

# The Egyptian Transition Arena: Between the Army Leadership, the Muslim Brotherhood and a Society in Full Transformation

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The legislative elections that were to be held in April 2013 have been postponed following a decision of the High Constitutional Court invalidating the electoral law. Far from gaining general consensus, the new constitution has, quite on the contrary, provoked a severe political crisis associated with the conditions in which it was drafted, its adoption and its contents. Significantly, Tahrir Square is still occupied and the ensemble of the Egyptian governorates are experiencing demonstrations and a variety of social movements. Certain political forces are demanding early presidential elections to replace Mohammed Morsi and the army, which has been seriously discredited since its management of the first stage of the transition and is increasingly perceived as the last resort in the face of the general deterioration of the political, social, economic and security climate as well as a decaying state apparatus.

## A Chaotic Transition Process

This situation reflects the impasse of the transition process launched by the Supreme Council of the Armed Forces (SCAF) after Mubarak's departure.

Faced with a revolution lacking unitary political leadership, the military leadership at first approached the only actor perceived as capable of holding sway among the protesters in the streets: the Muslim Brotherhood. The transition procedure was established in agreement with the latter.<sup>2</sup>

The two actors dominating the transition arena chose to entrust the drafting of the country's new constitution to a constituent assembly whose members were to be chosen by the Parliament elected in early 2012. However, the Islamist political forces, who won over 70% of the seats in the lower chamber, were incapable of reaching a minimum consensus with the country's other political parties and with its social forces; indeed, on the contrary. The "streets" have turned against them and the traditional actors of resistance to political authoritarianism in Egypt – i.e. judicial and media actors – remain as active as always despite the attempts to silence them.

Mohamed Morsi's decision on 12 August 2012 to change the army's leadership and recover the ensemble of his powers was not, however, negatively received by public opinion. A stakeholder and sympathiser of the Mubarak political system despite its rejection of Gamal Mubarak's succeeding his father, the Army has become discredited through a number of its decisions: criminalising strikes and sit-ins,<sup>3</sup> trying civilians in military courts, repressive practices against youth involved in the revolution, the press campaign against human rights organisa-

<sup>1</sup> This article was finalised in April 2013 (Editor's note)

<sup>2</sup> BEN NÉFISSA, S., "Trajectoires transitionnelles et élections en Tunisie et en Egypte," *Confluences Méditerranée*, 2012, (82), p. 9-27.

<sup>3</sup> Law No. 34 of 12 April 2011; Law No. 10 of 11 March 2011.

tions, intents to silence the media, etc. The decision to try Hosni Mubarak and his entourage was only taken under the pressure of street demonstrations. The National Democratic Party was dissolved and the Local Popular Councils eliminated through court rulings. The only positive political measures taken by the army's leadership have been limited to the relative reform of political parties<sup>4</sup> and the electoral process.<sup>5</sup>

### A Constitution Adopted without Consensus

Egypt's new constitution, adopted in December 2012, is at the heart of the current serious political crisis. In any case, said crisis has called into question the imbalance of powers to the benefit of the executive branch and has led to the limitation of presidential terms to two four-year terms. But the main point of disagreement has to do with certain articles lending religion a more prominent role. The reference to Islamic law already extant in the previous constitution was interpreted liberally by the Supreme Constitutional Court, which limited its scope. The new constitution, on the other hand, specifies the content of Islamic law and lends the Al-Azhar a consultative role to this end.<sup>6</sup> These stipulations are the result of an agreement between the Muslim Brotherhood and the new actors of Egyptian political Islam, i.e. the Salafist forces. It is thus not surprising that the country's new constitution was rejected by the ensemble of non-Islamist political and social forces as well as by Coptic religious institutions.

But even more than the content of the new constitution, it was the procedures employed in its adoption that triggered the profound crisis Egypt is experiencing. These procedures expressed the will of the Muslim Brotherhood's governing elite to challenge the traditional independence of the Egyptian judicial system.

<sup>4</sup> CLÉMENT STEUER, "Le printemps des partis ? Le rôle des organisations partisanes égyptiennes dans les élections législatives," *Confluences Méditerranée*, 2012, (82), p. 91-106

<sup>5</sup> Tewfic Albert ACLIMANDOS, "Comment les législatives se négocient : quelques réflexions sur les élections égyptiennes," *Confluences Méditerranée*, 2012, (82), p. 71-90.

<sup>6</sup> Interview with Nathalie BERNARD-MAUGIRON, *Quelle Egypte dans la Nouvelle Constitution?* [www.oasiscenter.eu/fr/node/8957](http://www.oasiscenter.eu/fr/node/8957).

<sup>7</sup> Nathalie BERNARD-MAUGIRON, "Les juges et les élections dans l'Égypte post Mubarak : acteurs ou victimes du politique ?" *Confluences Méditerranée*, 2012, (82), p. 117-132.

<sup>8</sup> President Morsi replaced the procurator general, although the removal and appointment of a procurator are the responsibility of the Supreme Judicial Council.

### Challenging the Judicial Branch's Independence

The transition procedure established by the army leadership and the senior officials of the Muslim Brotherhood was disrupted by various court rulings, the most significant being the dissolution on 14 June 2012 of the People's Assembly, dominated by Islamist political forces, via a court decision invalidating the electoral law.<sup>7</sup> On 22 November 2012, Mohamed Morsi's constitutional declaration immunised his decisions from any court appeals. The aim was to rush the adoption of the new constitution by protecting the second Constituent Assembly in charge of drafting it from any possible dissolution, considering that the first Assembly had been dissolved. The second Assembly, dominated by Islamists, was the object of an appeal on the grounds of unconstitutionality. The Supreme Constitutional Court was to make a ruling on this appeal but the court building was surrounded by Islamist activists who prevented the court officials from meeting and making a decision. The constitution was thus drafted in a rush and adopted by a referendum held on 15 and 20 December 2012.<sup>8</sup> These decisions by Mohamed Morsi had serious implications on the political level.

### Recasting the Political and Electoral Arena

First of all, Mohamed Morsi's coup de force entailed the defection of several non-Islamist personalities who had agreed to join forces with the Muslim Brotherhood in the Constituent Assembly. His decisions widened the division between Islamist forces and so-called secular or liberal forces in the political arena. The latter regrouped under a "National Salvation Front" (NSF) led by Mohamed ElBaradei, Hamdeen Sabahi and Amr Moussa. This coalition demands a reform of the new constitution. The broad

demonstrations against Mohamed Morsi's decisions in December 2012 at the NSF's call revealed a certain success of this coalition among the Egyptian population.

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The results of the referendum on the country's new constitution attest to this. The constitution was voted in by only 63.8%<sup>9</sup> of the voters despite the blatant malfeasance that characterised the referendum. This downward trend of the Muslim Brotherhood's electoral results is not new. In the presidential elections, Mohamed Morsi only obtained 24.78% of the votes in the first election round.<sup>10</sup> The latter seems to have paid the price of the mixed results of the Muslim Brotherhood's attitude during this period marked by its contradictory remarks, its silence vis-à-vis the army's most controversial decisions and, finally and perhaps above all, its handling of the People's Assembly, which it dominated for some months. Its legislative activity demonstrated that it was more preoccupied with consolidating its political influence than with truly changing the political system inherited from Mubarak. The Muslim Brotherhood has namely refused to adopt the legislation on labour union freedoms that would allow their expansion in companies, and it has followed the position of the army leadership with regard to the proposal of amending the law on the military courts in order to ban them from trying civilians. In addition to being incapable of retaining certain non-Islamist political forces that were prepared to

cooperate with it, the Muslim Brotherhood was also unable to respect the terms of agreement with a sector of the revolutionary youth who had called for people to vote for Morsi in order to undermine the candidacy of Ahmed Shafik, a symbol of the former regime. Mohamed Morsi was supposed to modify the composition of the Constituent Assembly, lending more seats to non-Islamists and appointing a woman and a Copt as vice-President in the case of victory. These young people thus joined in major protests before the presidential palace at the time the constitution was adopted. The violence of the Muslim Brotherhood's reaction against the revolutionary youth has led to fighting, at times resulting in casualties. As of this point, a shift towards violence can be detected on the part of certain sectors of the revolutionary youth.

### **Authoritarian Practices and Diverse Fronts of Resistance**

The Muslim Brotherhood is also known for its attempts to silence the media by making changes in government newspapers and public television networks. Private newspapers and television networks, on the other hand, have remained out of reach. Together with the judiciary, they constitute one of the main spaces for freedom and political and social dissent, since Islamist forces are hardly present in this milieu. Every day, newspapers and private television talk show programmes analyse and criticise the decisions and attitudes of the new ruling class despite the threats and aggressions they experience, from the Salafist movement in particular. It is thus no surprise that the renewal of the governing body of the journalists' union gave a landslide victory to an opponent of the Islamist tendency. The decisions of the ruling class also met with unexpected opposition from certain structures and institutions in the face of what was perceived as an attempt at Islamisation of political and administrative structures, namely the appointment of people with affinities or ties to the Muslim Brotherhood to ministries, institutions and local administrative structures. By the same token, despite the

<sup>9</sup> In the referendum held on 11 March 2011, 73% of those who voted said yes.

<sup>10</sup> Lamiss AZAB, "Morsi au pouvoir : scénario d'une transition à l'égyptienne," *Confluences Méditerranée*, 2012, (82), p. 145-160.

will to do away with the judiciary's independence, the latter has stood its ground, as demonstrated by the invalidation of the last electoral law, which was to govern the legislative elections in April 2013.

Attempts to reformulate political authoritarianism by the former army leadership and the new Islamist team in power are actually running up against a society that has changed profoundly, for it has gained a taste for freedom, become politicised and understood that the expression of popular sovereignty does not just amount to putting one's ballot in the box

In reality, this situation above all expresses the difficulties that the country's new leaders are up against in the complicated management of state affairs. They are aggravated by the leaders' inexperience and above all the inexistence of a clear political programme proposing alternative solutions

to social and economic problems, which have grown considerably worse. Hence, the ministries dealing with economic matters have been entrusted to former senior officials of the Mubarak era and the Islamist leaders are currently negotiating with the IMF to obtain a loan whereas before, they had considered such a step contrary to Islam. The Islamic neo-liberalism being established is running up against a society that remains attached to a State guaranteeing social justice and the country's internal and external security.

The Egyptian transition arena demonstrates how attempts to reformulate political authoritarianism by the former army leadership and the new Islamist team in power are actually running up against a society that has changed profoundly, for it has gained a taste for freedom, become politicised and understood that the expression of popular sovereignty does not just amount to putting one's ballot in the box. This could be the main acquis of the revolution that began on 25 January 2011. Over the course of ten years, post-Mubarak Egypt will have held no less than five elections. The era of outright ballot box stuffing is over. Today, the enormous problems that have affected elections since Mubarak are being discussed in Egyptian public debate.