevant United Nations bodies, specialized agencies and programmes, with, inter alia, the Counter-Terrorism Committee of the Security Council, including its Executive Directorate, the Counter-Terrorism Implementation Task Force, the Office of the United Nations High Commissioner for Human Rights, the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime and treaty bodies, as well as non-governmental organizations and other regional or sub regional international institutions, while respecting the scope of his/her mandate and fully respecting the respective mandates of the above-mentioned bodies and with a view to avoiding duplication of effort;*

*g) To report regularly to the Council and to the General Assembly.”*

7.41. In the discharge of its mandate, the Rapporteur is empowered to:

*“a) Transmits urgent appeals and letters of allegation to Member States on alleged violations of human rights and fundamental freedoms while countering terrorism.*

*b) Undertakes fact-finding country visits.*

*c) Submits annual reports to the Human Rights Council and General Assembly.”*

7.42. Much of the oppressive policies enacted by the current regime in Egypt have been done so under the guise of combatting terrorism, and therefore it is within the remit of the Special Rapporteur.

7.43. The reality, is that terrorism is merely an excuse to embark on the campaign of oppression, removing fundamental rights and freedoms, and seeking to ignore appropriate international standards.

7.44. Accordingly, there is a dire need for the Rapporteur to investigate and report accordingly.



# Treaty Body Submission and Justification

## a. *Committee Against Torture*

- 8.1. It is accepted at the outset that Egypt, as much as it may have ratified the ‘Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment’,<sup>390</sup> it has not ratified the ‘Optional Protocol’,<sup>391</sup> and thus accordingly, has not accepted the individual complaint mechanism.
- 8.2. Egypt has however, on 25 June 1986, accepted the ‘Inquiry Procedure’ under Article 20 of the Convention,<sup>392</sup> accordingly, it is under Article 20 that this complaint is submitted, and the Committee is, as per Article 20, requested to undertake a ‘confidential inquiry’ as per its mandate.
- 8.3. It is respectfully submitted that the case of Dr Mohammed Morsi, although quite clearly the focus of this submission, is just an example, and indicative of much wider problem within Egypt; an example of how Torture is being systematically practised by Egypt with the full knowledge of the Egyptian Government and the higher echelons of its security services.
- 8.4. Article 20 of the Convention reads at subparagraph 1:

*“If the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practised in the territory of a State Party, the Committee shall invite that State Party to co-operate in the examination of the information and to this end to submit observations with regard to the information concerned.”<sup>393</sup>*

- 8.5. Article 28, paragraph 1 of the Convention is noted, however, Egypt did not declare that it would not recognise the competence of the Committee, and accordingly, is deemed to continue to recognise it.
- 8.6. It is appropriate at this stage to highlight the definition of ‘systematic torture’ adopted by the Committee:

*“The Committee considers that torture is practised systematically when it is apparent that the torture cases reported have not occurred fortuitously in a particular place or at a particular time, but are seen to be habitual, widespread and deliberate in at least a considerable part of the territory of the country in question. Torture may in fact be of a systematic*

---

<sup>390</sup> [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=54&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=54&Lang=EN)

<sup>391</sup> *Ibid*

<sup>392</sup> *Ibid*

<sup>393</sup> <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>

*character without resulting from the direct intention of a Government. It may be the consequence of factors which the Government has difficulty in controlling, and its existence may indicate a discrepancy between policy as determined by the central Government and its implementation by the local administration. Inadequate legislation which in practice allows room for the use of torture may also add to the systematic nature of this practice.*<sup>394</sup>

---

<sup>394</sup> <https://www.ohchr.org/EN/HRBodies/CAT/Pages/InquiryProcedure.aspx>

# Necessity for a UN-mandated investigation

- 9.1. At its most basic level, the death of Dr Morsi can be referred to as a 'death in custody', and regardless of his status, his wellbeing, whilst being detained by the State, is the responsibility of that State.
- 9.2. His death should therefore result in an immediate investigation into the circumstances surrounding that death.
- 9.3. This should be the position in respect of any death in custody, however, the death of Dr. Morsi, is not just 'any' individual, it is the former President of Egypt, and further, he was an individual who, from the outset of his detention, was subjected to treatment that not only violated the Egyptian constitution, and those universally accepted basic rights for prisoners, but, that treatment amounted to torture.
- 9.4. The need for an investigation therefore is all the more essential.
- 9.5. Having established that there is a clear and immediate need for an investigation into his treatment and his resulting death, the next issue is to who should be responsible for that investigation.
- 9.6. It is accepted that ordinarily, the initial position is that the responsible state ought to be commence and conduct any such investigation, however, the circumstances outlined in this submission are anything but ordinary, both given the individual in question, and the prevailing position domestically.
- 9.7. As this submission elucidates, the appalling treatment, treatment that constitutes torture, suffered by Dr Morsi, has been meted out by the State, and therefore, any request that the investigation be undertaken domestically is effectively asking the state to investigate itself. It therefore cannot be said that any such investigation will be credible, or independent, on any level, superficially or otherwise.
- 9.8. Further, and to strengthen that point, the State, and therefore the ruling regime, was entirely aware of the treatment of Dr Morsi, both given the fact of who was responsible for that treatment, and further, the number of complaints made through various organs, including directly to the Government.
- 9.9. All such complaints and concerns have been roundly ignored, and thus it must be concluded that there is no appetite within the regime, or its organs, to investigate the death of Dr Morsi, as there



was similarly no appetite to investigate the treatment that gave rise to his untimely death in the first instance.

- 9.10. Further, it is of import to note that a communication has been previously submitted to the UN Working Group on Arbitrary Detention concerning the detention of Dr Morsi by the authors of this report, and that communication was forwarded to the Government of Egypt with an associated request for a response.
- 9.11. The communication of the UN was again, roundly ignored by the Government of Egypt, and no response has been forthcoming.
- 9.12. This further evidences the fact that there is simply no will domestically, to investigate the treatment or circumstances surrounding the death of Egypt's first and only democratically elected President.
- 9.13. It is therefore respectfully submitted that much the same as there was no basis upon which to conclude that the Kingdom of Saudi Arabia would conduct an independent and credible investigation into the murder of Khashoggi and thus a UN mandated investigation was necessary, there is no basis upon which it can be concluded that Egypt will conduct a similarly independent and credible investigation into the death of Dr Morsi.
- 9.14. It is therefore the position of this report that the only basis upon which there will be an investigation into the death of Dr Morsi, is if that investigation is ordered and undertaken by the relevant organ of the UN.
- 9.15. Accordingly, we would respectfully request that the relevant investigation be ordered.
- 9.16. In doing so, we acknowledge that a decision will have to be taken regarding the appropriate thematic mandate holder to lead the investigation, as given the plethora of human rights violations apparent in this case, the issues do not fall within one specific mandate. This should not prevent any investigation from taking place however as there is often a 'crossover' in such circumstances.
- 9.17. As a broader position, we would highlight that the treatment of Dr Morsi, although admittedly appalling, is only one case. However, this one case is indicative of wider systematic policy that would appear to be in place in Egypt since Sisi seized power in the coup that forcibly and unlawfully removed Dr Morsi from office, a policy that if not overtly empowers the security services to mistreat and torture detainees, does, at the very least, ignore such instances and therefore provides tacit approval by way of omission.

- 9.18. Previous chapters of this submission have highlighted the wider position, and explained how Egypt, from being a nascent democracy transitioning out of dictatorship, has regressed under Sisi's governance, and is now a more restrictive country, insofar as fundamental rights and freedoms are concerned, than it was prior to the Tahrir Square uprising that caused Mubarak to resign from office.
- 9.19. Specific legislation has been implemented with the sole intention of reducing the space within which democracy can develop, and citizens are now in a constant state of fear if they chose to exercise their fundamental rights to freedom of speech, expression, and association to name but three.
- 9.20. Further, in considering both first hand, and anecdotal evidence, it is evident that not only has the justice system been weaponised by the state to silence dissent and punish its detractors, those subjected to detention are at risk of becoming victims of a state sponsored policy of torture and ill-treatment, with its perpetrators knowing that they can continue to act with complete impunity.
- 9.21. The wider issue of which the death of Dr Morsi is just an example, deserves to be investigated fully, and this investigate must be mandated by the UN as it is arguably the only body with the resources, and, through its Special Rapporteurs, the independence, to enable the investigation to be credible.



# Authority

- 10.1. The authors of this report have specific authority from the family of Dr Morsi to draft and submit this report.
- 10.2. Further, following his death, that authority extends to the consideration of the case of Dr Morsi's son, Abdullah, who died of a purported heart attack, and yet was under 30 years of age.
- 10.3. Consequently, Guernica members are in a position to liaise directly with the UN and are happy to provide any further information that may be required, or discuss any issue deemed relevant by the UN.



**GUERNICA**  
— 37 —  
INTERNATIONAL JUSTICE CHAMBERS

[www.guernica37.com](http://www.guernica37.com)

المجلس الثوري المصري  
Egyptian Revolutionary Council- ERC



[www.ercegypt.org](http://www.ercegypt.org)



مؤسسة قرطبة

*The Cordoba Foundation*

[www.thecordobafoundation.com](http://www.thecordobafoundation.com)