Egypt

Robert A. Forster / University of Edinburgh

To what extent was the conflict in Egypt generated by lack of inclusion of a group or groups in the state's political and legal structures?
Was there a lack of human rights protection for the excluded group?

Egypt faced a number of challenges in the years before mass protests facilitated the removal of long-term president, Hosni Mubarak, on 11 February 2011. Primarily, protester demands took the form of rights-based grievances, political grievances and economic grievances. This was not the first time civic action had highlighted these issues. Indeed, the growing influence and strategies developed over the previous decade by Egypt's labour movements, pro-democracy activists, Islamist activists and internet campaigns against police brutality were instrumental in the mobilisation of protesters (Stein 2012).

The chosen date of protest in 2011, 25 January – the national police holiday – was indicative of the numerous rights-based grievances in Egypt. In particular, the focus was on opposition to police brutality and an atmosphere of impunity among state security facilitated by the 31-year state of emergency that allowed for military trials of civilians without the possibility of appeal. Another facet of rights-based grievances focused on the political and social discrimination of

Egypt's minority groups. Such groups included the ethnic and religious minorities of the Nubians, Bedouins and Coptic Orthodox Christians (Bakr 2012, 65). However, other significant segments of society also faced social, economic and political exclusion including the youth – 60% of the population was under the age of 30 in 2015 (Kingsley 2014) – and women, representing 49.4% of the population in 2014 (Trading Economics 2016).

The largest excluded group consisted of Egypt's lower classes (Bakr 2012). Although development indicators in Egypt showed improvement since 1990, the population boom, increased migration from rural to urban regions, and growing unemployment placed public facilities under great stress (Bakr 2012, 64; El-Mahdi and Marfleet 2008, 4–6). Internationally recommended neo-liberal reforms rewarded the political and business elite first. Moreover, the ruling National Democratic Party maintained a strict monopoly on political power, as highlighted by the constitutional amendments of 2005 and 2007 (Brown, Dunne and Hamzawy 2007) as well as through practices such as ballot stuffing and violence against civilians (HRW 2010). These circumstances provided a fertile environment for the banned Muslim Brotherhood organisation, which took responsibility for several aspects of local governance including the establishment of health, educational, civil

Itihadeya Protest: Police outside the
Presidential Palace, Cairo, 11 December 2012

and religious organisations, regardless of civil society restrictions set by the Ministry of Social Solidarity.

Lastly, displeasure among elites festered as the prospect of hereditary rule and a transfer of power to Hosni's son, Gamal Mubarak, appeared more likely (El-Mahdi and Marfleet 2008, 88–89). Military elites also expressed dissatisfaction with Egypt's decreased regional influence in the wake of peace with Israel in 1973 and restrictions set by US military aid, including limitations on arms purchases designed to ensure that Egypt could not compete with Israel militarily (Kandil 2012; 188–189).

How did the reform process try to address these grievances?

Following the 2011 revolution, institutional and constitutional reforms attempted to address political and human rights-based grievances. After the Supreme Council of the Armed Forces (SCAF), in power for the first 16 months after Mubarak, mandated parliamentary elections from November 2011 to January 2012, further successful elections took place in 2012, 2014

and 2015. In the first "free and fair" elections in Egypt's history, two-thirds of parliament seats went to an Islamist bloc consisting of the Muslim Brotherhood's Freedom and Justice Party (FJP) and the Salafist al-Nour Party. Meanwhile, the 2012 presidential elections on 3 July witnessed the victory of the FJP candidate Mohammed Morsi over Mubarak's last Prime Minister and the former General, Ahmed Shafiq. Both candidacies were marred with contention: Morsi as an Islamist candidate from a group the former regime and its supporters had repressed on and off since the 1950s, and Shafiq as a representative of the former regime.

The Islamist victory in the polls was indicative of how the balance of power had shifted among the Egyptian elite. More importantly, it represented an "opening" of the Egyptian political system to include formerly ostracised groups. Nonetheless, under the surface, the individuals and practices of the Mubarak era remained influential (Marfleet 2013). The term, the "deep state" has been used to describe the deep-rooted vested interest of Mubarak-era officials that dominate the inner-

circles of the armed forces, the intelligence services and the Interior Ministry (Childress 2013). As such, comprehensive institutional reform was difficult to accomplish. Within six months, the Supreme Court, consisting of Mubarak-era judges, dissolved the Parliament in what the Islamist bloc considered a "coup" (Hearst and Hussein 2012). Nonetheless, in a controversial step, within weeks of his electoral victory, Morsi reinstated Parliament until new elections were announced. Furthermore, Morsi was quick to rescind the SCAF's constitutional declaration issued a few days before he became President, which aimed at limiting his executive power. In August, Morsi also reshuffled a number of high-level positions in the military and dismissed the SCAF leader, Field Marshal Hussein Tantawi, in what appeared to be an attempt to regain the loyalty of the military.

The tug-of-war between state institutions and elected officials was extended to the constitutional drafting process, which became a mainstay of political controversy from

Celebrating the removal of President Mohammed Morsi, Tahrir Square, 3 July 2013

© Steve Robinson

2011 to 2014. This period saw the creation of three Constitutional Assemblies (CAs), two referendums on two constitutions held on 26 December 2012 and 18 January 2014, as well as four constitutional declarations issued by the SCAF (3) and Morsi (1) on 30 March 2011, 17 June 2012, 22 November 2012 and 8 July 2013. However, continued political turmoil surrounding institutional and constitutional reform failed to improve the Egyptian economy. A major factor in the instigation of the 2011 revolution, economic stagnation was mobilised alongside accusations of exclusionary practices by the Islamist bloc, to become the primary justification used by the Tamarod campaign, which led to the mass protests of June and July 2013 and the intervention by the armed forces on 3 July.

How did inclusion and protection of rights feature in the constitutional reform approach?

The ratification of the 2012 Constitution took place despite its "ambiguous language on human rights, minority rights and freedom of expression" as well as allowing civilian trials by military courts (Hussein 2012). Some of these issues were resolved in the 2014 Constitution. Among them, the 2014 Constitution granted ethnic minorities assurances of non-discrimination (Article 53) and guarantees of economic development to underprivileged areas (Article 236). Article 236 (2014) also granted Nubians repatriation to the former territories they were displaced from by the building of the Aswan Dam. In another victory for cultural minorities, the 2014 Constitution also emphasised cultural rights (Articles 47–50).

Vague terminology, however, hampered efforts to ensure rights for other vulnerable groups. "Appropriate representation" was granted to workers, farmers, women,

youth, Christians and expatriate Egyptians in Articles 223 and 224 (2014), but there was no further clarification of what was deemed to be "appropriate". Clauses restricting women's rights in the 2012 Constitution were removed and Article 11 (2014) stipulated that women were equal to men in all "civic, political, economic, social and cultural rights" (Serodio and Hulsman 2015, 49–50)." Freedom of belief was also guaranteed, but state protection was only granted for the Abrahamic religions (Article 64, 2012, 2014). However, constitutional restrictions on freedom of expression via Article 44 (2012) were removed from the 2014 Constitution, although it remained part of the Penal Code (Serodio and Hulsman 2015, 67).

In regard to military trials, Article 198 of the 2012 Constitution had ambiguous phrasing that could have referred civilians to the military judiciary, but was later redrafted. Nonetheless, it remained unclear in the 2014 Constitution how Articles 173 and 204 limited civilian trials by the military judiciary (Serodio and Hulsman 2015, 117–119). Moreover, the military remained impervious to civilian oversight.

How did the peace or reform process approach inclusivity: did it focus just on the dominant groups at the heart of the conflict? To to what extent did it also attempt broader inclusion of other groups and interests?

The first protests on 25 January 2011 were primarily mobilised by educated and unemployed youths and political activists, who were accompanied by broader societal groups as protests continued unabated. However, as soon as Mubarak stepped down, more established political entities sidelined the youth and lower classes. Some youth groups such as the Maspero Youth Union and April 6 Youth Movement continued to hold some political sway via street mobilisation.

However, by spring 2013, Morsi's government put in place new laws in order to curtail the continuous stream of protests. These laws, alongside strict regulations on civil society organisations, constrained the ability of youth groups to organise.

Aside from organisations within the state apparatus, the Muslim Brotherhood was undoubtedly best suited to take advantage of the political opening. Using its charitable and religious networks set up over decades, the Brotherhood leveraged the electoral power needed to ensure dominance in both the parliamentary and the presidential elections of 2012. The first constitutional initiative was a product of the initial inclusivity of the Egyptian system, which allowed formerly banned groups access to state institutions via democratic means. The apprehension towards the Brotherhood held by political and ruling elites and the security forces was not shared by Egypt's lower and middle classes for whom religion is a major facet of personal and collective identity. Thus, for many of Egypt's Sunni Muslims, the FJP and Morsi represented a pious change from the corrupt regime of Mubarak – represented by Shafiq's candidacy. However, once in power, the Islamist bloc was reluctant to share the democratic spoils with their political rivals. As a result, justified by the electoral legitimacy, inclusion was not a priority as much as wrestling power from the former regime.

This was particularly apparent in the constitutional drafting process of 2012. The first CA that gathered on 26 March 2012 contained a two-third Islamist bloc with only 6% women and 5% Coptic Christians. Deemed unrepresentative, the Assembly was dissolved less than a month later by the Cairo Administrative Court on the grounds that it violated Article 60 of the SCAF's declaration of March 2011 (ICJ 2012, 14). The second CA of 2012 was more diverse due to an

unlimited cap on civil society representatives and the appointment of its members by the Parliament rather than the reliance on electoral percentages. Nonetheless, at 55%, the Islamist bloc maintained a numerical majority. On 14 June 2012, when the Supreme Court dissolved the Parliament, the legality of the second CA was also challenged (since the Parliament chose the CA) (ICJ 2012, 15), but the Assembly remained following Morsi's decree on 8 July. As the drafting process continued, tensions increased dramatically: street battles broke out between pro- and anti-Morsi protesters, and the police. Towards the end of the drafting process, as secular and leftist members of the CA walked out in protest of Islamist dominance, Morsi issued a constitutional declaration on 22 November blocking any dissolution of the Assembly by the judiciary. Lawsuits and the protest resignations of Morsi's advisors, Samir Marcos (the only Christian) and Sekina Fouad (a woman), did not deter the declaration's durability. Nonetheless, the November 2012 declaration became a

key point of reference for the subsequent demonisation of the FJP regime, with narratives surfacing that emphasised how Morsi worked for the Muslim Brotherhood rather than the Egyptian people as a whole.

After Morsi's deposal on 3 July 2013, the immediate goal was political stability. The second constitutional initiative was thus instigated as a means to show the inclusiveness of the incoming regime of President Abdel Fattah al-Sisi as well as symbolically wash the country's hands of Morsi's legacy. Pro-Morsi supporters, as well as other liberal and leftist anti-coup organisations that opposed the military's interference in the democratic process, were forcibly scattered, deprived of the ability to voice their discontent and subject to immense repression by the new regime. By the end of 2013, the Brotherhood was labelled a terrorist organisation first by the media and then the judiciary, and forced underground.

Pro-Morsi supporters that remained politically active denounced the new 2013 constitutional process and boycotted it.

The ruling National Democratic Party Building burns during protests on 29 January 2011

© Dan Hodgeson / Flickr Creative Commons

Indeed, in the third CA, only one member was rumoured to have ties with the Brotherhood and the only Salafist member was Mohammed Ibrahim. The structure of the third CA was reformed to include the Committee of Ten: an expert body that would propose amendments and serve in a consultative role to the Committee of Fifty. The Committee of Fifty, on the other hand, consisted of appointed members from public and private organisations, institutions and syndicates, including political parties, the police, the military, the church and al-Azhar (Serodio and Hulsman 2015, 26). The Committee of Fifty also included 10% women, 10% youth and 8% Christians. Thus, on paper the 2013 CA seemed more representative, but the absence of Egypt's significant Islamist current marred its inclusivity.

What were the critical moments when attempts at inclusion could have succeeded (and did not) or failed (and did not)? What factors – in country leadership, civil society mobilisation and international intervention – determined whether they succeeded or failed?

Critical moments during Egypt's post-2011 era were most evident in the widely broadcast incidents when segments of society would victimise the "other" in the name of either religion or nationalism for political gain. This scapegoating trend occurred on several occasions during the rise and political dominance of the Islamist bloc and then continued against the Muslim Brotherhood in the subsequent backlash after Morsi's deposal. Sectarian events (for example, the Maspero Massacre of October 2012 or the April 2013 attack on St. Mark's Cathedral, the Seat of the Coptic Pope in Cairo) occurred more often after the 2011 revolution. Such events were also indicative of the dramatic decline in rule of law

in Egypt, as well as a lack of professionalism among segments of Egypt's media outlets and state security, the latter of which participated in the above-mentioned incidents.

In part, such incidents were spurred by the lack of a consensus candidate who could represent Egyptian unity – a role that al-Sisi attempted to fulfil in his role as "national saviour". Increasing sectarianism was also a by-product of the politicisation of Egypt's main religious institutions, the Coptic Orthodox Church and the al-Azhar – a thousand-year bastion of Islamic jurisprudence. However, despite claims refuting any role in politics, both Pope Tawadros and the Azhar Grand Imam Ahmed al-Tayeb became political figures after the 2011 revolution, which in turn made them polarising figures. Due to the Copts' reliance on the protection of the state in an increasingly Islamicised environment, Pope Tawadros avoided direct criticism of state security and the military despite their involvement in the attacks on Copts at Maspero and St. Marks. Due to Tawadros' lack of criticism, hardline Islamists branded the Copts "supporters of the old regime" and "anti-revolutionary" and used sectarian rhetoric to justify political violence against them (Forster 2013). Meanwhile, the al-Azhar leadership held ideological differences to the Brotherhood in regards to Salafism, which had itself become a dominant trend in the Brotherhood (Nasira 2010; Noueihed 2014). Moreover, the disconnect between the al-Azhar leadership and the significant portion of Brotherhood-supporting students grew wider following the rhetoric of some senior Azhari officials justifying the crackdown on pro-Morsi protesters in Rabaa al-Adawiya and al-Nahda (Gomaa 2013). Thus, religion became conflated with state propaganda, thereby discrediting the religious institutions among their constituents and their opponents and diminishing the ability of religious leaders to intervene positively despite their best attempts.

How transformative has the process been on the inclusion front? If not transformative now, were there transformative moments, or is there further transformative potential?

Initially, the "opening" of the Egyptian political system through electoral politics granted formerly excluded groups access. However, optimism eroded as identity politics emerged as a key mobilising factor and economic stability failed to materialise. Displeased with Islamist dominance in the legislature, the Presidential Office, and the 2012 CAs – the political, business and military elites who rose to their prominent positions during the Mubarak era – mobilised their resources within and beyond the state to form a counter-narrative aiming to discredit the Islamist bloc through the use of, among other things, talk shows and print media. Exclusive practices by the Islamist bloc, including the "forced" ratification of the 2012 constitution, the deteriorating state of the Egyptian economy, and narratives highlighting the fanaticism of Morsi's supporters (Andersen 2014), became part of the justification used by the activist group Tamarod – supported by intelligence and the armed forces (Frenkel and Atef 2014) – for its campaign against Morsi in the spring of 2013. The mass protests from 29 June to 3 July 2013 arose because Tamarod's agitation provided the armed forces with the necessary momentum to step in and remove President Morsi.

In its aftermath, the Rabaa al-Adawiya massacre was only the public façade of a comprehensive crackdown on the Muslim Brotherhood, with almost 60,000 arrested between July 2013 and 2016 and others either in exile or disappeared (El-Ansary 2016). The gradual political reforms from 2005 onwards, that saw members of the Brotherhood in Parliament (though banned at the time)

were stripped away entirely. Moreover, liberal, secular and leftist groups have since been subject to mass repression, with the state broadening its targets to include anyone openly vocal of their disapproval of the state or the President. Lists of offending individuals, including media personalities and politicians – the so-called "fifth column blacklist" – has since been made public by the state-owned al-Ahram media outlet (al-Ahram al-Arabi 2013).

Nonetheless, some cosmetic changes did occur. In the 2015 Parliament, women made-up 14.9% of parliamentary seats, up from 1.8% in 2012 and 12% in 2010 (Diaa 2016). Representatives under the age of 35, on the other hand, won 13.4% of seats – double their quota (Wardani 2015). However, the legitimacy of this accomplishment is questionable considering steady decline in voter turnout from 54% in the second round of the 2011/2012 parliamentary elections, to 10% in the 2015 elections, illustrating popular disillusionment with the reform process.

References

Al-Ahram al-Arabi (2013) "Today in al-Ahram al-Arabi: We publish the list of the fifth column... and disclose 'maps' of the places of residence of military and security leaders in preparation of blowing them up", 12 September 2013. Available at: arabi.ahram.org.eg/News/33500.aspx

Andersen F.W. (2014) *De Private TV-Kanalers Hetz mod det Muslimske Broderskab og al anden opposition mod Militæret i tiden lige før of efter Eks-President Mohamed Morsis afsættelse den 3. Juni 2013.* Cairo: Grifstories.

Bakr N. (2012) "The Egyptian Revolution". In Calleya S. and Wohlfeld M. (eds.) *Change and Opportunities in the Emerging Mediterranean.* Malta: MEDAC.

Brown N.J., Dunne M. and Hamzawy A. (2007) "Egypt's Controversial Constitutional Amendments". Carnegie Endowment for International Peace, 23 March. Available at: carnegieendowment.org/files/egypt_constitution_webcommentary01.pdf

Childress S. (2013) "The Deep State: How Egypt's Shadow State Won Out". PBS, 17 September. Available at: www.pbs.org/wgbh/frontline/article/the-deep-state-how-egypts-shadow-state-won-out/

Diaa R. (2016) "In Numbers: Egyptian Women in Parliament Throughout History". Awsat Masriya, 1 January. Available at: en.aswatmasriya.com/news/details/14270

El-Ansary M. (2016) "The Role of the Public Prosecution in Egypt's Repression". Project on Middle East Democracy. October. Available at: pomed.org/wp-content/uploads/2016/11/POMEDAnsaryEgyptReport.pdf

El-Mahdi R. and Marfleet P. (2008) *Egypt: Moment of Change.* London: Zed books.

Forster R. (2013) "Angst vor der Zukunft". In Hulsman C. (ed.) *Christen in Agypten: Die Wachsende Kluft zwischen Islamisten und Nicht-Islamisten.* September. Missio, pp. 69–79. Available at: www.missio-hilft.de/media/thema/menschenrechte/studie/54-aegypten.pdf

Frenkel S. and Atef M. (2014) "How Egypt's rebel movement helped pave the way for Sisi presidency", BuzzFeedNews, 16 April. Available at: www.buzzfeed.com/sheerafrenkel/how-egypts-rebel-movement-helped-pave-the-way-for-a-sisi-pre?utm_term=.flXOYXZEk#.lomMVobKy

Gomaa A. (2013) Full video of Dr. Ali Gomaa's fatwa on the permissibility of killing Khawarij carrying weapons. 25 August. Available at: www.youtube.com/watch?v=u9WE_zBV-fw

Hearst D. and Hussein A. (2012) "Egypt's Supreme Court dissolves parliament and outrages Islamists". *The Guardian*, 15 June. Available at: www.theguardian.com/world/2012/jun/14/egypt-parliament-dissolved-supreme-court

Human Rights Watch (HRW) (2010) *Elections in Egypt: State of Permanent Emergency Incompatible with Free and Fair Vote.* Available at: www.hrw.org/sites/default/files/reports/egypt1110WebforPosting.pdf

Hussein A.R. (2012) "Egyptian assembly passes draft constitution despite protests". *The Guardian*, 30 November. Available at: www.theguardian.com/world/2012/nov/30/egypt-constitution-morsi

Kandil H. (2012) *Soldiers, Spies and Statesmen: Egypt's Road to Revolt.* London and New York: Verso.

Kingsley P. (2014) "Egyptian population explosion worsens social unrest". *The Guardian,* 17 February. Available at: www.theguardian.com/world/2014/feb/16/egypt-population-explosion-social-unrest

Marfleet P. (2013) "Never Going Back: Egypt's Continuing Revolution". *International Socialism Journal* 137. Available at: isj.org.uk/never-going-back-egypts-continuing-revolution/

Nasira H. (2010) "Salafists Challenge al-Azhar for Ideological Supremacy in Egypt". *Terrorism Monitor*, 16 September. Available at: jamestown.org/program/salafists-challenge-al-azhar-for-ideological-supremacy-in-egypt/

Noueihed L. (2014) "Egypt targets last bastion of Muslim Brotherhood dissent, Al Azhar". *Reuters*, 18 September. Available at: www.reuters.com/article/us-egypt-azhar-idUSKBN0HD1AL20140918

Serodio D. and Hulsman C. (2015) "The 2014 Egyptian Constitution: Perspectives from Egypt". In Hulsman C., Forster R. and Coffee J. (eds.), *Arab West Report* (unpublished), pp. 49–50.

Stein E. (2012) "Revolutionary Egypt: Promises and Perils". *LSE Ideas*, 25 April. Available at: www.lse.ac.uk/IDEAS/publications/reports/pdf/SR011/FINAL_LSE_IDEAS__RevolutionaryEgypt_Stein.pdf

Trading Economics (2016) "Population – female (% of total) in Egypt". Available at: www.tradingeconomics.com/egypt/population-female-percent-of-total-wb-data.html

Wardani Y. (2015) "Youth in Parliament". *Al-Ahram Weekly*, 12 November. Available at: weekly.ahram.org.eg/News/13709/21/Youth-in-parliament