

EGYPT: Update on recent developments

I. Political events in Egypt

I.1 Presidential elections

The final round of Egypt's Presidential elections pitted a member of the Muslim Brotherhood, Mohammed Mursi, and Mubarak's former Prime Minister Ahmed Shafiq against each other. Prior to parliamentary elections earlier this year, the Muslim Brotherhood had promised not to field a candidate for the presidency; however, they later reneged on this decision. The first round of voting saw the secular and liberal vote split between differing candidates, occasioning victory for Mohammed Mursi and Ahmed Shafiq, who were subsequently cleared for the final run-off.

After a deeply polarising election, with claims of widespread voter fraud and corruption from both sides, Mohammed Mursi of the Muslim Brotherhood was announced as the new President of Egypt. The Electoral Commission had initially delayed the result for several days after claims of irregularities were submitted by both candidates. It is understood that over four hundred allegations of voter fraud were submitted by the candidates, including accusations of stolen votes, vote for cash, and accusations of backroom deals and promises of power in exchange for votes. In a CNN interview, popular Egyptian blogger Mohamed Salem, also known as 'Sandmonkey', echoed the belief that there has been widespread voter fraud by both candidates and said that "there is no transparency in the system" and "all the institutions are corrupt".¹ The Carter Centre, which observed the elections, has also concluded that elections may not have been fair.

Mohammed Mursi won the presidency after gaining a total of 13.23 million votes (51.7%), while Ahmed Shafiq polled 12.35 million votes (48.3%). However, there has been a general sense of dismay at the way in which the presidential elections were handled. This has been expressed by many voters and a sense of inertia and anxiety has set in. Many observers commented ruefully on having to choose between two deeply unsatisfactory candidates and being almost forced to vote for one simply to keep an even worse one out. Many openly expressed their belief that neither candidate was representative of the hundreds of revolutionaries that died during last year's protests. One voter even spoilt his ballot in order to ensure that his vote was not misused by either candidate.²

However, despite the frustrations, there is also a degree of quiet optimism that Egyptians have been able to elect their first president. Although it is clear the ruling military still hold the reins of power, there is still hope that they will make good on their promise to hand over power to the new president and take the necessary steps to ensure that Egypt functions as a full democracy.

I.2. Expanded powers for the military

The Supreme Council of the Armed Forces (SCAF) has been in effective control of Egypt since the fall of the regime of Hosni Mubarak. The role of SCAF in Egyptian politics has caused widespread anger amongst many Egyptians, who have witnessed the gradual emergence of a military stranglehold on all aspects of politics.

During his speech at Cairo University in the immediate aftermath of his inauguration, President Mursi described the Egyptian military as the country's "sword and shield", and gently implied that they

¹ <http://www.youtube.com/watch?v=ksqUkROKwK0>

² Ibid

return to their primary role. However, given the events that unfolded in the run-up to his election, such an eventuality does not appear likely, and many feel Mohammed Mursi, will be “a president with no power”.

The manner in which the army has expanded its powers in the lead-up to the final round of the presidential elections has been described by some observers as amounting to a “soft coup”. The process began on 10 June 2012, when the Supreme Constitutional Court announced that it had suspended the one hundred member Constitutional Assembly - the panel charged with drawing up the country’s constitution. Although no official reason was given, it has been reported that the court deemed the panel not to be representative of Egyptian society as a whole and particularly unrepresentative of women and religious and ethnic minorities. The advisory council of SCAF endorsed the court’s decision by stating that the “constitutional assembly is underrepresented by Egyptians”. The suspension was hailed as a positive step by campaigners who had feared that the existing panel would seek to draw up a constitution based on Sharia Law and one that would fail to consider, as well as forgoing, the rights of religious and ethnic minorities. Many concerns had been raised by rights groups after parliament had handed itself the power to select the one hundred member panel. Parliament then went on to hand fifty percent of the panel’s seats to sitting MPs – mostly from the Muslim Brotherhood and Salafi Parties - with many other of its members being Islamists. In protest, several liberal and secular parties left the panel, deeming it to be illegitimate. It is reported that the Muslim Brotherhood will appeal this decision, although, in reality, this may amount to nothing more than a token protest, considering that SCAF effectively hold all the power in Egypt and have validated the court’s decision.

On 14 June, Egypt’s highest court, the Supreme Constitutional Court, issued a ruling to dissolve the Egyptian parliament, on the basis that a third of the lower house’s parliamentarians had been elected illegitimately. The court concluded that one-third of the elected candidates, who were required to run as independents, were, in fact, affiliated to political parties such as the Muslim Brotherhood. Following this decision, the head of SCAF, Hussein Tantawi, said he considered parliament “to be dissolved”. It is unclear when fresh parliamentary elections will take place, but it is clear that the constitution cannot be drafted until a new parliament has been elected, potentially setting back the democratic process in Egypt’s for months, if not longer.

The country became extremely tense following the suspension of the constitutional assembly and the dissolving within the space of a week. Although many have welcomed the decision by the court to make the constitutional assembly more representative, many Egyptians see the ruling military behind these decisions. The timing of both these decisions, which occurred during the final round of presidential elections, was even more dubious, and many suspected tactical manoeuvring by the military in an attempt to cling to power despite the elections.

Suspensions were further aroused when SCAF went on to award itself sweeping new powers on 17 June 2012, shortly after polls had closed in the final round of voting in the historic presidential elections and only days after the court decision that had declared the parliament “invalid”. In what was viewed as a political manoeuvre to maintain power, SCAF issued a constitutional declaration that effectively gives the military legislative powers, control over the national budget and the power to appoint the panel to write the country’s new constitution; powers identical to those proposed in the supra constitutional document, that caused mass protest against SCAF in November 2011. These new powers will, in effect, significantly reduce the power of the newly elected President, transferring them to the ruling military council. Furthermore, the president will not be able to make key decisions, such as forming or dissolving government, without the approval of SCAF. There are also suspicions that the new president will only be in power for a few months, as it is possible that fresh presidential elections could take place once a new constitution has been drafted and approved.

Moreover, SCAF’s new powers will also allow for the continued trials of civilians in military courts; this decision follows the Justice Decree, announced on the 4 June 2012, which allows for the arrests

of civilians by the military. Responding to this announcement, Mohamed ElBaradei, a prominent political figure and former UN nuclear chief, called it a “grave setback for democracy and revolution”.³ However, on 26 June, the administrative court in Egypt suspended the decision to allow the military to arrest civilians after an appeal was filed by several rights groups. The court has also delayed a ruling on the dissolution of parliament and the suspension of the constitutional assembly after appeals were submitted by various rights groups. It is understood that a decision on these cases will be made on 07 July and 01 September 2012, respectively.

1.3 Mubarak sentenced

02 June 2012, saw protesters fill the streets of Cairo and Tahrir Square once again, this time in a protest against verdicts and sentences handed down by the court to those responsible for the killing of around eight hundred protesters during the 25 January 2011 Revolution.

The court found Hosni Mubarak and his Minister of the Interior, Habib el-Adly, guilty not of murder, but of a failure to prevent the killing during the revolution. Both were subsequently sentenced to life imprisonment; however, the fact that they had not been found guilty of murder, but of complicity caused anger. Four officials from the Interior Ministry, some of whom were known torturers and one of whom was head of riot police, were acquitted as the judge stated that the prosecution had failed to demonstrate that it was, in fact, police bullets that had killed protesters. These acquittals occurred despite the existence of extensive video and forensic evidence, further annoyed victims’ families. The court also dismissed charges of corruption against Mubarak and his sons, quoting that the statute of limitation on the fraud had expired.

Protesters took to the streets in anger after the court’s verdict demanding true revolution, as the ruling of the court was seen to have undermined the message of the revolution that hundreds died in pursuit of. The verdicts were issued three weeks prior to the last round of voting in the country’s presidential elections.

2. Continuing denials of justice to the Coptic Community

In stark contrast, Egypt’s Coptic community continues to face violence and discrimination, obstacles to justice within the legal system, and a lack of protection from security services. This has led to a climate where perpetrators of sectarian violence are able to commit such crimes with impunity. Consequently, throughout the military rule of SCAF the persecution against Copts has not decreased and they continue to feel the pressure of being discriminated against by the very people who should be protecting their interests as citizens.

2.1 Maspero

On April 24, a panel of judges convened to investigate the 09 October violence in Maspero, in which twenty-seven unarmed Copts were killed and over three-hundred others injured, closed the case due to an alleged ‘lack of identification of the culprits’⁴, despite the existence of compelling video evidence, some of which has appeared on social media channels. The panel had been tasked with investigating the deaths of nine of the Coptic victims and an army officer, all of whom died from gunshot wounds. Initially the Judge had referred two Copts, Michael Adel Naguib and Michael Shaker, to the court for stealing an army machine gun and using it to kill their fellow Coptic protesters; they were both later cleared of these charges. Families of the Maspero victims are still determined to see justice for their loved ones. The sister of Coptic activist Mina Daniel, who was killed by a sniper’s bullet, informed a news agency that: “*This case is being handled by the killer [SCAF]*”

³ <http://www.bbc.co.uk/news/world-middle-east-18482257>

⁴ <http://www.aina.org/news/20120427193443.htm>

and of course it would be impossible for the killer to condemn himself.”⁵ The argument that the judicial investigations are inherently biased arises from the fact that these are military trials, not civil ones. The fact the military is consistently investigating its own actions or those of its agents makes it difficult to discern the line of justice in the decision to close this part of the case.

The second part of the case involves three army officers, who were driving the armoured personnel carriers (APC's) that crushed fourteen Copts. All three men faced the lesser charge of involuntary manslaughter, which under the penal code results in a maximum sentence of seven years. The bias in the investigations so far has led some lawyers representing the victims to withdraw from the process. The actions of military rulers appear to have effectively denied the twenty-seven Coptic victims of justice, as well as the Coptic community, which saw the massacre as a systematic and deliberate attack against them.

2.2 Twelve Copts receive life sentences

On 21 May 2012, twelve Christians were sentenced to life imprisonment following an outbreak of sectarian violence in April 2011, in al-Minya Governate, which left three people dead. However, eight Muslims who were jointly charged with the Christians were acquitted.

The conflict reportedly began after a Muslim bus driver became angry over a speed bump outside the home of a wealthy Coptic attorney and instigated a crowd that was brandishing weapons to assist him in removing it. Fearing an imminent attack, the security guard at the house began to shoot, killing two Muslims and injuring two others. Following the funerals of the two dead, a mob of local Muslims, accompanied by members of the ultra-conservative Salafi movement, burnt down scores of Christian homes and businesses. During the violence, an elderly Coptic woman died after she was thrown from a balcony, while a Coptic man was critically injured. According to members of the local Coptic community, when security forces arrived at the scene they did not intervene to stem the violence.

The Coptic men arrested in connection with the violence were convicted of sowing public strife, the possession of illegal weapons and killing two Muslims. The Coptic attorney, who was not even at home when the deaths occurred, was one of those sentenced to life imprisonment. The eight Muslim men who were acquitted had been charged with possession of illegal weapons and burning down the homes and businesses of Christians. No one was charged with the murder of the elderly Christian lady. Of particular concern, is the fact that, as with the Maspero trial, this case was conducted in a military court. As a result, the military council is the only body with the authority to grant a retrial.

Following this, many Copts in Egypt and abroad gathered to protest the court's ruling, which demonstrated a clear misapplication of justice.

2.3 No Justice for Coptic man who lost an ear

On 20 March 2011, Ayman Anwar Mitri, a Copt, was attacked by twelve Muslim men who beat him and cut off his ear for allegedly having an affair with a Muslim woman. The attack took place in the town of Qena in Upper Egypt, where Mr Mitri owned an apartment that he had rented out through an agent to two Muslim sisters. After allegations that the two women were prostitutes, the apartment was burned down. When Mr Mitri was called to attend to his damaged apartment, he was confronted by a Muslim man, Alaa el Sunni, who had accused him of renting his apartment to prostitutes. Mr Mitri was not aware of the claims against him, as he had rented the apartment through an agent.⁶

⁵ Op Cit fn4

⁶ <http://www.aina.org/news/20110325223845.htm>

Alaa el Sunni, suggested that he and Mr Mitri go to a quiet place to finish their discussion and went to the apartment of a police officer known to Mr Mitri. When they arrived, there were twelve Salafi men were waiting for him, who brutally attacked Mr Mitri. One of the Muslim women who rented the apartment from Mr Mitri was summoned and asked to confess to having a relationship with him. When she refused, she too was beaten until she agreed to this. Shortly afterwards, Mr Mitri was forced to sit and his right ear was cut off. He also suffered cuts to his left ear, neck and arms. It is reported that the twelve men also wanted to throw him from the fifth floor window of the apartment, but did not do so after the police officer protested as he would become complicit to the crime. The men then phoned the police informing them that they had 'applied the law of Allah' and invited the police to apply the civil law.

Initially, Mr Mitri sought full compensation for the damage to his apartment, car and the disfigurement he had suffered. Additionally, he had wanted to cut off the ear of the man who had disfigured him. However, a 'reconciliation' meeting was arranged with the Vice Military Ruler of Qena. During this meeting an agreement was reached whereby Mr Mitri would drop all criminal charges against the twelve Muslims who had attacked him. Mr Mitri later admitted that he only agreed to drop the charges against the men after being threatened with the kidnap of his female children if he did not.⁷

Decisions arrived at within the context of the extra-legal reconciliation process consistently deprive Coptic victims of justice, with victims finding themselves under undue pressure to accept the unfair outcomes of these gatherings, which are often facilitated by Salafi leaders.

2.4 Freedom of religion issues during Presidential elections

The final presidential election saw voters deciding between the Muslim Brotherhood candidate, who had previously advocated a form of Sharia law, and a candidate from the former Mubarak regime. With the parliamentary election results earlier this year showing a strong vote for Islamist parties, including a significant vote for the ultra-conservative Salafi party, which gained one hundred and thirty-one seats, the gulf between the religious and secular voices seemed to be widening. Furthermore, in a speech at Cairo University on the 12 May 2012, Mohammed Mursi, openly declared his intention that the new Egyptian constitution ought to be based on Sharia law. During the speech, he said: *"The Koran is our constitution, the Prophet is our leader, jihad is our path and death in the name of Allah is our goal."*⁸ He went on to state: *"Today we can establish Sharia law because our nation will acquire well-being only with Islam and Sharia. The Muslim Brothers and the Freedom and Justice Party will be the conductors of these goals".*⁹

These are concerning statements not only for Christians and other minority faith groups, but also for liberal Muslims and secularists. The constitution is yet to be drafted; however, there were growing concerns that a man who had made such clear statements may exacerbate societal divisions and inflame sectarianism, and that the insistence on Shari'a will mean that pre-existing legal biases would be further cemented, creating a roadblock to justice for non-Muslim faith groups.

Several days after Mohammed Mursi's statement, the interim leader of the Coptic Orthodox Church issued a statement, clarifying: *"that the church was not backing any particular candidate for the elections, and also intimated that the Egyptian constitution must be drafted in such a manner that it accommodates equality for all citizens."* Across Egypt, key community leaders continue to articulate that Christians are not asking for any special democratic treatment, neither do they want to be a special interest group; rather, they are indigenous Egyptians who want to participate fully as equal citizens of their country.

⁷ Ibid

⁸ <http://en.rian.ru/world/20120513/173419752.html>

⁹ Ibid

It is vital for the new president to reassure non-Muslims that they will be protected and that human rights would be upheld for all. Many still hope that Mohammed Mursi will do this, in light of his recent statements to this regard. Upon election, he encouraged national unity across the religious divide by stating that “Muslims and Christians are advocates of civilisation and construction”. He also pledged “respect for human rights, maintaining the rights of women and children” and said: “Egypt is for all Egyptians; all of us are equals in terms of rights”. Furthermore, he has pledged to appoint both a female and a Christian as his deputies.

During his pre-inaugural speech in Tahrir Square President Mursi also aligned himself with the desires of the Revolutionaries, stating once again that he would be the president of all Egyptians. According to recent research by the Pew Forum, eight-one percent of Egyptians interviewed by researchers believed it was important to live in a country where the judiciary treated everyone equally, 81% of those interviewed also said that they wanted a democratic state that had democratic institutions.¹⁰ These results appear to indicate that many Egyptians want to see Egypt operating as a just and democratic nation, however, if the majority of those interviewed were urban Egyptians as opposed to rural ones, such a result holds no surprise.

On 25 June 2012, the EU Foreign Council adopted several conclusions on Egypt including freedom of religion. In part of the conclusions the EU stressed “the fundamental importance of the democratic process and institutions and separations of powers, as well as the duty to respect the rule of law and to protect human rights and fundamental freedoms for all, including freedoms of expression, assembly, and religion or belief”.¹¹

3. Recommendations

It is vital that Egypt’s emerging leadership is encouraged is to secure civil rights and religious freedom for all of the nation’s citizens. This can best be accomplished by:

- Ensuring that President Mursi is held accountable to delivering on his promises to uphold human rights and to promote the equality of all Egyptians.
- Ensuring that the emerging constitution, legal frameworks and social structures are guided by the principle of equality of citizenship, and are tune with the spirit of human rights instruments to which Egypt is party;
- Upholding equality before the law for all religious groups with respect to recognition, registration and regulation, including the establishment and maintenance of places of worship;
- Ensuring the right of all citizens to adopt a religion or belief of their choice without fear of sanction. This includes the right to believe or not to believe, and the right to change one’s religion;
- Ensuring that all citizens are able, either individually or in community with others and in public or private, to manifest their religion or belief in worship, observance, practice and teaching, as outlined in the International Covenant on Civil and Political Rights (ICCPR);
- Responding promptly to violence against members of minority religious communities. The Egyptian authorities must publicly prosecute offenders on criminal charges in civil courts. Recourse to military tribunals, emergency courts or ineffective traditional reconciliation processes undermines the transition to civil governance and equal rights for all Egyptians;
- Ensuring that all citizens are treated equally in every arena of public life, including access to economic and educational opportunities, and equality before the law.

¹⁰ <http://www.pewglobal.org/2012/05/23/egypt-on-the-eve-of-elections-economy-democracy-are-both-priorities/>

¹¹ http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/131163.pdf