



TOWARDS A WAY OUT OF THE EGYPTIAN DILEMMA:

NEW LESSONS FOR AN OLD REGIME

OMAR A. SHEIRA

TILBURG
UNIVERSITY



Law School

This page is intentionally left blank

“Cultivate the habit of being grateful for every good thing that comes to you, and to give thanks continuously. And because all things have contributed to your advancement, you should include all things in your gratitude.”

(Ralph Waldo Emerson—American Poet)

*To my dearest family, friends, and brilliant people
who have kept me inspired along the way,
I could never thank you enough.*

TABLE OF CONTENTS

INTRODUCTION AND OVERVIEW.....	5
CHAPTER 1: AN INTERDISCIPLINARY LEGAL APPROACH	7
CHAPTER 2: THE MUBARAK ERA, REVOLUTION, AND BEYOND.....	9
2.1 Legislative Framework of an Authoritarian State.....	9
2.1.1 <i>Emergency Law</i>	9
2.1.2 <i>Freedom of Expression and Press</i>	11
2.1.3 <i>Freedom of Association</i>	12
2.2 Implosion of the Pharaoh's Regime.....	14
2.3 An Unstable, Military-Led Transition.....	16
2.4 A Reign of Theocratic Zeal.....	18
CHAPTER 3: TRIALS AND TRIBULATIONS OF INTERNATIONAL.....	21
HUMAN RIGHTS LAW IN EGYPT.....	21
3.1 Constitutional Framework.....	21
3.2 International Supervisory Mechanisms.....	22
3.2.1 <i>The Egyptian Government</i>	22
3.2.2 <i>Stakeholders' and Working Group Reports</i>	23
3.2.2 <i>UPR Recommendations</i>	23
3.3 Inevitable Failure of International Law.....	27
3.4 Avenues to Encourage Compliance?.....	28
CHAPTER 4: FOSTERING LEGAL EMPOWERMENT.....	30
4.1 Uprooting Illiteracy and Planting Consciousness.....	30
4.1.1 <i>Illiteracy in the State</i>	30
4.1.2 <i>Legal Illiteracy and Vulnerability</i>	31
4.1.3 <i>Planting the Seeds of Consciousness</i>	32
4.2 Legal Mobilization and the Law of the Land.....	34
4.3 The Right to Legal Socialization.....	35
4.4 Another Failed Solution.....	36
CHAPTER 5: WHERE TO SEARCH FOR HOPE.....	37
5.1 Re-examining the Status Quo.....	37
5.2 Defining Political Will in Egypt.....	38
5.3 Re-defining Political Will in Egypt.....	40
5.4 Points of Discussion.....	41
CONCLUSION.....	42
EPILOGUE.....	44
BIBLIOGRAPHY.....	45

TOWARDS A WAY OUT OF THE EGYPTIAN DILEMMA: NEW LESSONS FOR AN OLD REGIME

“We must all turn our backs upon the horrors of the past. We must look to the future. We cannot afford to drag forward cross the years that are to come the hatreds and revenges which have sprung from the injuries of the past.”

(Sir Winston Churchill—Statesman)¹

INTRODUCTION AND OVERVIEW:

Egypt’s long history of human rights violations spans more than half a century. From Gamal Abdel Nasser’s preemptive arrests of potential opposition and Anwar el-Sadat’s “controlled” political liberalization to Hosni Mubarak’s repressive containment of political pressures, Egypt’s dictators have consistently compromised the fundamental human rights and democratic reforms to ensure their regime’s political survival.² Despite the Mubarak regime’s long-lived resilience against Islamist opposition, economic struggles, and a multitude of socio-political challenges, its failure to address the population’s needs resulted in the popular uprising which ousted president Mubarak on February 11, 2011.³ The January 25 Revolution brought hope of change to the Egyptians. Yet, once the dust settled, it was prevalent that the country faced long-term problems which required much more than structural plans and legal reforms.

Nearly three years later, the post-revolutionary Egypt is still turbulent after ousting yet another president, Mohamed Morsi, for reasons much similar to those brought against his predecessor. Today, the country continues its arduous journey on a rocky road of democracy and its military-backed government is confronted by a war of power politics, a deeply polarized public, alarming security threats, corrupt institutions, an economy on the verge of collapse, a crippled educational system, and serious resource shortages. Amidst this status quo and under this repressive system, human rights continue to drastically deteriorate, rendering Egypt’s environment even more unstable and unsuitable to foster their implementation than before.

Human rights organizations, lawyers, and researchers have, for decades, condemned Egypt’s legal framework and urged its immediate amendment, repeal, or reform to improve human rights practice. But rather than deal with the complex nature of Egypt’s dilemma, the majority of literature on human rights studies violations in relation to the existing national and international legal framework and subsequently issues—or to be more precise, routinely reiterates—recommendations which are intended to target the regime’s practices. Of course, this has always been met by the Egyptian government’s commitment to human rights, its polite acceptance to indefinitely review the issues of concern, and a definite inaction towards any violations. Therefore, we now reach the juncture where it is imperative to acknowledge two key observations, first, there is an abundance of futile studies proposing only *potential*, not *actual* solutions to Egypt’s dilemma; and second, human rights violations in Egypt are only worsening symptoms of an underlying chronic problem which has persisted over decades of dictatorial rule.

¹ See Sir Winston Churchill, *Speech by Sir Winston Churchill*, Sept. 19, 1946, <http://www.peshawar.ch/varia/winston.htm>

² See Curtis Ryan, *Political Strategies and Regime Survival in Egypt*, JOURNAL OF THIRD WORLD STUDIES 18, (2001), <http://gsw.edu/~atws/volumes/vol18.htm>, at 2-7.

³ See Kashif Mumtaz, *The fall of Mubarak: the failure of survival strategies*, Institute of Strategic Studies Islamabad, (2011), http://www.issi.org.pk/publication-files/1328590763_27748727.pdf, at 1.

This thesis sets out to examine the necessary preconditions for building an environment which can foster human rights implementation and enforcement in Egypt. It is a preliminary effort which attempts to enhance the understanding of a solution to the Egyptian dilemma. Through a process of eliminating the unfeasible solutions, one chapter at a time, the paper aims to narrow down the focus to a specific framework within which a plausible solution could be formulated at the current moment in time. To provide a roadmap for the study: first, a brief methodology chapter sketches the basic model of historical, socio-legal, and political approaches used within the paper. Second, a modern history of human rights practice in Egypt explains the development and failure of the existing legal framework, which eventually led to the popular uprising and the current dilemma. Third, the top-down approach of international law and its supervisory mechanisms are examined vis-à-vis the compliance with human rights treaties in Egypt. Fourth, the bottom-up approach of legal empowerment is tested for feasibility and practicality in Egypt. Fifth, the notion of political will is defined and applied to the Egyptian leadership and population to understand how its alteration can present a potential avenue for a feasible solution. Finally, the thesis concludes with a discussion on how this preliminary analysis can be used as a first step towards a real solution addressing Egypt's root problem and not merely its symptoms.

CHAPTER 1: AN INTERDISCIPLINARY LEGAL APPROACH:

Before constructing a framework to analyze Egypt's dilemma, a fundamental question to ask is whether or not the country's crisis can be exclusively analyzed from a legal perspective. In other words, is Egypt's human rights situation a result of the laws only? Or are there other pivotal factors which cannot be disregarded? I argue that a myriad of interlinked elements constitute Egypt's current problematic environment. Hence, in addition to a legal approach, I also use historical, socio-legal, and political science approaches to analyze the crisis in its current, appropriate context. This helps overcome many obstacles found in common understandings of both the state's problems and solutions.

To survey the urgent task of this study, an initial analysis of Egypt's history helps offer "insight into the organizational culture, current trends, and future possibilities."⁴ Since the country's practice of repressive laws and human rights violations developed mainly during the modern era, understanding Egypt's past is key to identifying simpler and more coherent linkages with its present. But this historical analysis must be complimented by developments and occurrences in society.

In Egypt, it has been established that the existing gap between the stipulated law and the law practiced remains due to a half century-long failure of both the state to implement and enforce its obligations and its citizens to realize the significance of the law and reinforce it. To narrow this gap, it is crucial to understand two socio-legal approaches—namely, legal consciousness and cultural theory—and how they apply to Egyptian civil society. The development of these two notions is essential to carrying out a comprehensive study which examines real time factors and on-ground conditions.

First, legal consciousness refers to the way law is made, perceived, practiced, and evolved in civil society.⁵ It is the law's impact on daily life and a notion that moves beyond examining legal framework, acts, and behavior.⁶ Instead of viewing law as a separate domain from society, legal consciousness views law as a *part* of society and rather than looking at the effectiveness of laws, it turns to the effects of laws.⁷ Studying law *in* society proposes answers to questions of how law gains and maintains legitimacy; how law works in society; and by whom the law is, or is not used.⁸ Legal consciousness further draws on three narratives to explain its findings:

(i) 'before the law'; (ii) 'with the law'; and (iii) 'against the law'. Each narrative has a double face, as it were, representing both a characteristic individual response to law *and* a cultural schema that makes sense of law at a structural level. Standing 'before the law' captures an image of law as ensuring collective fairness, equality, and justice. Playing 'with the law' is a story where law is a morally neutral game that can be played to individuals' advantage if they are clever enough and have the right resources. Being (up) 'against the law' tells yet another story of law where it is the expression of brute power, exercised unpredictably and resisted by individuals where cracks in that power appear (though no attempt to alter the power structures themselves is made).⁹

⁴ See Ruth Palmquist, *The Historical Approach to Research*, UNIVERSITY OF TEXAS AT AUSTIN, (1997), <https://www.ischool.utexas.edu/~palmquis/courses/historical.htm>

⁵ See Susan Silbey, *After Legal Consciousness*, 1 ANNU. REV. L. SOC. SCI., (2005), http://web.mit.edu/ssilbey/www/pdf/after_legal.pdf, at 334.

⁶ *Ibid.*, at 327.

⁷ *Ibid.*, at 328.

⁸ *Ibid.*, at 327.

⁹ See Simon Halliday and Bronwen Morgan, *I Fought the Law and Law Won? Legal Consciousness and the Critical Imagination*, CURRENT LEGAL PROBLEMS, (2013), <http://clp.oxfordjournals.org/content/early/2013/05/03/clp.cut002>, at 5.

The above explanatory narrative “against the law” applies to Egypt, where the oppressive system cannot be directly addressed, due to the military’s powerful grip on state affairs.¹⁰ Society’s legal consciousness is now characterized by the state’s failures: a military-influenced judiciary, repressive laws, arbitrary arrests, crackdowns, lack of freedoms of speech, press, and association, and inefficient state institutions fueled by a heavy bureaucracy, to say the least. Nevertheless, Egypt is not only confronted by political and economic failure, but also by the prevalence of a half-century old culture of corruption, which has become entrenched in everyday institutional and societal practice. As a result, the *absence* of a rule of law has indeed *become* the rule of law, leading to the current state of affairs. These obstacles vastly undermine the existence of human rights or even the efforts to progress. Therefore, the common “law-first” approach which focuses on signs of positive law cannot be fully effective in a study on Egypt without first knowing where the traces of law exist in today’s society.¹¹ This helps focus on the social and cultural practices which encapsulate legal consciousness within societal processes.¹²

The second sociological notion, cultural theory, directs attention to the social and cultural spheres. It plays a role in furthering the idea of legal consciousness by stressing the structural characteristics of the law and guiding the legal research agenda.¹³ Cultural theory brings forth a combination of two dimensions for analytical purposes, namely ‘grid’ and ‘group’ analyses.¹⁴ On one hand, the grid dimension examines structured authority and the different positions and statuses; and on the other hand, the group dimension examines the level to which groups can restrict individual action.¹⁵ At the high-grid end of the spectrum—also called deferential collectivism—the state’s laws are respected and have enough power to regulate a population’s actions; and at the low-group end—called isolation—individuals are found powerless and live unpredictable lives under an oppressive legal framework which coerces people into compliance.¹⁶ Once again, applying this concept to Egypt helps explain the state law’s oppressive relationship with the people and their willingness to accept it due to the sheer force it is enforced with.

Finally, to complete the analysis, and to make the connection between history, law, and society, the political science approach is used to examine the concepts of power, policies, political processes, political actors, and political behavior and their roles within the Egyptian political sphere. Studying how these factors interact to achieve different objectives of certain political forces is of great relevance to understanding why the implementation of human rights has failed for over three decades in Egypt.

By adopting an interdisciplinary legal approach, I maintain that a better understanding of the problem is articulated. By considering the history, status quo, and Egyptian leadership’s current harsh stance on human rights, this research strongly proposes that requesting human rights’ immediate implementation and enforcement is—unfortunately—unrealistic. The battle for human rights in Egypt is far from being over, yet to realize the preconditions to an environment where they can *potentially* be implemented, one has to look beyond human rights *per se*, and to the very fundamentals of government and democratic thought.

¹⁰ See Marc Galanter, *Changing Legal Consciousness in America: The View from the Joke Corpus*, 23 CARDOZO L. REV. 6, Feb. 5, 2013, <http://www.marcgalanter.net/documents/theviewfromthejokecorpus.pdf>, at 2224.

¹¹ See Silbey, *supra* note 5, at 326.

¹² See Anna-Maria Marshall and Scott Barclay, *In Their Own Words: How Ordinary People Construct the Legal World*, AMERICAN BAR FOUNDATION, (2003), <http://cscs.res.in/dataarchive/textfiles/textfile.2007-09-20.1808132681/file>, at 625.

¹³ See Halliday and Morgan, *supra* note 9, at 6.

¹⁴ *Ibid.*, at 7.

¹⁵ *Ibid.*, at 8.

¹⁶ *Ibid.*, at 11.

CHAPTER 2: THE MUBARAK ERA, REVOLUTION, AND BEYOND: A MODERN HISTORY OF HUMAN RIGHTS PRACTICE IN EGYPT

“The situation of human rights in Egypt is similar to the famous waltz dance, one step forward and two steps backward.”

(Negad El-Borai—Human Rights Lawyer)¹⁷

To view the current events in their appropriate context, this chapter surveys three main aspects within Egyptian history. First, it explains the far-reaching implications of the legal framework which establishes the Egyptian police state: Emergency Law, the Penal Code, Press and Media Laws, and Laws of Associations. Second, it studies how these laws created a system which gradually alienated people from the political process and ultimately led to an uprising. Finally, it analyzes the present situation where a state characterized by corruption, democratic inexperience, and social ignorance is confronted with a complex rebuilding process, led by the most powerful institution in Egypt, the military.

2.1 LEGISLATIVE FRAMEWORK OF AN AUTHORITARIAN STATE

2.1.1 *Emergency Law*

Hours after the assassination of President Anwar el-Sadat by Islamist militants on October 1981, the Egyptian government declared a state of emergency. This was not an uncommon occurrence in the country’s history. Egypt’s 1958 Emergency Law had evolved from Britain’s martial law imposed from 1914 until 1922, and was later enforced time and again under the presidencies of Gamal Abdel Nasser, Anwar el-Sadat, and Hosni Mubarak.¹⁸ In fact, for the past half-century, with the exception of three years, Egypt has lived under a state of emergency.¹⁹ Under Mubarak’s three decades of rule, Emergency Law was effectively enforced to institutionalize an authoritarian rule through structural and legal alterations in the government’s executive, judicial, and legislative branches.²⁰ These changes strengthened the regime’s dominance during its formation period and created an order to ensure the consolidation of power.²¹ The specific powers stipulated by law are expansive in nature and application, granting the executive an unchallenged status among other branches of government. Once a state of emergency is declared, “the President of the Republic may adopt, by oral or written order, the following measures”²²:

¹⁷ See Negad El-Borai, *Civil Society and Human Rights in Egypt: Egyptian Style Waltz 2004-2009*, UNITED GROUP LAW, 2009, <http://ug-law.com/downloads/Civil%20Society%20and%20Human%20Rights%20in%20Egypt-eg.pdf>, at 13.

¹⁸ See generally Sadiq Reza, *Endless Emergency: The Case of Egypt*, 10 NEW CRIMINAL L. REV., (2007) http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1088827.

¹⁹ *Ibid*, at 537. (“Emergency rule has been operative in Egypt for most of the past one hundred years and continuously since 1981. This rule has been effectuated through a dizzying array of exceptional measures and courts, and it has been exercised robustly.”), at 533.

²⁰ See Tamir Moustafa, *The Struggle for Constitutional Power: Law, Politics, and Economic Development in Egypt*, (Cambridge Univ. Press, 2007), at 23.

²¹ See generally Andrea Perkins, *Mubarak’s Machine: The Durability of the Authoritarian Regime in Egypt*, GRADUATE SCHOOL THESES AND DISSERTATIONS, (2010), <http://scholarcommons.usf.edu/etd/1737>

²² Law No. 162 of 1958, QANUN BI SHA’N HALAH AL-TAWARI’ [LAW CONCERNING THE STATE OF EMERGENCY], (unofficial English translation on file with author), at art. 3.

[1] Restrict people's freedom of assembly, movement, residence, or passage in specific times and places; arrest suspects or [persons who are] dangerous to public security and order [and] detain them; allow searches of persons and places without being restricted by the provisions of the Criminal Procedure Code; and assign anyone to perform any of these tasks;

[2] Order the surveillance of letters of any type; supervise censorship; seize journals, newsletters, publications, editorials, cartoons, and any form of expression and advertisement before they are published, and close their publishing places; [...]

[4] Confiscate any property or building, order the sequestration of companies and corporations, and postpone the due dates of loans for what has been confiscated or sequestrated; [...]

[6] Evict some areas or isolate them; regulate means of transport; limit means of transport between different regions.²³

The paragraphs listed above allow the repressive methods of state control and legitimize transgressions against the fundamental rights guaranteed in the constitution. They spread into every corner of civil society, granting the presidency virtually unlimited powers of search and seizure, surveillance of communications, censorship of publications, sequestration of companies, and confiscation of any property against any party deemed a *threat* to the state.²⁴ Over three decades, the Mubarak regime consistently exercised these measures to silence calls for change by arresting and detaining popular reform figures.²⁵ This was made possible through the Ministry of Interior's ("MoI") State Security Investigations Service ("SSIS") which became a notorious state instrument for enforcing emergency rule and marginalizing any political opposition (whether violent or *nonviolent*) during the 1980s and 1990s.²⁶ Detained suspects were tried through alternative judicial institutions which were exempted from any provisions of the Criminal Procedure Code. The so-called State Security Courts denied citizens the right to a fair and public hearing before a competent, independent and impartial courthouse established by law; the right to have sufficient and adequate time to prepare a defense; the right to be defended by an attorney of one's choosing; and the right to appeal against conviction (verdict) and sentence to a higher tribunal.²⁷ Consequently, most issued rulings resulted in incarceration or a fine, wherein the former, detainees were often indefinitely incarcerated for years and routinely subjected to torture.²⁸

²³ *Ibid.*

²⁴ See Sadiq Reza, *Criminal Procedure: A Worldwide Study*, (Carolina Academic Press, 2007), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1854957, at 110.

²⁵ See Perkins, *supra* note 21, at 64. See also HUMAN RIGHTS WATCH, *Behind Closed Doors: Torture and Detention in Egypt*, (1992), <http://www.hrw.org/sites/default/files/reports/Egypt927.pdf>. ("Many suspects are taken into custody during post-midnight raids on their private homes. The process of arrest is marked by intimidating tactics, a harrowing experience for the detainee-to-be and his family.")

²⁶ See HUMAN RIGHTS WATCH, *Anatomy of a State Security Case: The "Victorious Sect" Arrests*, Dec. 2007, <http://www.hrw.org/sites/default/files/reports/egypt1207web.pdf>. ("SSI[S] has a long record of abusive conduct. In the 1980s and 1990s SSI[S] routinely ill-treated persons arrested for alleged opposition to the government, including tens of thousands of men suspected of involvement in non-violent opposition groups."), at 9. See also Daniel Brumberg and Hesham Sallam, *Special Report: The Politics of Security Sector Reform in Egypt*, UNITED STATES INSTITUTE OF PEACE, Oct. 2012, http://www.usip.org/sites/default/files/resources/SR318_0.pdf, at 5-6, ("The interior ministry's authority spans numerous geographical and functional security agencies dealing with criminal investigations, drug trafficking, morality policing, immigration and border control, counterterrorism and homeland security, traffic control and vehicle licensing, tax evasion, prison management, election administration, public transportation security, and tourism security.")

²⁷ Interview with Dr. Mohamed Arafa, Oct. 23, 2013. See also Reza, *supra* note 24, ("[The law] empowers the president to refer ordinary criminal offenses to these courts as well [...] The president can also seat a military judge in place of an ordinary judge."), at 110.

²⁸ See HUMAN RIGHTS WATCH, *supra* note 26, at 13. ("The government has undertaken no criminal investigations or

Systemic injustice eventually became among the most contentious features of emergency rule in Egypt. Its consistent practice was met with criticisms of human rights organizations and the issuing of reports of “mass arrests, *incommunicado* and prolonged detentions without [fair] trial, and torture”.²⁹ Indeed, naming and shaming raised awareness on the perils of emergency law and emphasized accountability mechanisms to punish violators and redress victims. However, it was apparent that Egypt’s authoritarian rule was far beyond the reach of nongovernmental organizations and non-confrontational mechanisms.³⁰ Emergency law was not reinforced to guard the Revolution of 1954 or confront terrorism in 1998. It was an authoritarian power-grab, cloaked in a legally-justifiable garb by Egyptian leaders.³¹ Most literature leading up to the Egyptian Revolution of 2011 predicted the ongoing renewal and implementation of emergency law due to its vast endlessness in scope of powers and list of unlimited targets.³² Mubarak’s heavy-handed methods of repression practically denied Egyptians any comprehensive practice of their fundamental rights, which was an essential prerequisite to create a tightly-controlled political environment and a stable authoritarian state. Yet in doing so, the regime hardened its opposition and prolonged existing political tensions, which played a key role in its eventual downfall in 2011.³³

2.1.2 Freedom of Expression and Press

Egypt’s presidents quickly realized mass media’s power in mobilizing the public and vowed to play a significant role in its state-guided development.³⁴ Under Mubarak, Egypt had “more than 500 newspapers, magazines, journals, and other periodicals”, predominantly owned by the state³⁵ and mobilized to support the regime’s goals. During the late 1990s, Egyptian newspapers increased in circulation and provided a lively forum for discussion of a broad array of topics including political and economic reforms, labor unions, feminism, secular liberalism, and religious conservatism.³⁶ At this point, the government took to achieve two main goals: first, in an effort to bypass the rising rates of illiteracy, the government developed radio and television media into the most extensive and influential broadcasting systems in the Middle East; and second, Egyptian leadership utilized this broadcasting system as a central tool for further mobilizing the public and communicating political, economic, social, and cultural issues, from a *state* point of view.³⁷

disciplinary measures in response to allegations of torture and ill-treatment by SSI officers since 1986”), *Ibid.*, at 6. (“There are no guarantees of those courts’ independence and their decisions are not subject to appeal before a higher court”), at 12.

²⁹ See Reza, *supra* note 24, at 539.

³⁰ See Elvira Redondo, *The Universal Periodic Review: Is There Life Beyond Naming and Shaming in Human Rights Implementation?*, 4 NEW ZEALAND L. REV., (2012), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2111607

³¹ See Reza, *supra* note 24, at 543.

³² *Ibid.*, at 535. See also HUMAN RIGHTS WATCH, *supra* note 26, (“Attorney Gamal Eid: There are thousands of people in State Security custody across Egypt at any given time.”), at 68.

³³ See Dalia Kaye, Frederic Wehrey, Audra Grant, and Dale Stahl, *More Freedom, Less Terror? Liberalization and Political Violence in the Arab World*, (2008), http://www.rand.org/content/dam/rand/pubs/monographs/2008/RAND_MG772.pdf. (“An authoritarian regime would much rather use repression to remove violent and nonviolent competitors rather than risk a democratic transition that [...] could also successfully remove an unpopular government.”), at 53.

³⁴ See Hussein Amin and James Napoli, *Media and Power in Egypt*, (2000), at 179. (“The organization of the entire press underwent drastic revision. Egypt was the first of the revolutionary Arab regimes [...] to take publishing out of the hands of private owners and make it the property of their political support system.”).

³⁵ See FREEDOM HOUSE, *Freedom of the Press 2012: Egypt*, <http://www.freedomhouse.org/report/freedom-press/2012/egypt>

³⁶ See generally P.J. Vatikiotis, *THE HISTORY OF MODERN EGYPT: FROM MUHAMMAD ALI TO MUBARAK*, (John Hopkins Univ. Press, 1991)

³⁷ See Amin and Napoli, *supra* note 34, at 181.

The freedoms of expression and press are among the fundamental rights stipulated in Egypt's Constitution(s) and the Code of Journalistic Honor. It is worth mentioning that the Egyptian government is much more tolerant to criticism in the media and political spheres in comparison to other Arab and African countries.³⁸ In fact, Egypt experienced a steady increase in independent and private publishers during the Mubarak era.³⁹ However, there are approximately 185 laws which constrain freedoms of expression and press through government supervision, censorship, and funding.⁴⁰ Hence, the practice of rights can be criminally punished on vague grounds of defamation, promoting extremist ideologies, spreading false news, harming the integrity of the country, or disturbing public order.⁴¹ The Mubarak government did not at all hesitate to use repressive tactics, facilitated by Emergency Law, to silence any criticism of the human rights or political situation in Egypt.⁴² In 2010, it was estimated that between 5,000 and 10,000 activists, journalists, bloggers, and opposition members were detained without charges.⁴³

In the wake of the global revolution of information, Egypt observed a technological shift through the introduction of the internet. Public awareness was greatly magnified as people became more informed on international, economic, political, and social trends.⁴⁴ Nevertheless, the country's progress to revolutionize the political and legal structure lagged and failed to adapt to the decentralizing technology.⁴⁵ The government struggled to contain the internet, yet continued its bleak efforts to extend inhibitory censorship and control flows of information.⁴⁶ Its methods proved outdated and inefficient due to the limited capacity of state resources. Consequently, the media experienced a significant shift, against the will of the state, and fostered an enhanced exercise of the freedoms that empower the peoples' voices.⁴⁷ This eventually became a crucial step towards mobilizing the popular uprising and breaking the barriers of fear which were routinely enforced by the Mubarak regime.

2.1.3 Freedom of Association: NGOs and Political Parties

Nongovernmental organizations are vital institutions to the realization of democratic progress, as they safeguard the exercise of human rights and enhance participation of societies' various

³⁸ See Sassan Assaf, *Comparative Report on the State of the Media in Egypt, Jordan, Lebanon and Morocco*, ARAB CENTER FOR THE DEVELOPMENT OF RULE OF LAW AND INTEGRITY & IFES, May 2007, <http://www.ifes.org/-/media/Files/Publications/White%20PaperReport/2007/677/Media%20Comparative%20Report%20FINAL.pdf>, at 5.

³⁹ See Hussein Amin, *Strengthening the Rule of Law and Integrity in the Arab World*, (2006), http://www.arabruleoflaw.org/Files/PDF/Media/English/P2/Egypt_MediaReportP2_En.pdf, at 7.

⁴⁰ *Ibid.*, at 10. See also HUMAN RIGHTS WATCH, *The Road Ahead: A Human Rights Agenda for Egypt's New Parliament*, January 2012, <http://www.hrw.org/sites/default/files/reports/egypt0112webwcover.pdf>. ("Egypt's Penal Code and press law contain articles that provide prison terms and fines for peaceful speech"), at 16.

⁴¹ *Ibid.* See also Abdalla Hassan, *Changing News, Changing Realities: Media Censorship's Evolution in Egypt*, (2013). ("Article 48 deals with 'criminal complicity' and is liberally worded so as to criminalize any action deemed inappropriate on the basis that a crime in being conspired, even if no crime is committed."), at 108. See, e.g., Law No. 58 of 1937 (CRIMINAL CODE OF 1937, REFORMED IN 1952), *AL-JARIDA AL-RASMIYYA(H)*, August 1937, at arts. 108-80 (Egypt).

⁴² See HUMAN RIGHTS WATCH, *supra* note 40, at 23. This HRW report lists several cases of violations of freedoms of expression and press.

⁴³ See HUMAN RIGHTS WATCH, *World Report 2010: Egypt*, January 2010, <http://www.hrw.org/world-report-2010/egypt>, at 1. ("In June 2009 a court sentenced the editor of the weekly Al Mugiz to six months' imprisonment for allegedly slandering parliamentarian Mustafa Bakri."), at 3.

⁴⁴ See Amin and Napoli, *supra* note 34, at 185.

⁴⁵ *Ibid.*, at 186.

⁴⁶ *Ibid.* ("Amendments to the penal code were peremptorily passed by parliament imposing what were arguable the most repressive controls on the press in its 200 years of history [...] president Mubarak rescinded some onerous provisions, but left many in place").

⁴⁷ See Hassan, *supra* note 41, at 3.

segments.⁴⁸ Traditionally, the Islamic charitable endowment system known as *waqf* plays a role in nurturing Egypt's nongovernmental social activities.⁴⁹ Furthermore, the Egyptian Constitution(s) stipulates and protects the right to freedom of association. However, through the consolidation of interlocking legal strategies and tools, the Egyptian government firmly restrains the practice of this right.⁵⁰ Most NGOs in Egyptian civil society are subject to the Laws of Associations No. 84/2002 and No. 32/1964, known to hinder their activities.⁵¹ Like other repressive laws, the Law of Associations is intrusive in nature, stifling NGOs with a hostile and burdensome environment of state-defined boundaries.⁵² The system it maintains is characterized by a parent-child relationship and presents four main challenges to NGOs. First, it requires receiving timely permission from the Ministry of Social Solidarity for foreign funding.⁵³ Second, it necessitates meeting the extensive bureaucratic requisites of a widely corrupt and confusing procedure.⁵⁴ Third, and a major conflicting aspect, it suffocates organizational activities, board member elections, or NGO existence altogether.⁵⁵ Finally, it allows security representatives to appear often in organizational meetings and closely scrutinize NGOs' work, research, and publications to ensure compliance with its stringent standards.⁵⁶

The Mubarak regime left limited opportunities for the emergence of an actual pluralistic society. This ideology had been prevalent in Egypt since the 1960s. It was used by Abdel Nasser to maintain the Arab Socialist Union ("ASU") and by Sadat to create and empower the National Democratic Party ("NDP").⁵⁷ Mubarak developed the practice of the Political Parties Law No.

⁴⁸ See Kristina Kausch, *Defenders in Retreat: Freedom of Association and Civil Society in Egypt*, FUNDACIÓN PARA LAS RELACIONES INTERNACIONALES Y EL DIÁLOGO EXTERIOR, April 2009, http://www.fride.org/download/WP82_Egypt_Defenders_Retreat_ENG_may09.pdf, at 1.

⁴⁹ See HUMAN RIGHTS WATCH, *Egypt: Margins of Repression - State Limits on Nongovernmental Organization Activism*, March 2005, <http://www.hrw.org/reports/2005/egypt0705/egypt0705.pdf>, at 5. See generally, RAMADAN ALI AL-SHORONBASY, AHKAM AL-WASIYA WA AL WAQF FI AL-SHARI'A AL-ISLAMIYA [THE GENERAL PRINCIPLES OF THE WILLS AND TRUSTS IN ISLAMIC SHARI'A] (2005). ("*Waqf* means the permanent dedication by a Muslim of any property for any purpose recognized by the Muslim law as religious, pious or charitable. It allows private contribution to public good as it is not subject to transactions and endowment's yield is devoted to the needy people.")

⁵⁰ See HUMAN RIGHTS WATCH, *supra* note 49, at 1.

⁵¹ *Ibid.*, at 29. ("In different governorates MISA [Ministry of Insurance and Social Affairs] employees still continue to use law 32 of 1964 [...] If it this kind of close scrutiny that places a very heavy burden on some organizations, and it is happening all the time – mainly outside of Cairo.")

⁵² *Ibid.*, at 5. ("To be successful, NGOs must maintain a good a relationship with the state bureaucracy – and individual bureaucrats [...] The government takes control by division and segregation and affiliates [NGOs] to a different minister. Everyone in civil society has a godfather. Even if they're useful, they're corrupt.")

⁵³ See Kausch, *supra* note 48, at 6. ("By all means, it is not permissible for associations to receive funds from abroad either from an Egyptian or foreign persons or a foreign body or its representative [...] until it is authorized by the Minister of Social Solidarity"). See also, Ernesto Londoño, *Egyptian minister says U.S. tried to use NGOs to control country's future*, WASHINGTON POST, Feb. 13, 2013 http://www.washingtonpost.com/blogs/blogpost/post/us-tried-to-use-ngos-to-control-countrys-future-egyptian-minister-says/2012/02/13/gIQADxgKBR_blog.html, ("[...]Egyptian minister [...] triggered raids on American-funded pro-democracy organizations in December [and] said that the United States tried to use the groups to control the future of post-revolutionary Egypt.")

⁵⁴ See HUMAN RIGHTS WATCH, *supra* note 49, at 28. (Hossam Bahgat, Executive Director of the Egyptian Initiative for Personal Rights stated that, "Whenever I went to the Ministry I took a copy of the law in one hand and the executive regulations in another. I would read aloud different provisions to them and they would say "but we have orders to do it this way.""), at 29.

⁵⁵ See El-Borai, *supra* note 17, at 3.

⁵⁶ *Ibid.*, at 1. ("MISA has a long tradition of going out and, especially with groups that have money, scrutinizing them so closely to the point they become obstructive. The only way that the organizations can facilitate their work is by employing someone from MISA part-time or giving handouts. Although the law clearly aims for less supervision, the ministry still functions according to the old law and no one can stop them.")

⁵⁷ See HUMAN RIGHTS WATCH, *Monopolizing Power - Egypt's Political Parties Law*, January 2007, <http://www.hrw.org/legacy/backgrounders/mena/egypt0107/egypt0107web.pdf>, at 3.

40/1977 to display greater political liberalization while in reality restricting the rights of forming and maintaining any opposing political parties. By the mid-1990s, it had become an election-year ritual for state security forces to crack down on the opposition and arrest them under charges relating to extremist ideology, overthrowing the government, or threatening national security and public order.⁵⁸ In 2005, amendments to the law were made, introducing long-awaited improvements to the old law. Unsurprisingly, the newly enacted Law No. 177/2005 still allowed government abuse of political parties from the time of their inception to their dissolution. The ruling NDP dominated the Political Parties Committee (“PPC”) which was assigned to continuously investigate new parties’ platforms and ensure compliance with “maintaining national unity [and] social peace” and to “constitute an addition to political life according to specific methods and goals”.⁵⁹ This vague criteria of scrutiny ultimately permitted the PPC to “dissolve a party, liquidate its funds, and determine which party will absorb the dissolved party’s members, elected officials, and assets.”⁶⁰ Combined with the imposed state of emergency, Egypt’s Political Parties Law was an obstruction to democracy and political development. All attempts of civil society to repeal the Political Parties Law failed under Mubarak’s rule, leaving the political environment monopolized by the NDP and suffering from unclear programs, centralized decision-making, and existence of historical conflicts.⁶¹

2.2 IMPLOSION OF THE PHARAOH’S REGIME

*“If you are a leader,
Take responsibility in the matters entrusted to you,
And you will accomplish things of note.
But think on the days which are still to come,
Lest some misdeed should arise to destroy your favorable position,
For an occasion of hatred is (like) the entrance of a crocodile.”*

(Ptahhotep—Ancient Egyptian Vizier)⁶²

For three decades, the Mubarak regime maintained a regional leadership in successfully repressing any emerging efforts of democratization.⁶³ As a result, a vast body of literature evolved to address the regime’s coercive methods of operation. Even a brief overview clearly shows how the state’s multidimensional structure was engineered to rigorously control all aspects of politics, the economy, and civil society.⁶⁴ So, in order to understand the conditions which led to the revolution, an integrative approach inclusive of both structural and agential variables is essential.⁶⁵ This

⁵⁸ See Reza, *supra* note 24, at 545.

⁵⁹ Law No. 177 of 2005, QANUN AL-AHZAB AL SIYASIYYA(H) [POLITICAL PARTIES LAW], at arts. 4.2, 4.3.

⁶⁰ See HUMAN RIGHTS WATCH, *supra* note 57, at 8. (“Hamdin Sabbahi, the leader of the unrecognized al-Karama Dignity) Party, concluded Under the terms of the political parties law, the ruling party has the right to select its opposition, on its own terms.” His colleague Amin Iskandr was more blunt: “The Political Parties Committee is the NDP [...] The political parties law is a law to ban political parties.”), at 9.

⁶¹ See Ahmad Abdel Halim, *Supporting Public Participation in Egypt*, CIPE, Feb. 22, 2005, <http://www.cipe.org/pdf/publications/fs/halim.pdf>

⁶² See William Kelly Simpson, Robert Ritner, Vincent Tobin, Edward Wente, Jr., *The Literature of Ancient Egypt: An Anthology of Stories, Instructions, Stelae, Autobiographies, and Poetry* (2003), at 137. Ptahhotep was an ancient Egyptian vizier (in the late Sixth Dynasty of the Old Kingdom) who wrote the “Maxims of Ptahhotep” prior to his retirement. In his text, he addresses the upper classes and nobility with a code of proper conduct.

⁶³ See Kausch, *supra* note 48, at 2.

⁶⁴ See Kirsten Otte, *Not As Strong As We Thought: The Puzzling Collapse of the Mubarak Regime in Egypt*, (2012), <http://researchrepository.murdoch.edu.au/12341/>

⁶⁵ See James Mahoney and Richard Snyder, *Rethinking Agency and Structure in the Study of Regime Change*, (1999), <http://www.jamesmahoney.org/articles/Rethinking%20Agency%20and%20Structure.pdf>, at 10. (“ [In the integrative

proposed approach takes into account the interplay between social structures and human behavior, and vice versa.⁶⁶ In addition, it highlights declining legitimacy, socioeconomic constraints, and the presence of a broad opposition as key variables causing regime change.⁶⁷

Mubarak state officials often spoke of democratic and institutional reforms, yet sustained an inability to provide fair elections, welfare, equity, and justice.⁶⁸ Promised policies became mere rhetoric, generated to prolong the regime's continuity. Ultimately, Mubarak was confronted with a number of key failures which facilitated his regime's collapse. First, conventional corruption had reached an all-time high, rendering it a significant driver behind increasing dissatisfaction among the population.⁶⁹ The abuse of public office had become a state-wide phenomenon coordinated by the government's bureaucracy and empowered by its judicial institutions.⁷⁰ Moreover, any hope of replacing state incumbents was minimal to non-existent due to the systematic quelling of opposition and rigging of elections.⁷¹ Second, access to justice had become a questionable notion in Egyptian society. The presence of exceptional state courts permitted regular courts a limited competence within a certain threshold.⁷² Therefore, the judicial system increasingly grew inefficient to handle an unsustainable backlog of cases and execute its judgments where most needed.⁷³ Third, economic and social policies drastically failed to materialize. The government consistently acknowledged the importance of education, healthcare, and employment, yet, any steps taken to reform and enact policies in these sectors were mostly procedural and failed to engage the population.⁷⁴ Consequently, technical education was substandard, illiteracy rates rose to 36 percent,⁷⁵ unemployment among the youth was 20.4 percent,⁷⁶ and any improvements in economic performance did not trickle down to the 20 percent of Egyptians living below the poverty line.⁷⁷

In failing to address the abovementioned factors, the Mubarak regime confined itself to an inevitable collapse. On January 25, 2011, Egypt's National Police Day, protests across Egypt were

approach] five levels of analysis are commonly employed in studies of regime change: macro-structural (e.g. national culture), domestic-structural (e.g. working classes), institutional (e.g. military), social group (e.g. social movements), and leadership (e.g. government"), at 9-10.

⁶⁶ *Ibid.*, at 5.

⁶⁷ *Ibid.*, at 15.

⁶⁸ See Samuel Huntington, *Democracy's Third Wave*, 2 J. OF DEMOCRACY, (1991), http://elib.ukma.kiev.ua/H/huntington_democr_third_wave.pdf, at 10.

⁶⁹ See M. Yingling and Mohamed Arafa, *After the Revolution: Egypt's Changing Forms of Corruption*, BALTIMORE J. OF INT'L. LAW, (2013), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2246459, at 12. ("Conventional corruption," [...] occurs when government officials illegally abuse public office for private gain. Illegal quid pro quo transactions, including acts of bribery, are prominent examples of conventional corruption."), at 1.

⁷⁰ See Moustafa, *supra* note 20, at 25.

⁷¹ See Huntington, *supra* note 68, at 18. See also Daniel Calingaert, *Election Rigging and How to Fight It*, GOZAAR, Apr. 22, 2009, <http://www.gozaar.org/english/library-en/democracy-classics-en/Election-Rigging-and-How-to-Fight-It.html>, ("They restrict the exercise of democratic freedoms, yet allow periodic multiparty elections in an attempt to bolster their domestic and international legitimacy.").

⁷² See Mohamed Farhat and Ali Sadek, *Report on the State of the Judiciary in Egypt*, Arab Center for the Development of Rule of Law and Integrity (2006), http://www.arabruleoflaw.org/Files/PDF/Judiciary/English/P2/Egypt_FinalReportP2S4_En.pdf, at 61.

⁷³ *Ibid.*, at 63.

⁷⁴ See Youssef Wardany, *The Mubarak Regime's Failed Youth Policies and the January Uprising*, Wiley, December 2011, <http://onlinelibrary.wiley.com/doi/10.1111/j.1759-5436.2012.00288.x/abstract>, at 43.

⁷⁵ UNESCO, EFA Monitoring Report, Reaching the Marginalized 98 (2010), <http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/efareport/reports/2010-marginalization/>, at 96.

⁷⁶ See Wardany, *supra* note 74, at 40.

⁷⁷ See Jonathan Berr, *Hosni Mubarak's Economic Achievements*, DAILY FINANCE, Feb. 10, 2011, <http://www.dailyfinance.com/2011/02/10/hosni-mubaraks-economic-achievements/>

organized—largely through internet social media—by a broad coalition of opposition groups.⁷⁸ They called for the end of Mubarak’s regime and demanded the modern-day pharaoh resign.⁷⁹ Typically, the regime responded through its coercive apparatus and poor propaganda, which further weakened its legitimacy and limited its days in power. Mubarak’s final failure was realized in the military’s disobedience to turn against the Egyptian population.⁸⁰ This was compounded by the lack of international approval of his repressive tactics and the support of “those who rose up against non-democratic forms of government”.⁸¹ After eighteen days, Mubarak finally resigned, leaving behind a crippling legacy of authoritarian rule. The barriers of fear, oppression, and control were permanently shattered, creating an environment with enormous potential for reform. However, this process would prove to be anything but smooth.⁸²

2.3 AN UNSTABLE, MILITARY-LED TRANSITION

“We will fight for our projects [...] We will not let anyone destroy the effort in which we have invested thirty years, or let anyone, whoever it is, touch the projects of the armed forces.”

(SCAF Representative)⁸³

The military’s reluctance to support Mubarak’s crackdown on the protesters was a strategic decision of survival. By allowing the protests to continue, the Supreme Council of Armed Forces (SCAF) guaranteed themselves a high position of authority from which they could control the course of Egypt’s transition to a civilian government, with the popular support of the people.⁸⁴ Yet, being the country’s most powerful institution, it quickly became apparent that the nature of the military-civil relations was not to be challenged. Throughout the transition, the military took steps to maintain its original niche by preserving most of the old constitution and other Mubarak-era political institutions.⁸⁵ In effect, SCAF adopted numerous measures to ensure the democratization process would not undermine its vast economic and political empire, and paid no regard to any violations of the fundamental human rights.⁸⁶

Despite SCAF’s repeal of Egypt’s Emergency Law, military police was still permitted to legally detain civilians on vague grounds of “criminal activity” and “thuggery”.⁸⁷ Moreover, the Code

⁷⁸ See Anne Alexander, *Internet role in Egypt’s protests*, BBC NEWS, Feb. 9, 2011, <http://www.bbc.co.uk/news/world-middle-east-12400319>

⁷⁹ See Hassan, *supra* note 41, at 3.

⁸⁰ See Otte, *supra* note 64, at 41.

⁸¹ *Ibid.*, at 40.

⁸² See Tony Mendel, *Political and Media Transitions in Egypt*, INTERNEWS, Aug. 2011, http://www1.umn.edu/humanrts/research/Egypt/Internews_Egypt_MediaLawReview_Aug11.pdf, at 1.

⁸³ See Brumberg and Sallam, *supra* note 26, at 5.

⁸⁴ See Maha Azzam, *Egypt’s Military Council and the Transition to Democracy*, CHATHAM HOUSE, May 2012, http://www.chathamhouse.org/sites/default/files/public/Research/Middle%20East/bp0512_azzam.pdf, at 3.

⁸⁵ See Khaled Elgindy, *Egypt’s Troubled Transition: Elections without Democracy*, BROOKINGS INSTITUTION’S SABAN CENTER FOR MIDDLE EAST POLICY, (2012), <http://dx.doi.org/10.1080/0163660X.2012.666192>, at 92.

⁸⁶ See Brumberg and Sallam, *supra* note 26, at 11. (“The military establishment has large economic interests in Egypt as the owner of a host of lucrative and heavily subsidized revenue-generating commercial enterprises. In addition, the military’s budget is not subject to meaningful oversight by elected civilian officeholders, and there is little transparency concerning the production and allocation of its revenues. The military is likely to resist efforts to institute democratic standards of transparency and accountability. Military leaders may also seek to exert control over the ministries that could challenge their long-term interests, including the ministries of defense, interior, foreign affairs, and finance.”), at 2.

⁸⁷ See Marwa Awad, *Egypt gives army power to arrest civilians despite emergency law expiration*, AL ARABIYA NEWS, June

of Military Justice of 1966 (“CMJ”) continued to be a legal obstacle, trying over 12,000 civilians in military courts and keeping military personnel beyond the reach of justice.⁸⁸ In the events where non-military citizens were, “killed, injured or tortured by members of the armed forces”, military courts were consistently unwilling to provide effective remedies for the families or victims.⁸⁹ By the same token, although the dissolution of the SSIS came with promises of respecting the citizens’ lives and their practice of political rights, other internal security forces under the MoI remained intact to maintain the same strict order among the population.⁹⁰ For instance, the Central Security Forces (“CSF”)—widely known for their violent policing and brutal protest dispersal—comprised an estimated 325,000 personnel in 2010 and, to this day, are still regularly deployed by the military to forcibly prevent protesters from assembling in key locations.⁹¹ The Egyptian people expressed strong hostility towards these state security institutions, demanding their reform into accountable and transparent establishments to protect and not to abuse. However, the only reforms observed during the military transition were waves of personnel reorganization, retirement of old generals (without trials for any past abuse), and renaming of Mubarak-era institutions.⁹² SCAF was and still remains adamantly committed to protecting its unrestrained status above the law.⁹³

There were, nevertheless, five significant developments in Egypt’s new era which had reverberating effects on the status quo, making it an unprecedented, yet troubled phase of Egyptian history. First, main media political taboos had notably weakened in comparison to the Mubarak era.⁹⁴ Political parties, activists, media outlets, and journalists openly criticized the military’s actions, policies, and legitimacy in defiance of the unstable transition to civilian rule.⁹⁵ It is worthy to note that, *de jure*, the freedoms of expression and press remain very limited by the unchanged Mubarak policies.⁹⁶ The well-known “redlines” resulting in self-censorship and harsh consequences

13, 2012, <http://www.alarabiya.net/articles/2012/06/13/220510.html>. On several occasions, protestors have been considered “criminals” and “thugs” by military personnel and hence treated accordingly.

⁸⁸ See AMNESTY INTERNATIONAL, *Brutality Unpunished and Unchecked: Egypt’s Military Kill and Torture Protesters with Impunity*, (2012), <http://www.amnestyusa.org/research/reports/brutality-unpunished-and-unchecked-egypt-s-military-kill-and-torture-protesters-with-impunity>, at 41.

⁸⁹ *Ibid.*

⁹⁰ See Brian Katulis, *Managing Change in Egypt: Advancing a New U.S. Policy that Balances Regional Security with Support for Egyptian Political and Economic Reforms*, CENTER FOR AMERICAN PROGRESS, June 2012, http://www.americanprogress.org/wp-content/uploads/issues/2012/06/pdf/egypt_change.pdf, at 11.

⁹¹ See AMNESTY INTERNATIONAL, *Agents of Repression: Egypt’s Police and the Case for Reform*, Dec. 29, 2012, <http://www.amnesty.org/en/library/asset/MDE12/029/2012/en/576aa9cc-bd07-4724-a410-95b02009c317/mde120292012en.pdf>, at 2. (“[T]he CSF [...] disperse protesters by using water cannons, tear gas, rubber bullets and live ammunition. This same pattern of excessive use of force was also seen in various incidents after the uprising – in both 2011 and 2012.”).

⁹² See Brumberg and Sallam, *supra* note 26, at 8-9. (“In response to popular pressure to purge MoI of Mubarak’s loyalists and those suspected of killing protesters, El-Essawy [MoI Minister] announced on July 13, 2011 what was described as the biggest police reshuffle in history, as 82 colonels and 505 generals, including 27 accused of killing protesters, were retired.”).

⁹³ See AMNESTY INTERNATIONAL, *supra* note 91, at 41.

⁹⁴ See Hussein Abdel Fattah, *Free media in Egypt in a truce with dictatorship*, THOMPSON REUTERS FOUNDATION, Apr. 24, 2013, <http://www.trust.org/item/20130423165412-nhse8/>

⁹⁵ See INTERNATIONAL CRISIS GROUP, *Lost in Transition: The World According to Egypt’s SCAF*, MIDDLE EAST REPORT N. 121, Apr. 24, 2012, <http://www.crisisgroup.org/en/regions/middle-east-north-africa/egypt-syria-lebanon/egypt/121-lost-in-transition-the-world-according-to-egypts-scaf.aspx>, at 6.

⁹⁶ See Emily Alpert, *Egyptian media still not free after Mubarak, report says*, LA TIMES, Apr. 5, 2012, http://latimesblogs.latimes.com/world_now/2012/04/egypt-media-restricted.html, (“While media professionals and journalists were expecting drastic changes in the climate they worked in, the same old pattern has continued [...] a climate of press and media that is not free [...] The military stuck to the old methods of censorship and intimidation, declaring that there would be ‘no tolerance of insults’ directed toward it.”).

still exist, yet the media has become bolder in its reporting.⁹⁷ Second, Egyptian society witnessed the emergence of a much wider political arena with several new political parties.⁹⁸ Third, electoral politics quickly became relevant, immediately eliminating political parties which were not properly organized and leaving the political scene dominated by Islamist parties, mainly the Muslim Brotherhood.⁹⁹ Fourth, never before had a president been held responsible by his own state in the entirety of the Arab region. Thus, Mubarak's trial, represented an idea of justice which was still unknown to the Middle East.¹⁰⁰ Finally, the combination of the abovementioned factors created a tense state of instability within Egypt's social, political, and economic life.¹⁰¹

2.4 A REIGN OF THEOCRATIC ZEAL

“As an outsider who has followed the twists of the country’s history and who approaches the place with nothing but awe for its civility amid great troubles, I suspect they are right. [Egypt] is too wise, too knowing, too tolerant to succumb to a reign of theocratic zeal.”

(Fouad Ajami—Senior Fellow)¹⁰²

Established in 1928, Egypt's Muslim Brotherhood has deep historical roots and wide popular support amassing millions. The 85 year-old group proved to be most organized and politically experienced following the revolution, which leveraged them closer to the military rulers.¹⁰³ Keeping consistent with the ideology of maintaining their hard-earned privileges, SCAF established a precarious alliance with the Islamist group. In return, the Brotherhood finally had the opportunity to achieve their long-sought goal of normalization.¹⁰⁴ This final phase of a ceremonial transition was characterized by intense power politics and minimized any real efforts of reforming the legislative structure in post-revolutionary Egypt.¹⁰⁵ Though the country witnessed its first open parliamentary elections, democratically elected a president (Mohamed Morsi), and passed a new constitution, the Brotherhood's approach to governance steered Egypt on the path to achieving a fundamentalist, theocratic state, ruled by a strict interpretation of Sharia law.¹⁰⁶ Their controversial constitution failed to balance secular and conservative interests, posing several human rights concerns in matters of equality, minority rights, media control, expression, morality,

⁹⁷ See Sara Yasin, *Egypt: self-censorship and the military hinder press freedom*, X INDEX, Dec. 5, 2011, <http://www.indexcensorship.org/2011/12/egypt-self-censorship-scaf-press-freedom-egypt-independent/>

⁹⁸ See Elgindy, *supra* note 85, at 92.

⁹⁹ See Nathan Brown, *When Victory Becomes an Option: Egypt's Muslim Brotherhood Confronts Success*, THE CARNEGIE PAPERS, Jan. 2012, http://carnegieendowment.org/files/brotherhood_success.pdf

¹⁰⁰ See Azzam, *supra* note 84, at 9. (“Despite the fact that there are those who consider Mubarak's trial a sham and that the SCAF was forced to acquiesce to popular sentiment, the clear message of the ongoing trial of the former president and some of his associates and relatives is that no one is above the law.”), at 10.

¹⁰¹ See Elgindy, *supra* note 85, at 92.

¹⁰² See Richard Haass *et. al*, *THE NEW ARAB REVOLT: WHAT HAPPENED, WHAT IT MEANS, AND WHAT COMES NEXT*, (Council on Foreign Relations, 2011), at 21.

¹⁰³ *Ibid.*, at 94.

¹⁰⁴ See Zeinab Abul-Magd, *The Egyptian military in politics and the economy: Recent history and current transition status*, CMI Insight, Oct. 2013, <http://www.cmi.no/publications/file/4935-the-egyptian-military-in-politics-and-the-economy.pdf>, at 2-3.

¹⁰⁵ See Elgindy, *supra* note 85, at 95.

¹⁰⁶ See Michael Jansen, *Islamic Brotherhood failed to understand the majority of Egyptians rejects fundamentalism*, THE IRISH TIMES, Aug. 15, 2013, <http://www.irishtimes.com/news/world/middle-east/islamic-brotherhood-failed-to-understand-the-majority-of-egyptians-rejects-fundamentalism-1.1495562>

and societal structuring.¹⁰⁷ Moreover, the constitution's interpretation relied on the "evidence, rules, jurisprudence, and sources" of Sharia, leaving the door ajar to limitless renditions of the law.¹⁰⁸ Instead of becoming a hallmark achievement of the revolution, the constitution became a conflicting element causing further polarization among the population.

The Islamist regime eventually removed all doubt of its indisputable inability to govern, due to its lack of past experience in public office and state governance.¹⁰⁹ In fact, the Brotherhood's poor performance signaled the inevitable nearing of a perfect storm. While Egypt's fragile political, social, and economic environment quickly deteriorated, old patterns of authoritarian practice remained rampant: freedoms were limited, independent media was consistently monitored, protesters were killed, the Supreme Constitutional Court was suspended, electoral processes were discriminatory, and no governmental action was taken to resolve the existing political crisis.¹¹⁰

By June 2013, Morsi's faux democratic government had alienated nearly all segments of Egypt including Al-Azhar leadership, the Christian church, the conservative Salafists, the judiciary, several opposition parties, business leaders, and most importantly SCAF—Egypt's most powerful establishment and main strategic authority, with vast control and influence in the country's political and economic spheres.¹¹¹ Impatient with the worsening conditions and the government's inability to mobilize state machinery to address popular concerns, Egyptians found no discourse to express their grievances. The constitution did not allow for the impeachment of the president, calling for early elections, or offer any political channel to repeal the president.¹¹² This inspired and empowered the *Tamarrod* (rebellion) movement which planned massive state-wide protests in Egypt and collected over 22 million signed petitions calling for the ouster of Morsi.¹¹³

On June 30, 2013, another wave of popular protests roiled Egypt's stability yet again. Massive gatherings with millions of protesters demanded the toppling of President Mohamed Morsi and an end to the continuity of repressive governance. In response, the military addressed popular demands through warnings of intervention to the government, if the country's crisis was

¹⁰⁷ See Khaled Diab, *Egypt's draft constitution leans towards conservative Islam*, THE GUARDIAN, <http://www.theguardian.com/commentisfree/2012/oct/23/egypt-draft-constitution>

¹⁰⁸ See Mohamed Arafa, *President Mursi's Egypt Arab Spring: Does Egypt Continue to be a Civil State or Under the Umbrella of Islamic (Shari'ah) Law and Islamism?*, 9 US-CHINA L. REV. 6, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2190217. ("One should bear in mind that Shari'ah encompasses enormous areas of conduct not generally covered by legal rules in several societies. Not only does it include private practice, ethics, and public law, but it also includes categories according to the theory of the "Scale of the Five Qualifications" such as *fard* or *wajib* (mandatory), *mobaah* (recommended), *mandoub* (preferred but not required, which make moral but petite legal sense), *makrouh* (reprehensible or derive detestable but not banned), and *moharam* (forbidden)."), at 5.

¹⁰⁹ See generally INTERNATIONAL CRISIS GROUP, *Policy Briefing - Marching in Circles: Egypt's Dangerous Second Transition*, Aug. 7, 2013, <http://www.crisisgroup.org/en/regions/middle-east-north-africa/egypt-syria-lebanon/egypt/b035-marching-in-circles-egypts-second-transition.aspx>

¹¹⁰ See generally FREEDOM HOUSE, *Timeline of Human Rights Violations in Egypt Since the Fall of Mubarak*, Aug. 9, 2013, <http://www.freedomhouse.org/article/timeline-human-rights-violations-egypt-fall-mubarak>

¹¹¹ The military had expressed their frustration of the Brotherhood's governance of Egypt as a religious group or theocracy and not as a country. See Geoffrey Aronson, *US Navigates Egypt's Turmoil With Eye on Military Role*, AL-MONITOR, July 3, 2013, <http://www.al-monitor.com/pulse/originals/2013/07/us-egypt-protests-military-coup-muslim-brotherhood.html>.

¹¹² See Sophie Shevardnadze, *Morsi failed to govern democratically, his case is over' - Foreign Minister of Egypt*, RT, <http://rt.com/shows/sophieco/morsi-egypt-democracy-future-115/>

¹¹³ See AL-MASRY AL-YOUM, *Tamarod petition has 22 million signatures*, EGYPT INDEPENDENT, June 26, 2013, <http://www.egyptindependent.com/news/tamarod-petition-has-22-million-signatures>. See also INTERNATIONAL CRISIS GROUP, *supra* note 93, ("[Tamarrod's] message, *irhal!* (leave!), captured the simplicity and raw emotions of the 2011 uprising and attracted support from activists, political parties and establishment figures, as well as ordinary citizens angered by deteriorating economic and security conditions."), at 4.

not resolved.¹¹⁴ Following failures of dispute resolution, General Abdul-Fattah el-Sisi assembled a coalition of public leaders and several political parties which agreed on Morsi's ouster and negotiated a new road map to guide Egypt through another transition to democracy.¹¹⁵ Fears of the old authoritarian rule loomed; Muslim Brotherhood protests in opposition of Morsi's ouster escalated into deadly clashes with the military and numerous casualties were reported on both sides. In response, human rights groups immediately expressed their growing concerns in Egypt on SCAF's dominant role in what has become a deeply divided society. However, amidst this critical phase of the struggle for democracy and realization of human rights, General el-Sisi declared the nation's priority is security and not the sole interference in the state's political affairs.¹¹⁶

Egypt's second uprising in two years aimed to fulfill building a strong democratic society based on the *rule of law* and not *rule by law*.¹¹⁷ Once again, the events brought about important changes to the existing environment, proving to be a crucial time of Egypt's modern history. The current environment consistently shows its dynamic, yet highly volatile, propensity for change. Though in order for positive reform to actualize, it must be legislated through a complex democratic process inclusive of political and popular will, negotiations, compromises, and an extent of compliance with international human rights legal framework. While doing so, it is of paramount importance to account for the current national instability. The popular uprisings have certainly ignited ideas of freedom within the Egyptian society, however, due to the wide lack of understanding of the obligations and limits on the practice of freedoms, the current state of affairs regularly drifts into chaos. Therefore, any efforts of reforming human rights within such conditions are bound to fall short of perfection by any international legal standards.

The next chapter discusses three aspects of international human rights law. First, its growing role as an alternative and/or auxiliary to Egypt's legal framework; second, the attempts of international law to improve human rights practice in Egypt—this section will also discuss the findings of the UN supervisory committees which were reiterated during Egypt's Universal Periodic Review session; and finally, the chapter will discuss the inevitable failure of international human rights law in Egypt despite treaty ratification. It reviews human rights' expansive role in relation to state sovereignty and concludes with two potential avenues which could be utilized to encourage better promotion of human rights in Egypt.

¹¹⁴ See WORLD TRIBUNE, *Report: Morsi fails to win over Army, poll finds 82 percent favor coup*, WORLD TRIBUNE.COM, June 28, 2013, <http://www.worldtribune.com/2013/06/28/report-morsi-fail-to-win-over-army-poll-finds-82-percent-favor-coup/>

¹¹⁵ See Abul-Magd, *supra* note 104, at 3-5. ("The road map includes the drafting of a new constitution, to be followed by presidential and parliamentary elections within a few months. The process of drafting a new constitution is currently being undertaken by a committee of 50 members; only one of whom is an army general. However, the democratic transition is taking place under heavy security measures").

¹¹⁶ *Ibid.*

¹¹⁷ See Arafa, *supra* note 108, at 52.

CHAPTER 3: TRIALS AND TRIBULATIONS OF INTERNATIONAL HUMAN RIGHTS LAW IN EGYPT

“The Arab Republic of Egypt is committed to all regional and international obligations and treaties to which it is a party”

(SCAF Representative)¹¹⁸

Following the ouster of former President Hosni Mubarak, a public statement was made to suspend the 1971 Constitution, dissolve the People’s Assembly, transfer power to the military, and yet, remain a party to all international obligations which Egypt was committed.¹¹⁹ During this time, Prime Minister Essam Sharaf announced that the government “wants to open a new page on human rights”¹²⁰ and amend the Mubarak regime failures to ensure Egypt’s practices were in line with the ratified international treaties.¹²¹ But after six long decades of military rule—starting with Abdel Nasser and continuing till this very day—this statement tends to seem quite cynical. Egypt has acquired a long record of human rights violations over the years. The widespread and consistent practice of the government to interfere with political activities, media and press, trials, and lives of citizens is now a trademark trait of the state. And despite ratifying, acceding, and repeatedly committing to abide by international law, Egypt has continually failed to provide its population with the fundamental human rights. These facts raise important questions. What has the international system done to mitigate practices of repression and how has it failed? Why has government behavior maintained a systematic pattern of forcible subjugation while committing to international law? Are there potential avenues for international human rights law to succeed in Egypt?

3.1 CONSTITUTIONAL FRAMEWORK

Egypt is Contracting Party to several UN human rights treaties including the International Covenant on Civil and Political Rights (“ICCPR”), International Covenant on Economic, Social, and Cultural Rights (“ICESCR”), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“CAT”). In addition, the Egyptian Constitution of 1971 stipulates in Article 145 that, “treaties shall have the force of law after ratification and publication”.¹²² Therefore, following their ratification and publication, international instruments addressing human rights are considered equivalent to Egyptian law and equally enforceable before the State, which means the binding legal force and state implementation on the procedural level of prevention policies represents an integral part of the domestic legal system. Apart from that, Egypt is bound to accept recommendations and opinions of the UN supervisory committees¹²³ and ideally, prioritize human rights concerns over politics.¹²⁴ The reality however, entails that human rights

¹¹⁸ See HAGUE INSTITUTE FOR THE INTERNATIONALIZATION OF LAW [Hereinafter HIIL], *Rule of Law Quick Scan Egypt: Prospects and Challenges*, April 2012, http://www.hiil.org/data/sitemanagement/media/Quickscan_Egypt_130812_digitaal_def.pdf, at 16.

¹¹⁹ *Ibid.*

¹²⁰ HUMAN RIGHTS WATCH MEETING WITH PRIME MINISTER ESSAM SHARAF, Cairo, June 6, 2011.

¹²¹ See *Report of the Working Group on the Universal Periodic Review*, HUMAN RIGHTS COUNCIL, Seventh Session, Feb. 19, 2010, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/EGSession7.aspx>

¹²² See also Art. 151 of ABROGATED CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, *as amended*, May 22, 1980, May 25, 2005, Mar. 26, 2007, *as replaced*, Mar. 20, 2011, <http://www.egypt.gov.eg/english/laws/Constitution>.

¹²³ Such as the Human Rights Committee for the CCPR and the Committee against Torture for the CAT

¹²⁴ See Willem van Genugten, *The universalization of human rights: reflections on obstacles and the way forward*, GLOBAL

are often intertwined with political, social, and economic issues.¹²⁵ They are all relevant drivers which play significant roles in the processes of implementation, enforcement, and supervision of the commitments. In the end, the state's political will, capacity for reform, and willingness to actively participate in international supervisory processes are the essential factors to the realization of human rights.¹²⁶

3.2 INTERNATIONAL SUPERVISORY MECHANISMS: EFFORTS OF THE UNIVERSAL PERIODIC REVIEW (“UPR”) AND SUPERVISORY COMMITTEES

3.2.1 The Egyptian Government

In 2009, Egypt's National Council for Human Rights compiled a report in partnership with the United States, UN, and the Netherlands, on the situation of human rights in the country, portraying its practice in a positive light. This report was submitted by an Egyptian delegation headed by the Minister of State for Legal and Parliamentary Affairs Moufid Shihab, to the United Nations Human Rights Council's (“UNHRC”) UPR.¹²⁷ It adopted a legalistic approach which described the Egyptian Constitution as a legal document that derives legitimacy from the people, ensures the fundamental rights and freedoms, relies on the rule of law, and emphasizes equality among citizens.¹²⁸

[The Constitution recognizes] the exercise of civil liberties, freedom of thought and conscience, freedom of the press, freedom of assembly, freedom of association and the right to vote and to stand in elections [...] [it also recognizes] economic and social rights: the right to own property; the right to work and to hold public office; the right to a free education at State institutions; the right to health care; the rights of the family, young persons and children; and the right of women to equality with men.¹²⁹

In addition, Egypt reported that its independent judiciary was the most effective means by which the state safeguards its citizens' human rights.¹³⁰ The Constitution did indeed stipulate the above rights and freedoms, and the judiciary was definitely existent, yet the enforced emergency law bypassed all of the mentioned rights and nullified the methods to protect them, giving the state an ultimate authoritarian power to repress. The law was justified as a strict and necessary measure to deal with the *genuine* security threats and terrorism facing Egypt.¹³¹ And despite its usage throughout a three decade span, the government consistently vowed to ensure the gradual implementation of human rights.

VALUES IN A CHANGING WORLD, (Amsterdam: KIT Pub., 2012), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1747778, at 213.

¹²⁵ *Ibid.*

¹²⁶ See Abram Chayes and Abram Chayes, *THE NEW SOVEREIGNTY: COMPLIANCE WITH INTERNATIONAL REGULATORY ARRANGEMENTS*, (Harvard Univ. Press, 1995), at 88-134.

¹²⁷ See Lina Attalah, *Egypt scrutinized at Universal Periodic Review*, EGYPT INDEPENDENT, Feb. 18, 2010, <http://www.egyptindependent.com/news/egypt-scrutinized-universal-periodic-review>

¹²⁸ *Ibid.*

¹²⁹ See *National Report on the Universal Periodic Review*, HUMAN RIGHTS COUNCIL, Seventh Session, Feb. 19, 2010, A/HRC/WG.6/7/EGY/1, at 3.

¹³⁰ See *Working Group Report on the Universal Periodic Review*, HUMAN RIGHTS COUNCIL, Fourteenth Session, Mar. 26, 2010, A/HRC/14/17, at 3.

¹³¹ See *National Report*, *supra* note 129, at 12.

Egypt's approach to defining its human rights situation was blatantly detached from reality and unrepresentative of the status quo at the time, but the report did acknowledge the country's failures to build an environment to foster human rights.¹³² These failures were attributed to the lack of national security, education, development, and a "human rights culture".¹³³ The national report however, was considered a first step in the UN's UPR monitoring mechanism, to acquire primary information and to understand how a state perceives its own human rights practice. The UPR process further collected information through NGOs and UN supervisory committees to present a more balanced view of the human rights status within the country. In Egypt's case, the organizations submitted reports that starkly disputed governmental claims, challenged the repressive laws, and proposed recommendations to improve the human rights situation.

3.2.2 Stakeholders' and Working Group Reports

The stakeholders' report on Egypt's human rights situation was a summary of 37 submissions by several human rights groups actively involved in the supervision and documentation of particular issues. In contrast to Egypt's legalistic approach, the stakeholders adopted a methodology that studied the actual situation on the ground, focusing on legal developments, human rights violations, and socio-economic conditions. They also collected empirical data through interviews, statistics, and observation of the state institutions under scrutiny. The stakeholders' report covered many areas of concern, including Egypt's constitutional and legislative framework, human rights infrastructure, access to justice, and rule of law.¹³⁴

Following the submission of the stakeholders' report,¹³⁵ Egypt's performance on human rights was reviewed and evaluated by the working group of selected rapporteurs (*troïka*): China, Italy, and Madagascar. All findings were discussed in an interactive dialogue where 53 delegations addressed Egypt, either to commend its efforts or critique its laws.¹³⁶ Consequently, the UNHRC and a total of 45 countries issued the Egyptian government 165 recommendations to strengthen its legal framework and improve its human rights practice. Among those were the most frequently addressed practices of the government: emergency law, torture, freedom of expression, and freedom of association.

3.2.3 UPR Recommendations

Emergency and Anti-Terrorism Law

During the UPR dialogue, many states expressed concern about the ongoing state of emergency in Egypt and recommended its expedient repeal. For years, the country's level of public emergency had not met the ICCPR's requirements of Article 4(1), which stipulates that a state of emergency can only be declared when the life and security of a nation are threatened.¹³⁷ International law recognizes the state of emergency only as a temporary tool to restore stability, where factors of proportionality such as severity, duration, and geographic scope, are all strictly

¹³² See Attalah, *supra* note 127.

¹³³ See *National Report*, *supra* note 129, at 22.

¹³⁴ See *Working Group Report*, *supra* note 130, at 5.

¹³⁵ In addition to the national report and a compilation prepared by the Office of the High Commissioner on Human Rights ("OHCHR").

¹³⁶ See *Working Group Report*, *supra* note 130, at 5.

¹³⁷ See Mohamad Arafa, *Egypt between Fear and Reform in its Second Revolution: The Failure to Protect the Fundamental Human Rights Over and Over Again*, IND. L. Rev., 2013, at 7-8.

accounted for.¹³⁸ But even during this scenario, it is still unacceptable—as per General Comment 29—for a government to dismiss any of the non-derogable rights.¹³⁹ The state of emergency and its measures should all be closely supervised by the judiciary to prevent any potential inconsistencies or disproportionate acts.¹⁴⁰

In response to the recommendation of repealing the infamous law, Egypt claimed it was still relevant to combat domestic terrorism and an anti-terrorism law would soon be adopted in replacement. However, on November 8, 2013, 20 human rights organizations warned the Egyptian cabinet that the new anti-terrorism law would only re-establish a police state.¹⁴¹ Through repressive security measures, Egypt's new anti-terrorism law could seriously threaten human rights progress in five main ways: first, the vague definition of “terrorist acts” makes it possible to broaden the law's scope of application and target civil society organizations; second, freedom of expression can be hindered by the indefinite prison sentence lasting up to five years for spreading false information (this conflicts with Article 19(3) of the ICCPR)¹⁴²; third, the law has the propensity to criminalize acts which are not necessarily crimes, such as peaceful assembly; fourth, the right to a fair trial is not guaranteed and due process can be disregarded; and finally, all these factors can contribute to the increase of human rights violations and impunity, which can greatly deteriorate the state's realization of human rights.¹⁴³

Penal Code and Torture

Delegations at the UPR also critiqued Egypt's Penal Code and the widespread cases of unremedied torture. Similarly, the Human Rights Committee and the Committee against Torture reported three important observations: first, freedom from torture is a fundamental principle of international human rights law and should not be violated under any circumstances; second, any conditions allowing arbitrary arrest or torture can never be in line with Article 19 of the ICCPR; and third, the practice of torture in Egypt is part of a consistent pattern which has prevailed for several decades.¹⁴⁴ Egypt's Penal Code does not specifically define torture in conformity with CAT, making it a broad, unaddressed concept of the law which allows humiliating detention and ill-treatment. The specific act of intentionally inflicting “severe pain or suffering, whether physical or mental” on someone, according to Article 1 of CAT is not highlighted.¹⁴⁵ Instead, the Penal Code merely defines torture as “physical torture” of someone who is “accused”.¹⁴⁶ It is worth noting

¹³⁸ See Ilia Siatitsa and Maia Titberidze, *Human Rights in Armed Conflict from the Perspective of the Contemporary State Practice in the United Nations: Factual Answers to Certain Hypothetical Challenges*, ADH RESEARCH PAPER, 2011).

¹³⁹ See HUMAN RIGHTS COMMITTEE, General Comment 29, States of Emergency (article 4), U.N. Doc. CCPR/C/21/Rev.1/Add.11 (2001)

¹⁴⁰ *Ibid.*

¹⁴¹ See LA FÉDÉRATION INTERNATIONALE DES LIGUES DES DROITS DE L'HOMME [Hereinafter FIDH], *Rights Organizations Warn that New Counter-Terrorism Law would Re-Establish Foundations of Police State and Intensify Violence and Terrorism*, FIDH, Nov. 8, 2013, <http://www.fidh.org/en/north-africa-middle-east/egypt/14228-rights-organizations-warn-that-new-counter-terrorism-law-would-re>

¹⁴² The Covenant does not consider spreading false information a violation of the freedom of expression. See HUMAN RIGHTS WATCH, *supra* note 40, at 19.

¹⁴³ See FIDH, *supra* note 141.

¹⁴⁴ See HUMAN RIGHTS WATCH, *Work on Him until He Confesses: Impunity for Torture in Egypt*, Jan. 2011, http://www.hrw.org/sites/default/files/reports/egypt0111webwcover_0.pdf, at 27.

¹⁴⁵ See UN GENERAL ASSEMBLY, CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT, Dec. 10, 1984, *United Nations, Treaty Series*, Vol. 1465, at 85, available at <http://www.unhcr.org/refworld/docid/3ae6b3a94.html>, at art. 1. [Hereinafter Convention Against Torture]

¹⁴⁶ See Law No. 58 of 1937 (*reformed in 1952*), *Al-Jarida Al-Rasmiyya* [THE OFFICIAL GAZETTE], (Egypt), art.

that the Committee against Torture issued Egypt a recommendation in 2009 urging it to align the definition of its Code with standards of international law and review the categorization of abuses.¹⁴⁷ Egypt courteously accepted the recommendation, responsibly pledged to review it, and kept “studying the matter” for four years.¹⁴⁸

Another aspect of Egypt’s Penal Code was the way torture can be justified at times as an order from a higher official in the chain of command. The law stipulates in Article 63:

No crime occurs where an act is carried out by a public official in execution of an order given by a superior which he is obliged to follow, or if he believed he was under an obligation to follow it or if he, in good faith, committed an act according to the law, to what he believed to be his sphere of authority.¹⁴⁹

This provision is clearly in need of harmonization with Article 2(3) of the CAT which states that, “an order from a superior officer or a public authority may not be invoked as a justification of torture”.¹⁵⁰ Finally, a last recommendation suggested that Egypt should redress Articles 126 and 129 of its Penal Code to eliminate all legal hurdles in the process of victims seeking effective punitive action against officers guilty of committing torture.¹⁵¹ The Human Rights Committee specified in General Comment 20 that states must accept complaints from victims, promptly investigate acts of torture, hold violators responsible, and provide effective remedy in each instance.¹⁵²

Freedom of Expression and Press

Typically, in presenting the freedoms of expression and press, Egypt gilded its practice and portrayed it as growing at an unprecedented rate, marked by the absence of censorship.¹⁵³ Egypt’s national report boasted its developments in allowing the increase of TV channels, introducing the internet, and supporting independent newspapers, to broaden the media of expression.¹⁵⁴ And although these claims were partially true, the exercise of the freedoms of expression and press was critiqued for being heavily monitored, limited, and often times severely punished by the government. A brief look at the stakeholders’ analyses immediately shows a staggering number of cases where journalists, bloggers, and citizens were indefinitely apprehended for expressing their opinions.

Countries attending Egypt’s UPR issued recommendations which targeted three main concerns regarding its practice of freedoms of expression and press. First, repeal articles of the Penal Code which allow imprisonment of journalists and bloggers,¹⁵⁵ to bring about a true independence

126. [Hereinafter EGYPTIAN PENAL CODE]

¹⁴⁷ See HUMAN RIGHTS WATCH, *supra* note 40, at 43.

¹⁴⁸ See Mohamed Abd El-Kader, *Shaab Legislative Committee refuses to increase the penalty for torture*, AL-MASRY AL-YOUM, Feb. 16, 2010, <http://www.almasry-alyoum.com/article2.aspx?ArticleID=244193&IssueID=1683>

¹⁴⁹ See EGYPTIAN PENAL CODE, *supra* note 146, at art. 63.

¹⁵⁰ See Convention Against Torture, *supra* note 145, at art. 2(3).

¹⁵¹ See generally COMMITTEE AGAINST TORTURE, GENERAL COMMENT 2, *Implementation of Article 2 by States Parties*, U.N. Doc. CAT/C/GC/2/CRP. 1/Rev.4 (2007), http://www1.umn.edu/humanrts/cat/general_comments/cat-gencom2.html, at para. 4.

¹⁵² See HUMAN RIGHTS COMMITTEE, GENERAL COMMENT 20, *Article 7 (Forty-fourth session, 1992)*, U.N. Doc. HRI/GEN/1/Rev.1 (1994), <http://www1.umn.edu/humanrts/gencomm/hrcom20.htm>, at para. 13, 14. (Those punished are defined “by encouraging, ordering, tolerating or perpetrating prohibited acts [of torture]”).

¹⁵³ See *National Report*, *supra* note 129, at 5.

¹⁵⁴ See *Working Group Report*, *supra* note 130, at 11.

¹⁵⁵ *Ibid.*, at 17.

of the media and secure its role as a medium of transparency and information dispatch in civil society.¹⁵⁶ These reforms must be in compliance with Article 19 of the ICCPR which protects the rights of speakers and listeners to “seek, receive, and impart information and ideas” and prohibits any arbitrary arrests or torture.¹⁵⁷ Second, journalists must have the freedom to discuss a wide spectrum of political, social, and economic issues without any fear of facing punishment.¹⁵⁸ The Human Rights Committee further interpreted, “Article 19 requires protection of the right to hold opinions without interference. This is a right to which the Covenant permits no exception or restriction”.¹⁵⁹ Any allowed restrictions must outweigh the harm, stay proportionate, protect national security and safeguard the democratic interests of citizens.¹⁶⁰ This is an essential aspect to promoting the various ideas and information existing in civil society. Third, Egypt was asked to bring its media and press statutes into conformity with the obligations set in the ICCPR.¹⁶¹ This recommendation can be broadly interpreted to include Egypt’s censorship Articles 4, 5, and 13 of the Press Law which can be construed to allow the surveillance, supervision, and seizure of newspapers deemed “detrimental to the national integrity, independence, or sovereignty”.¹⁶² The recommendation may also include: Article 30, restricting external funding to newspapers; Articles 46 and 51 requiring newspapers to document and submit their structures to the Supreme Press Council; and Article 52 relating to the strict conditions of establishing and circulating privately-owned newspapers.¹⁶³ The aforementioned recommendations all address issues which arose as consequences of Egypt’s emergency law, which criminalized many *noncriminal* acts and effectively polices the state’s activities.

Freedom of Association

In its 2010 national report, the Egyptian delegation claimed that Egypt had a vibrant civil society with 26,000 associations and 200 NGOs,¹⁶⁴ of which certain organizations are subjected to comply by “relevant constitutional and legal regulations and adhere to the object for which they were established.”¹⁶⁵ The Law of Associations certainly attracted criticism at the UPR dialogue due to its continual rejection of NGO applications on the basis of race, religion, gender, and agenda, rendering them a threat to “national unity”.¹⁶⁶ The law gave government the unique benefit of preventing exposure of its activities to public scrutiny. Hence, countries at the UPR issued two main recommendations to address it. First, to amend the law in accordance with Articles 21 and 22 of the

¹⁵⁶ See Mathias Färdigh, *Press Freedom and Corruption: One of the Mass Media Functions in Promoting Quality of Government*, (2007), http://mafardigh.files.wordpress.com/2010/10/press_freedom_and_corruption.pdf, at 8.

¹⁵⁷ See Mendel, *supra* note 82, at 4.

¹⁵⁸ See *Working Group Report*, *supra* note 130, at 17.

¹⁵⁹ See HUMAN RIGHTS COMMITTEE, DRAFT GENERAL COMMENT NO. 34, U.N. Doc. CCPR/C/GC/34/CRP.2 (2010), <http://www1.umn.edu/humanrts/gencomm/hrcom34.html>, at para. 9.

¹⁶⁰ See Mendel, *supra* note 82, at 4.

¹⁶¹ See *Working Group Report*, *supra* note 130, at 18.

¹⁶² See e.g., Egypt Press Law No. 156 /1960, May 24, 1960, *amended by* Press Authority Law No. 148/1980; Journalists Syndicate Law No. 76/1970; Press Law No. 93/1995; Press Law No. 96/1996; and Imprints Law No. 20/1936, *Al-Jarida Al-Rasmiyya* [THE OFFICIAL GAZETTE], May 24, 1960, May 27, 1995, June 30, 1996 (Egypt).

¹⁶³ *Ibid.*

¹⁶⁴ See *National Report*, *supra* note 129, at 10.

¹⁶⁵ *Ibid.*

¹⁶⁶ See Doug Keillor, *Human Rights Council Universal Periodic Review Prompts Egypt to Promise NGO Reform*, THE CENTER FOR HUMAN RIGHTS AND HUMANITARIAN LAW, Mar. 24, 2010, <http://hrbrief.org/2010/03/human-rights-council-universal-periodic-review-prompts-egypt-to-promise-ngo-reform/>

ICCPR.¹⁶⁷ In doing so, the right of association can be ensured and only proportional restrictions “necessary in a democratic society” would prevail.¹⁶⁸ In addition, the state would not repeatedly crackdown on NGOs and political parties, stifle organizational activities, or routinely monitor their work. The second recommendation put forth the proposal to reform the law of associations in order to expedite the process by which both NGOs and political parties are formed.¹⁶⁹ The state would have to minimize the extensive bureaucratic processes, allow the external funding of NGOs, and remove its far-reaching powers to supervise, control, and disassemble civil society organizations. Accordingly, achieving considerable harmonization between international and domestic law would help build a more vigorous civil society in Egypt to impact national development.¹⁷⁰

3.3 INEVITABLE FAILURE OF INTERNATIONAL LAW

Following the completion of the UPR’s seventh session, a total of 119 recommendations were accepted by Egypt to improve the human rights situation on the ground. But even today, no significant change can be seen in the state’s practices. International law’s expressive role which potentially changes governmental practices and national policies to empower citizens, organizations, institutions, and parties not typically empowered, remains absent.¹⁷¹ Yet it is not particularly surprising that the aforementioned recommendations have not been implemented and put into force. Human rights law has always faced many obstacles in domestic enforcement. Its effectiveness is not dependent on mere ratification and accession to a treaty, but on state compliance and supervision of practice.¹⁷² Egypt’s apparent example shows how human rights treaties are frequently ratified and collectively ignored, without fear of repercussions.¹⁷³ Clearly, where law is broadly worded, it can be ignored with relative impunity and where law is strict, treaties could play a more active role in monitoring the country’s behavior.

Some critics argue that an increasing friction between state sovereignty and international human rights law has contributed to the failure of the system’s mechanisms.¹⁷⁴ As previously stated, human rights’ expansive nature is often interlinked with—and difficult to separate from—political, social, economic, and religious issues.¹⁷⁵ The bottom line is that state sovereignty takes precedence over human rights enforcement in the international community.¹⁷⁶ Human rights obligations are primarily enforced on the national level, where commitments are monitored by state institutions and the government is held accountable for violations. This is augmented by the presence of local

¹⁶⁷ See *Working Group Report*, *supra* note 130, at 18.

¹⁶⁸ See Manfred Nowak, UN COVENANT ON CIVIL AND POLITICAL RIGHTS: CCPR COMMENTARY, (1993), at 370-379 and 394-396. (“In applying a limitation, a government should use no more preventive means than is completely necessary and may legally entail the formation to be notified of an association. On the other hand, if the government requires persons who wish to create an association to get permission before functioning, it must specify criteria that are obvious, unbiased, and appealable.”).

¹⁶⁹ See *Working Group Report*, *supra* note 130, at 17.

¹⁷⁰ See HUMAN RIGHTS WATCH, *supra* note 49, at 41.

¹⁷¹ See Beth Simmons and Lisa Martin, *International Organizations and Institutions*, HANDBOOK OF INTERNATIONAL RELATIONS, (Sage, 2001), <http://scholar.harvard.edu/bsimmons/publications/international-organizations-and-institutions>, at 125.

¹⁷² See Oona Hathaway, *Do Human Rights Treaties Make a Difference?*, 111 Yale L. J. 8, Apr. 26, 2002, <http://yalelawjournal.org/the-yale-law-journal/article/do-human-rights-treaties-make-a-difference?>, at 2006.

¹⁷³ See generally Oona Hathaway, *Hamdan v. Rumsfeld: Domestic Enforcement of International Law*, INT’L LAW STORIES, July 2007, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1009621

¹⁷⁴ See Jost Delbrueck, *International Protection of Human Rights and State Sovereignty*, 57 IND. L. J. 4, Jan. 10, 1982, <http://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=2302&context=ilj>, abstract.

¹⁷⁵ See van Genugten, *supra* note 124, at 211.

¹⁷⁶ See Delbrueck, *supra* note 174, at 568.

interest groups and nongovernmental organizations seeking to influence domestic policy.¹⁷⁷ Thus, international monitoring systems require the cooperation of willing governments and only function as much as states allow them to. While some governments can go as far as integrating supervisory mechanisms within their foreign policy, others choose to avoid them completely.¹⁷⁸

But why has government behavior maintained this systematic pattern of repression while committing to international law? Especially in the current times, where the status quo is characterized by polarized power politics and chaotic unrest, repression is bound to continue. In the process of restoring stability to the country after two mass uprisings, human rights laws are among the military-backed government's least prioritized concerns. Their continued assurance of committing to international law comes at no cost. The state can continue to submit reports, attend discussions, announce its obligations to treaties, claim to uphold its responsibilities, and meanwhile, evade its duties towards its citizens and human rights treaties. After more than three decades of attempts to curb torture, arbitrary arrests, crackdowns on NGOs, press censorship, and restrictions on assembly, international law has had very limited success. The role of supervisory committees and member states in persuading Egypt to comply by its obligations is has now become a dead letter.

3.4 AVENUES TO ENCOURAGE COMPLIANCE?

Since Egypt's human rights progress is very slow to non-existent, two potential avenues can be explored to influence Egypt's compliance. It is worthy to note they are not easy solutions and require close analysis to implement. The first is the possibility of imposing targeted sanctions on Egypt through the UN Security Council. Targeted sanctions or "smart sanctions" were designed to impact repressive regimes engaging in human rights violations.¹⁷⁹ For years, NGOs, academics, and practitioners held conferences and specialized workshops to reach an understanding of how to utilize sanctions in a manner that applies "maximum political and economic pressure as precisely as possible on [...] specific leaders, rather than whole populations".¹⁸⁰ The ultimate goal of these sanctions is to affect the practice of political leaders and help alleviate crises. However, the application of targeted sanctions is not a single dimensional matter, it includes arms embargoes, travel sanctions, financial sanctions, and trade sanctions.¹⁸¹ For example, when imposed on Iraq in 1990 and lifted following the Iraq War in 2003, the comprehensive sanctions mostly affected the Iraqi population with economic stagnation, deteriorating infrastructure, severe epidemics of diseases, and the collapse of any pre-existing system which could guarantee human development and well-being in a civil society.¹⁸² Thus, in their application, it is difficult to refine sanctions and limit their impact exclusively to target leadership. Moreover, the effectiveness of smart sanctions does not differ drastically from traditional sanctions in many instances. If imposed on Egypt, sanctions could pose a risk of high stakes due to the country's political importance in the Middle

¹⁷⁷ See Oona Hathaway, *Why Do Countries Commit to Human Rights Treaties?*, 51 J. OF CONF. RES. 4, 2007, <http://jcr.sagepub.com/cgi/content/abstract/51/4/588>, at 593.

¹⁷⁸ See Jack Donnelly, *State Sovereignty and Human Rights*, GRADUATE SCHOOL OF INTERNATIONAL STUDIES, June 23, 2004, <http://www.du.edu/gsis/hrhw/working/2004/21-donnelly-2004.pdf>, at 12.

¹⁷⁹ See Jay Gordon, *Smart Sanctions Revisited*, Carnegie Council for Ethics in International Affairs, (2011), <http://www.invisiblewar.net/wp-content/uploads/2010/08/Smart-Sanctions-Revisited2.pdf><http://www.invisiblewar.net/wp-content/uploads/2010/08/Smart-Sanctions-Revisited2.pdf>, at 318.

¹⁸⁰ *Ibid.*, at 319.

¹⁸¹ *Ibid.*, at 315. (Arms embargoes block the flow of arms to a certain area; travel sanctions limit travel by individuals via flight bans; financial sanctions blacklist companies, persons, or groups; and trade sanctions interrupt the flow of goods to stall leadership funding.), at 321-330.

¹⁸² *Ibid.*

East. With a conflicted political situation and a staggered economy, any sanctions in Egypt would undoubtedly worsen the human rights situation and alienate Egyptian leadership. The repercussions can, in turn, reverberate not just to impact the Middle East's most populous country, but likewise the whole region. As a final thought, Egypt's continued, yet limited, cooperation with UN supervisory mechanisms ranks it on a higher position than many other repressive countries. Egypt has, throughout most its modern history, been viewed as a friend of many states in the international community and a key player in the stability of the region. Therefore, this avenue would not gain much support, considering its consequences.

The second avenue this study proposes is that of education and legal empowerment. Any implementation of human rights should occur within a certain environment of a state that is willing and able to do so. Among the preconditions to build this environment, the Advisory Council mentions the importance of: first, increasing awareness of human rights among civil society; second, viewing certain issues from a human rights lens; third, ensuring legal implementation and domestic enforcement of human rights; and fourth, acknowledging the value of human rights in addressing social concerns.¹⁸³ Typically, the role of the state, especially in Egypt, is pivotal to realizing the successful implementation of human rights. With respect to the existing instruments and institutions, the state must accept the responsibility of capacity-building and take concrete steps to develop rule of law, strengthen the domestic institutions, and consequently improve access to justice.¹⁸⁴ To build an adequate environment to foster human rights, a system based on participation has to exist. The next chapter studies a bottom-up approach as a potential avenue to realize human rights practice in Egypt.

¹⁸³ See van Genugten, *supra* note 124, at 216.

¹⁸⁴ *Ibid.*

CHAPTER 4: FOSTERING LEGAL EMPOWERMENT

“Clearly law is not just the sum of courts, legislatures, police, prosecutors, and other formal institutions with some direct connection to law. Law is also a normative system that resides in the minds of the citizens of a society.”

(Thomas Carothers—Sociologist)¹⁸⁵

To construct a modern Egypt, it is necessary to initiate “a process of self and social empowerment that moves [the people] not only to activate the rights they do have, but to redefine and reshape the inadequate ones as expressed in law and in practice”. This much needed process of building a human rights culture can be achieved through a human rights approach to education. Legal empowerment is a multi-faceted, socio-legal process that starts at the grassroots level and focuses on developing legal literacy, legal mobilization, and legal socialization.¹⁸⁶ However, every stage of this process is interlinked to chronic political, economic, and social problems. Legal awareness cannot be established without uprooting illiteracy (which cannot be accomplished without the state’s assistance of NGO campaigns); legal mobilization cannot be fully effective in the presence of a military justice system operated by emergency laws; and legal socialization cannot be achieved without freedom of expression and freedom of information. In this chapter, these corollaries will be analyzed and considered only inasmuch as they serve the concept of legal empowerment to explain how it can be yet another failed solution to Egypt’s human rights crisis.

4.1 UPROOTING ILLITERACY AND PLANTING CONSCIOUSNESS

4.1.1 Illiteracy in the State

Egypt’s illiteracy epidemic has stagnated human rights efforts on a societal level for decades. The country’s Central Agency for Public Mobilization and Statistics (“CAPMAS”) reported the total number of illiterate people in 2012 exceeded 16 million.¹⁸⁷ But who are Egypt’s illiterate people? And how does their illiteracy prevent the progress of human rights? Illiteracy heavily dominates Egypt’s rural and peri-urban areas, where employment is predominantly in the informal sector and education—whether academic or technical—is severely diminished.¹⁸⁸ In these areas, people occupy jobs in exploitive conditions and are offered very limited benefits which confine them to a life of poverty.¹⁸⁹ Egypt’s illiterates are characterized by being “poor, rural, female, largely adult women, men, as well as rural migrants to Cairo, Giza, Alexandria, and Suez”.¹⁹⁰ Statistically, this means that approximately 30 percent of Egyptians are illiterate and uninformed voters. But not only are they unable to read instructions, voting ballots, forms, bills, or directions, they are similarly in utter solitude from the law.¹⁹¹ With such uninsured existence, modern society to them represents an

¹⁸⁵ See Thomas Carothers, *Promoting the Rule of Law Abroad*, Carnegie Endowment for International Peace, Jan. 28, 2003, <http://carnegieendowment.org/2003/01/28/promoting-rule-of-law-abroad-problem-of-knowledge/8sd>, at 8.

¹⁸⁶ *Ibid.*, at 2-5.

¹⁸⁷ See AL-MASRY AL-YOUM, *CAPMAS: More than 16 million illiterate people in Egypt in 2012*, EGYPT INDEPENDENT, Sept. 8, 2013, <http://www.egyptindependent.com/news/capmas-more-16-million-illiterate-people-egypt-2012>

¹⁸⁸ See Nour Iskandar, *Egypt: Where and Who are the World’s Illiterates?*, UNESCO, (2006), <http://ddp-ext.worldbank.org/EdStats/EGYgmrpro05.pdf>, at 2.

¹⁸⁹ *Ibid.*

¹⁹⁰ *Ibid.*, at 3.

¹⁹¹ See Jonathan Kozol, *The Human Cost of an Illiterate Society*, COMPOSING KNOWLEDGE, (1985), <http://uncngentas>.

inexplicable world of information where they cannot process the daily flow of information.¹⁹² This can be quite the worrying prospect to consider, especially when decisive issues are brought to the ballot box. To better understand the impact, during the parliamentary and presidential elections following the January 25 Revolution, critics of the Muslim Brotherhood were concerned about the group's vote-buying practices through which discounted food was sold to the poor to influence the voting outcome¹⁹³ or voting for the Brotherhood was preached as an "obligation" for every Muslim.

In the Global Competitiveness Report published by the World Economic Forum for 2013-2014, Egypt ranked at the very last in quality of primary education.¹⁹⁴ Although the government enshrines the right to education in the constitution and places it at the heart of development, control of the educational system is still highly centralized and inefficient.¹⁹⁵ Mubarak officials attempted to counter this phenomenon and repeatedly spoke of restructuring the educational system, but their policies often failed to materialize.¹⁹⁶ As a result, the ineffectiveness of the system has had serious consequences on the Egyptian society by contributing to unemployment, poverty, inequality, and a general lack of knowledge.¹⁹⁷ Among the several answers to the question of why a corrupt regime with poor legitimacy and failed laws survived, is the fact that Egypt's largely uninformed society remains unaware of the fundamental human rights and most legal protections. The population is alienated from the law and their access to justice has increasingly deteriorated. The revolutions did indeed bring about a monumental change and a new dawn of hope in the minds of people. But it occurred too abruptly, and has—at many times—blurred the thin line between acts of freedom and chaos. Due to this phenomenon, the exercise of fundamental human rights by the people is at times irresponsible, unrestricted, and misunderstood, making these same freedoms a hindrance to progress as opposed to a source of democratic practice.

4.1.2 Legal Illiteracy and Vulnerability

As defined by law professor James White, legal literacy is the "degree of competence in legal discourse required for meaningful and active life in our increasingly legalistic and litigious culture."¹⁹⁸ Ignorance of the legal framework which protects the fundamental human rights and freedoms makes a population vulnerable to repression.¹⁹⁹ In Egypt, a high illiteracy rate is further exacerbated by the educated people's similar lack of knowledge of how the law can protect them,

wikispaces.com/file/view/Kozol_The+Human+Cost+of+an+Illiterate+Society.pdf, at 115-119.

¹⁹² *Ibid.*, at 116.

¹⁹³ See Leila Fadel, *Muslim Brotherhood sells cheap food ahead of holiday and Egypt parliament vote*, THE WASHINGTON POST, Nov. 5, 2011, http://articles.washingtonpost.com/2011-11-05/world/35283999_1_muslim-brotherhood-eid-al-adha-new-party

¹⁹⁴ See AL-MASRY AL-YOUM, *Egypt's primary education ranks last in Global Competitiveness Report*, EGYPT INDEPENDENT, Sept. 8, 2013, <http://www.egyptindependent.com/news/egypt-s-primary-education-ranks-last-global-competitiveness-report>

¹⁹⁵ See Louisa Loveluck, *Education in Egypt: Key Challenges*, MENAP CHATHAM HOUSE, [HTTP://WWW.CHATHAMHOUSE.ORG/SITES/DEFAULT/FILES/PUBLIC/RESEARCH/MIDDLE%20EAST/0312EGYPTEDU_BACKGROUND.PDF](http://www.chathamhouse.org/sites/default/files/public/research/middle%20east/0312egyptedu_background.pdf), at 7. ("[Minister for Education Hisham Bahaeddin]: Education falls under the direct supervision of the state so that it would ensure the minimum common level of enculturation and socialization."), *Ibid.*

¹⁹⁶ See Wardany, *supra* note 74, at 39.

¹⁹⁷ See Sarah El-Ghazaly, Erin Evers, and Sirine Shebaya, *Entrenching Poverty in Egypt: Human Rights Violations that Contributed to the January 25 Revolution*, 14 YALE H. R. & DEV. L. J. 2., http://www.law.yale.edu/documents/pdf/Law-Journals/5._El-Ghazaly_et_al.pdf, at 144.

¹⁹⁸ See James White, *The Invisible Discourse of the Law: Reflections on Legal Literacy and General Education*, UNIV. OF COLORADO LAW REV., (1983), at 144.

¹⁹⁹ See George Pulikuthiyil, *Legal Literacy for Social Empowerment*, JANANEETHI FOUNDATION, (2009), <http://www.jananeethi.org/jananeethi/reports/esseylegaliteracy.htm>, at 95.

for a multitude of reasons. Among these is the confusion of what the law stipulates and the lack of understanding of legal procedures.²⁰⁰ But more importantly, is the absence of rule of law within the state. Although Egypt is known in the Middle East for its advanced legal system, this same system was effectively used by its dictators to abuse the practice of power and deny any access of justice to the citizens.²⁰¹ Over decades, the practice of the rule *by* law gradually deprived people of their rights, freedoms, and above all, their awareness—whether legal, academic, or general awareness.

Part of the role of legal literacy is to define social life and help citizens understand their interests and identities.²⁰² In the presence of an enforceable legal system, legal literacy would not only benefit the people in acquiring their rights, but can also strengthen democracy and legitimize the government's Constitutional rule.²⁰³ It is an instrument which facilitates a new legal consciousness with better awareness, starting at the grassroots level.²⁰⁴ Similarly, it is also the first step of the legal empowerment process whereby the population could subsequently understand, practice, and critique the law to nurture democracy.

4.1.3 *Planting the Seeds of Consciousness*

It is therefore essential to view all efforts to promote all types of literacy in Egypt as indispensable and on the same plane as the recognition of the fundamental human rights.²⁰⁵ Literacy and legal literacy are minimum prerequisites necessary to allow even the most basic level of informed participation in a legal system. There are two main routes through which illiteracy and legal illiteracy can be addressed in Egypt, first, through state educational system, and second, through NGOs' illiteracy eradication and legal empowerment campaigns. The government's role in reforming education is to, first and foremost, develop a primary objective of education where the process is guided by three main principles: the right of access to education, which ensures the availability of education to a broad sector of society and equality of opportunity; the right to quality education, which creates a relevant and up-to-date curriculum that emphasizes democratic values and healthy environments; and the respect for human rights in education, which promotes respect for identity, participation, integrity, and accountability.²⁰⁶ Centering reforms around these ideals can potentially nurture responsible and active citizens who are not only able to read and write, but also understand the legal framework and participate in the process of building civil society to help reinforce its values. In realizing this vision of building a new educational framework, it is expected to encounter major fiscal and resource constraints given Egypt's current circumstances, but it is possible for a government with the political will for reform to better allocate its resources²⁰⁷ and

²⁰⁰ See Azza Suleiman, *Advocating for Equal Rights for Egypt's Women*, EQUALITY NOW, (2011), http://www.equalitynow.org/partner/azza_suleiman

²⁰¹ See Sahar Aziz, *Rule Of Law, Not Rule By Law for Egypt*, HUFFINGTON POST, Nov. 26, 2011, http://www.huffingtonpost.com/sahar-aziz/rule-of-law-not-rule-by-l_b_1113644.html

²⁰² See Beth Simmons, *MOBILIZING FOR HUMAN RIGHTS: INTERNATIONAL LAW IN DOMESTIC POLITICS*, (Cambridge Univ. Press, 2009), at 140.

²⁰³ See Palanisamy Sathasivam, *Legal Literacy is a catalyst for socio-economic progress of the society: Chief Justice of India P Sathasivam*, LIVE LAW NEWS NETWORK, Oct. 28, 2013, <http://www.livelaw.in/legal-literacy-is-a-catalyst-for-socio-economic-progress-of-the-society-chief-justice-of-india-p-sathasivam/>

²⁰⁴ See Pulikuthiyil, *supra* note 199, at 95.

²⁰⁵ See UNESCO, *Illiteracy and human rights*, International Year for Human Rights 1968, (1968), <http://unesdoc.unesco.org/images/0015/001551/155105eo.pdf>, at 13.

²⁰⁶ See UNICEF, *A Human Rights-Based Approach to Education for All*, UNESCO, (2007), http://www.unicef.org/publications/files/A_Human_Rights_Based_Approach_to_Education_for_All.pdf, at 27-28.

²⁰⁷ *Ibid.*, at 40.

develop simultaneous strategic plans for the progressive realization of educational programs.²⁰⁸ The efficient implementation and management of plans can guarantee a coherent process “rather than a series of separately funded and possibly contradictory projects with different objectives and time frames”.²⁰⁹

However, as mentioned before, the government has failed in the past to actualize any tangible advancement in the field of education, despite taking all recommendations, plans, and proposals into consideration. In fact, the Mubarak’s government actually perceived the above factors as *existent and practiced* within the Egyptian educational system. On May 11, 2010, the Egyptian state delegation addressed the UN Economic and Social Council and claimed that:

69. Egypt realizes the action to disseminate awareness of human rights is a necessary fundamental precondition for strengthening the effective implementation of those rights at the international and national levels [...]

70. Egypt is determined to ensure that human rights principles, awareness of those principles and action to promote behaviour and concepts that respect individual dignity, freedom and rights in society become firmly rooted among the population, so that they come to constitute the dominant pattern in the daily lives of all [...]

Curriculum development at the basic and secondary education levels

80. Egypt believes that the human rights principles enshrined in international instruments [...] constitute a main foundation-stone of a broad system of formal education [...]

82. [...] [C]urricula were overhauled and revised to include [human rights] principles, with emphasis on subjects and issues with a bearing on pupils’ daily lives [...]

Development of human rights education in university programmes

91. During the past few years, there has been a great wave of intense activity at many universities in Egypt in the domain of human rights education [...] ²¹⁰

This consistent pattern of the state’s positive perception of its efforts repeatedly emerges and clearly shows that the government not only chooses to turn a blind eye to reality, but denies the status quo altogether, by posing as a champion of human rights enforcement. In the case of education, the Egyptian state has systematically manipulated and neglected it for well over half a century and any solutions at the moment will require much more than mere legal and structural reforms.²¹¹

The second route through which illiteracy can be addressed is that of civil society’s associations. Since Egypt has more than 42,000 NGOs, they too can play a major role alongside the

²⁰⁸ *Ibid.*, at 42. These programs must be accompanied by mechanisms to measure the performance of structural and legislative reforms as well as the accessibility, quality, and protection of rights within the educational system. *Ibid.*

²⁰⁹ *Ibid.*, at 44. Beside the educational reforms, access to courts (to challenge failures), transparency (to help people understand how decisions are made), flow of information (to increase awareness of rights and obligations), participation (to create effective consultative processes), and parliamentary accountability (to scrutinize government actions), should all be accounted for. *Ibid.*, at 40-45.

²¹⁰ See COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, *Implementation of the International Covenant on Economic, Social and Cultural Rights: Egypt*, U.N. Doc. E/C.12/EGY/2-4, Dec. 22, 2011, http://www.un.org/ga/search/view_doc.asp?symbol=E/C.12/EGY/2-4, at 25-79.

²¹¹ See Sarah El-Nashar, *Education Reform in Egypt*, INTERNATIONAL EDUCATION POLICY, (2012), http://isites.harvard.edu/fs/docs/icb.topic1203150.files/Panel%205%20-%20Rethinking%20the%20Ordinary/Sarah%20El%20Nashar_Egypt_Education%20Reform.pdf, at 22.

state government, in eradicating illiteracy and educating the public on legal matters.²¹² Certainly, there are significant NGO efforts to battle illiteracy and empower people. Yet, for years, Egypt's law of associations has prevented NGOs from forming, receiving funding, cooperating with for-profit companies, and sustaining their operations, which has hindered NGOs from working within their full capacity.²¹³ Even after the popular uprisings, the Muslim Brotherhood drafted association laws which would have allowed even stricter supervision of registration, external funding, organizational activities, and required security representatives in NGOs.²¹⁴ In order to break with the country's long history of repression and boost development, NGOs must be allowed to work in cooperation with the government and civil society. Lifting the severe restrictions which are legally-imposed on NGOs can help extend access of education to large networks of people in different areas, minimize social inequalities, and educate people who are not within the schooling age.²¹⁵

4.2 LEGAL MOBILIZATION AND THE LAW OF THE LAND

Social movements usually rally populations due to the environment's chronic political, social, legal, and economic problems.²¹⁶ A case in point is the Egyptian Revolution of 2011—a popular uprising, incomparable to any other event in the country's history—which was a diverse movement that amassed millions of people from all social classes against Mubarak's repressive regime. The movement immediately gained momentum to demand an end to poverty, unemployment, illiteracy, corruption, dictatorship, and a long history of human rights violations. For years called politically apathetic, Egypt's population collectively mobilized to restore social justice and the rule of law which had very little trace in civil society. This was a desperate reaction to Mubarak's Egypt, where there was no legal way out of dictatorship. He was grooming his son Gamal Mubarak as a successor, further restricting freedoms, renewing emergency law, and tightening security measures in the country. Consequently, it was the awareness of repression combined with the glaring absence of the fundamental human rights that caused the people to rebel.

After the revolution, it was apparent that change was not going to actualize instantly. Egypt's dictatorship was not Mubarak, it was a Lernaean Hydra; a system operated by several corrupt officials who carefully planned and strategically built it to guard the regime's grip.²¹⁷ Thus, legal mobilization—the people's medium by which they could utilize the state's law and legal institutions to advance social change—appeared only as a mirage on the distant end of the road. The state's deep-rooted legal framework has yet to accommodate real democratic reforms. But the courts enforcing the law are expected to be fair, accessible, and well-equipped to handle the caseload as opposed to being forbidding, inaccessible, and overburdened.²¹⁸ Conversely, today,

²¹² See Nermine Abdel Bary, *Empowering civil society by law*, AHARAMONLINE, June 6, 2013, <http://english.ahram.org.eg/NewsContentP/4/73085/Opinion/Empowering-civil-society-by-law.aspx>

²¹³ See Raghda El-Ebrashi, *Empowering NGOs in Egypt: The Need for a New Legal Framework*, SKOLLWORLDFORUM, Dec. 19, 2012, <http://skollworldforum.org/2012/12/19/empowering-ngos-in-egypt-the-need-for-a-new-legal-framework/>

²¹⁴ See AMNESTY INTERNATIONAL, *Egypt moves ahead with law to stifle non-governmental organizations*, AMNESTY INTERNATIONAL, May 29, 2013, <http://www.amnestyusa.org/news/news-item/egypt-moves-ahead-with-law-to-stifle-non-governmental-organizations>

²¹⁵ See Rabha Allam, *Engaging with traditional and modern Islamic NGOs in Egypt*, AL-AHRAM CENTER FOR POLITICAL AND STRATEGIC STUDIES ACPSS, May 2012, <http://media.leidenuniv.nl/legacy/policy-brief--islamic-ngos-in-egypt.pdf>, at 3-6.

²¹⁶ See Simmons, *supra* note 202, at 136.

²¹⁷ See Moustafa, *supra* note 20, at 237.

²¹⁸ See Nathan Brown, *THE RULE OF LAW IN THE ARAB WORLD: COURTS IN EGYPT AND THE GULF*, (Cambridge Univ. Press, 1997), at 30.

Egypt's exceptional courts still function through military dominance, the lack of due process, and emergency law (now anti-terrorism law), effectively blocking any access to justice. And although under a different guise now, the sweeping powers of the infamous military law remain as potent as ever, preventing the rule of law, hindering proper constitutional or legal reform, stalling the restructuring of state institutions, and further alienating and frustrating the population.²¹⁹ As a result, the law has lost its legitimacy, respect, and power in the land, leaving the population with a "rights gap", where no legal means exist by which to mobilize or have their grievances addressed.²²⁰ The repercussions of this phenomenon have led to the increasing prevalence of protests in Egypt, which have, due to their frequent nature, left the country in political and economic turmoil.²²¹

4.3 THE RIGHT TO LEGAL SOCIALIZATION

The final constituent of legal empowerment is called legal socialization and it builds on the two previously-discussed concepts of legal literacy and legal mobilization. Whereas legal literacy is knowledge of the law and legal mobilization is practice of the law, legal socialization is the "development of values, attitudes, and behaviors toward law".²²² It is a process by which citizens learn about the law through a host of the state's legal framework such as the home, school, or court;²²³ or on the official level, through the main sculptors and practitioners of law as politicians, lawyers, judges, or police officers.²²⁴ Its exercise is aimed not at blindly following the law but also critiquing it to help citizens make sound ethical judgments about its content.²²⁵ Critical legal theory further asserts that "things could always be otherwise";²²⁶ individuals and legal systems are continually evolving in societies where constructive criticism is permitted.²²⁷ This entails that societal structures are not permanently fixed; instead, they are establishments susceptible to change under the right circumstances and public pressure.²²⁸ However, it is important to note that new perceptions of the law and norms take generations to actualize and ensure the cohesion of civil society.²²⁹

This notion is much needed in today's Egypt, but it requires the government's tolerance of criticism and freedom of expression. As highlighted in previous chapters, the freedoms of expression and press are highly restricted in Egypt. And although the revolution has encouraged journalists and bloggers to speak more freely, the law remains as constraining as it once was during the Mubarak era. Journalists, bloggers, and critics of the state and law are all treated equally by the military; they are arrested, tried by a military court, accused of "spreading false information", and

²¹⁹ See FIDH, *supra* note 141.

²²⁰ See Simmons, *supra* note 202, at 136.

²²¹ See Jesse Rosenfeld, *In Deeply Polarized Egypt, Revolution's Social Justice Slogans are Seldom Heard*, THE DAILY BEAST, Oct. 10, 2013, <http://www.thedailybeast.com/articles/2013/10/10/in-deeply-polarized-egypt-revolution-s-social-justice-slogans-are-seldom-heard.html>

²²² See June Tapp and Felice Levine, *Legal Socialization: Strategies for an Ethical Legality*, 27 STANFORD LAW REV. 1, <http://www.jstor.org/stable/1227929>, at 4.

²²³ *Ibid.*

²²⁴ *Ibid.*, at 5.

²²⁵ See Tapp and Levine, *supra* note 222, at 2.

²²⁶ See James Boyle, *The Politics of Reason: Critical Theory and Local Social Thought*, UNIV. OF PENN. L. REV., (1985), <http://law.duke.edu/boylesite/politics.htm>

²²⁷ See Tapp and Levine, *supra* note 222, at 4.

²²⁸ See generally, Meyer Abrams, *THE MIRROR AND THE LAMP: ROMANTIC THEORY AND THE CRITICAL TRADITION*, (1953)

²²⁹ See Chantal Kourilsky, *Legal Socialisation: From Compliance to Familiarisation through Permeation*, EUR. J. OF LEGAL STUDIES, <http://www.ejls.eu/1/13UK.pdf>, at 3.

indefinitely imprisoned.²³⁰ This pattern of repression worked in the past to restrain the population for decades but shows decreasing efficiency in the current Egypt. To facilitate the realization of legal socialization, two main freedoms—which are currently absent—have to exist. First, freedoms of expression and press must be extended to all citizens of civil society to allow the free expression of opinions and promote journalists’ role in covering a broad spectrum of issues without having to fear backlashes from the government;²³¹ second, a freedom of information law must be passed to sustain Egypt’s democracy and attain true reform. In the Mubarak era, the regime’s colossally corrupt rule impeded all mechanisms of transparency to keep governmental activities from public scrutiny.²³² As a consequence, major embezzlement and corruption went undetected, leading to the current state of affairs. Therefore, the public must be provided access to state information and empowered to hold the government accountable.²³³ Nonetheless, considering the status quo, namely the prevalence of military rule, its harsh measures, strict laws, and unwillingness to divulge any information on its budget or activities, legal socialization is bound to face many obstacles.

4.4 ANOTHER FAILED SOLUTION

Although all three elements of legal empowerment—legal literacy, legal mobilization, and legal socialization—can play immense roles in uplifting Egyptian civil society, an analysis of how each element could be achieved quickly shows how they will inevitably reach dead ends once any efforts are invested. To make clearer, the current environment is not fit to sustain the notion of legal empowerment and its development on every level—political, economic, social, structural, and legal. Legal literacy is hindered by social ignorance, a lack of understanding of democracy, inefficient educational facilities, and repressive NGO laws; legal mobilization is obstructed by social ignorance, military influence, corrupt law practice, and exhausted resources; and legal socialization is stymied by social ignorance, restrictions on freedoms of expression and press, and lack of information laws. These road blocks all exist within an interconnected repressive system. Hypothetically, if literacy rates and legal awareness did indeed improve in Egypt, they would need the reciprocation of a solid legal system, which is fair, accessible, and well-equipped as opposed to the current forbidding, overburdened, and confusing system in place.²³⁴ And if a fair judicial system was in place, it would require the presence of freedoms to constructively critique its actions and hold it accountable. Nevertheless, the laws and systems described in previous chapters have already demonstrated how absolute power is entrenched in all state institutions to dominate every sector and systematically repress people.

²³⁰ See e.g. Liam Stack and Ethan Bronner, *Egypt Sentences Blogger to 3 Years*, NY Times, Apr. 11, 2011, <http://www.nytimes.com/2011/04/12/world/middleeast/12egypt.html>, (“[B]logger, Maikel Nabil, 25, had assailed the Egyptian armed forces for what he called its continuation of the corruption and anti-democratic practices of Mr. Mubarak [...] “[His imprisonment] is a warning to all journalists, bloggers and human rights activists in Egypt that punishment for criticizing the army is a sentence in a military prison” [...] The charges against Mr. Nabil included insulting the military establishment and spreading false information about the armed forces.”).

²³¹ See *Working Group Report*, *supra* note 130, at 17.

²³² See Sahar Aziz, *To Stop Corruption, Egypt Needs a Freedom of Information Law*, HUFFINGTON POST, http://www.huffingtonpost.com/sahar-aziz/to-stop-corruption-egypt-_b_1538999.html

²³³ *Ibid.*

²³⁴ See Nathan Brown, *supra* note 218, at 30.

CHAPTER 5: WHERE TO SEARCH FOR HOPE

”Before turning to those moral and mental aspects of the matter which present the greatest difficulties, let the inquirer begin by mastering more elementary problems.”

(Sherlock Holmes—Fictional Detective)²³⁵

5.1 RE-EXAMINING THE STATUS QUO

While the time for reform may indeed be ideal, it is just as ideal for deep reflection—by both the people and the state—on the environment within which potential reforms can take place. Today, Egypt’s society is confronted by a war of power politics, a deeply polarized public, alarming security threats, repressive laws, corrupt institutions, an economy on the verge of collapse, a crippled educational system, and serious resource shortages.²³⁶ Needless to say, Egypt is approaching a failed state status, yet all continues as usual. Since the ouster of President Morsi, the military-backed government has collectively led a transition to civilian rule. Typically, the military has maintained its superior, above-the-law status by adopting a *security versus democracy* approach.²³⁷ In effect, it has tightened security measures nation-wide to re-establish stability by restricting freedoms and acting unrestrainedly. But because a majority of the population currently prioritizes safety and security over democracy and freedoms, they have called for the support of the military over the Muslim Brotherhood, even if order is restored at the expense of their own human rights.²³⁸ The Committee of 50—assembled to rewrite the constitution—have permitted the military to retain its main political and judicial powers within Egypt’s new constitution.²³⁹ To put more provocatively, Egypt’s authoritarian system is now becoming “democratically” legitimized and reinforced from top-down and bottom-up.²⁴⁰

While parliamentary elections are expected between February and March 2014 and presidential elections during early summer, Egypt’s roadmap may appear clear but its future still remains uncertain.²⁴¹ General Sisi still has not ruled out his candidacy in the upcoming presidential elections, where he is widely assumed to win if he decides to run.²⁴² If this happens, it would confirm the continuity of Egypt’s military rule and dash hopes of democratic reforms, which again, could have major repercussions. Thus, in considering Egypt’s current political and economic conditions, this chapter takes the status quo into account and deems it unrealistic to assume any current promise of change will break from the past rhetoric’s fate.

²³⁵ See Sir Arthur Conan Doyle, *A STUDY IN SCARLET*, (Ward Lock and Co., 1887), at 23.

²³⁶ See Ryan Broderick and Sarah LeTrent, *8 issues Egypt is facing*, CNN, Jul. 10, 2013, <http://edition.cnn.com/2013/07/10/living/cnn-buzzfeed-what-egypt-is-fighting-for/>

²³⁷ See Sarah Lynch, *Will Egypt stay sweet on al-Sisi in the long run?*, USA TODAY, Oct. 29, 2013, <http://www.usatoday.com/story/news/world/2013/10/29/egypt-military-sisi/3186527/>

²³⁸ See Manar Ammar, *In Egypt, Human Rights is Last on the Military Agenda*, OCCUPY.COM, Oct. 17, 2013, <http://www.occupy.com/article/egypt-human-rights-last-military-agenda>

²³⁹ See Richard Spencer, *Egypt military to retain key powers in new constitution*, THE TELEGRAPH, Nov. 21, 2013, <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/egypt/10465842/Egypt-military-to-retain-key-powers-in-new-constitution.html>, (“A key privilege deriving from Egypt’s long period of military dictatorship, the right to try civilians in military courts, has been kept in the new constitution after a long battle within the formulating committee.”)

²⁴⁰ It is, of course, significant to mention that the banned Muslim Brotherhood group does not support the military in any way and has faced a harsh series of crackdowns, arrests, and military trials since Morsi’s ouster.

²⁴¹ See Patrick Kingsley, *Egyptian foreign minister sets out timetable for elections*, THE GUARDIAN, Nov. 8, 2013 <http://www.theguardian.com/world/2013/nov/08/egypt-timetable-elections-foreign-minister-fahmy>

²⁴² See Noah Rayman, *Egypt Military Chief Open To Presidential Run*, TIME, Nov. 21, 2013, <http://world.time.com/2013/11/21/egypt-military-chief-open-to-presidential-run/>

5.2 DEFINING POLITICAL WILL IN EGYPT

Although a vast body of literature by human rights organizations, lawyers, and researchers has for decades expressed grave concern towards Egypt's legal framework and recommended its immediate repeal and reform, it was always met with the government's prompt acceptance to indefinitely review issues of concern and not act upon them. So it has also become quite redundant to reiterate past research and recommendations and expect them to be taken seriously after failing for more than three decades. Democratic reforms alone cannot solve the deep-rooted problems of Egypt, particularly in the current conditions. In fact, societies traumatized by instability face the "danger that liberal peacebuilding could exacerbate or prolong divisions."²⁴³ So as a starting point, any proposed reforms within the present environment must primarily show signs of the sincere *political will* to engage society's different authorities in a process of conceptualizing a concrete vision within a defined and agreed-upon framework.²⁴⁴

The "lack of political will" has been cited in several research analyses as the main determinant of failure in international and national crises, yet its broad and dynamic nature make it a notion that is bound to a phenomenon which it seeks to explain.²⁴⁵ This however, does not mean political will is a concept of hollow political rhetoric.²⁴⁶ Instead, it is a complex interdisciplinary concept inclusive of several dimensions that require close scrutiny. According to the definition proposed by Lori Post, Amber Raile, and Eric Raile, political will is "the extent of *committed support* among *key decision makers* for a *particular policy solution* to a *particular problem*".²⁴⁷ Among the important questions it raises involve whether it is achieved on an individual or a group level. Does it account for issues of state capacity, i.e. ability and resources? Can its constituents and consequences be utilized to make reliable analyses? Does its application vary across problems, policy solutions, political environments, and time?²⁴⁸

This chapter adopts the Post *et al.* definition and analyzes its elements as precursors to understanding to altering political will in Egypt. First, the elements within the definition are applied to Egypt's current political environment, showing that a political will does indeed exist, but on the extreme end of the spectrum. Subsequently, recommendations are put forth to help build a framework to guide the processes from which a solution for the Egyptian dilemma can be formulated. Post *et al.* break down their model of political will to list the following elements:

1. Sufficient Set of Decision Makers

Currently, the main political actors in Egypt—who have the power to implement and enforce policies—are found in the military-backed government, which maintains all "control over

²⁴³ See Benjamin Reilly, Per Nordlund, and Edward Newman, *Political Parties in Conflict-Prone Societies: Encouraging Inclusive Politics and Democratic Development*, UNITED NATIONS UNIVERSITY: POLICY BRIEF, 2008, <http://unu.edu/publications/policy-briefs/political-parties-in-conflict-prone-societies-encouraging-inclusive-politics-and-democratic-development.html>, at 2.

²⁴⁴ See Sarah El-Nashar, *Education Reform in Egypt*, INTERNATIONAL EDUCATION POLICY, (2012), http://isites.harvard.edu/fs/docs/icb.topic1203150.files/Panel%205%20-%20Rethinking%20the%20Ordinary/Sarah%20El%20Nashar_Egypt_Education%20Reform.pdf, at 23.

²⁴⁵ See Lawrence Woosher, *Deconstructing "Political Will": Explaining the Failure to Prevent Deadly Conflict and Mass Atrocities*, (2001), <http://www.princeton.edu/jpia/past-issues-1/2001/10.pdf>, at 181-183

²⁴⁶ For a recent and specific study on the theoretical definition of political will and an exploration of its dimensions as an interdisciplinary concept, see Lori Ann Post, Amber Raile, and Eric Raile, *Defining Political Will*, Politics & Policy, (2010), <http://onlinelibrary.wiley.com/doi/10.1111/j.1747-1346.2010.00253.x/abstract>, at 654.

²⁴⁷ *Ibid.*, at 659.

²⁴⁸ *Ibid.*, at 655-657.

other political actors and over the populace through the use of fear and intimidation”.²⁴⁹ Their operation is marked by a lack of transparency and a general neglect of rule of law that excludes and blocks the ability of other potential actors to take part of the policy-making process.²⁵⁰

2. *Common Understanding of a Particular Problem on the Formal Agenda*

When a condition escalates to become a crisis requiring immediate attention, it is placed on the “formal agenda” and taken into serious consideration by the government.²⁵¹ However, the lack of a common frame of reference may bring fundamentally different solutions to the table, by different parties.²⁵² In dealing with the crisis of polarization in Egypt, the military-backed government has justified the crackdown on protesters and political opposition as a response to a security and terrorist problem. Conversely, the Muslim Brotherhood has since maintained that the military executed a *coup d'état* and committed grave human rights violations. Meanwhile the country faces a multitude of political, economic, social, legal, cultural, and religious crises.

3. *Commitment to Support*

The military has vowed to fight terrorism and neutralize Egypt’s security threat and in several speeches made binding statements to this cause, even at the cost of human rights realization.²⁵³ For example, as of November 24, 2013, a new law effectively banning public protests was signed by interim President Adly Mansour.²⁵⁴ *The known devil is better than the unknown angel* is a common idiom that certainly applies here, where an accountability relationship between the military and a significant percentage of the population is seen as the last resort and safest *known* option. However, this legitimacy remains deeply divided and contradicted by opposition protests on a daily basis.²⁵⁵

4. *A Commonly Perceived, Potentially Effective Policy Solution*

The current “war on terrorism” run by the military is the proposed solution to the current security problem in Egypt. The ouster of President Morsi and the nation-wide security operation has targeted a large segment of society, namely the Muslim Brotherhood, which it now bans completely from participating in the decision-making and political process.²⁵⁶ This solution certainly appeases

²⁴⁹ *Ibid.*, at 661.

²⁵⁰ See EGYPT SOURCE, *Top News: US State Department Calls for Transparency in Egypt’s Courts*, ATLANTIC COUNCIL, Nov. 5, 2013, <http://www.atlanticcouncil.org/blogs/egyptsource/top-news-us-state-department-calls-for-transparency-in-egypt-s-courts>

²⁵¹ See Roger Cobb, Jennie-Keith Ross, and Marc Ross, *Agenda Building as a Comparative Political Process*, AMERICAN POLITICAL SCIENCE REVIEW, (1976), at 126-138.

²⁵² E.g., Egypt’s liberals supported the idea of president Mohamed Morsi’s ouster by the military and the crackdowns on the “terrorist threat”; on the other hand, the Muslim Brotherhood supporters severely rejected the military intervention and later requested president Morsi’s reinstatement.

²⁵³ See Lynch, *supra* note 237.

²⁵⁴ See Orla Guerin, *Egypt protests: New law condemned as ‘repressive’*, BBC News, Nov. 24, 2013, <http://www.bbc.co.uk/news/world-middle-east-25079696>

²⁵⁵ See Kareem Fahim, *Small Protest in Tahrir Square Restores Dissent to Cairo’s Heart*, NY TIMES, Nov. 19, 2013, http://www.nytimes.com/2013/11/20/world/middleeast/small-protest-in-tahrir-square-restores-dissent-to-cairos-heart.html?_r=0

²⁵⁶ See AL-MASRY AL-YOUM, *Court rejects lawsuit challenging Muslim Brotherhood ban*, EGYPT INDEPENDENT, Nov. 24, 2013, <http://www.egyptindependent.com/news/court-rejects-lawsuit-challenging-muslim-brotherhood-ban>, (“The original ruling in September banned all activities by the Brotherhood and its NGO and any association affiliated to it or receive funds from it. It also ordered the seizing of all Brotherhood assets until an independent committee by cabinet is formed to investigate them before the court issues final verdict.”)

the liberals of society and strongly alienates the conservative population. It is important to note that, “without including common perception of the solution in the definition, we would not necessarily be talking about a singular, aggregate political will; instead, we could be talking about multiple different, noncohesive preference sets.”²⁵⁷ Political will that is enforced by repression comes at a high cost of fueling civil conflict and heightening tensions during tumultuous times, which is why a long-term, commonly-accepted policy solution must be immediately sought.²⁵⁸

5.3 RE-DEFINING POLITICAL WILL IN EGYPT

Considering the regime’s current problematic political will, an alternative solution is needed to ensure a true democratic transition which can steer the country on a path where it can eventually create an environment fit to foster the implementation and enforcement of human rights. As a rule of thumb, it should be noted that the extensive restrictions on the various parties within society plays a failed role in conflict management.²⁵⁹ In Egypt, this has time and again, had a negative impact on the balance of power and pushed the country to the point of crises and military interventions in state affairs. Therefore, an inclusive reconciliatory process must exist to ensure the equal participation of citizens and neither found legitimacy through repression and coercion nor reflect the will of the stronger, more advantaged party.²⁶⁰ Here, it is important to note that the Egyptian people have *never* in their modern history had the chance to contribute to the ruling or political process. Instead, Egypt has, for the better part of its history, been ruled by strongmen leading strict regimes. Jürgen Habermas’s discourse theory of law and democracy discusses that “laws must be legitimated under conditions of democratic pluralism” and a framework must exist to clarify “the substantive demands of egalitarian justice”.²⁶¹ Yet again, before the realization of any legally valid set of fundamental rights, Habermas emphasizes the need for political will-formation.²⁶² Thus, to alter Egypt’s political will, the following points have to be aligned with the state’s goals of reform.

1. *Sufficient Set of Decision Makers*

On a preliminary level, citizens should be entrusted with the responsibility of being both addressees and authors of the law, thereby becoming among the key decision makers in society.²⁶³ The inclusion of a broader segment of society in the decision-making process can pave the way to reaching a reasoned agreement and hence, empower citizens to *potentially* shape the outcome of the law-making process and calm the civil unrest which currently worsens by the day.²⁶⁴

2. *Common Understanding of a Particular Problem on the Formal Agenda*

For the actualization of progress towards democratic reforms, sufficient coalitions must emerge, develop, and thrive in Egypt’s political sphere. But for this to occur, nationwide stability has

²⁵⁷ See Post, Raile, and Raile, *supra* note 246, at 665-667.

²⁵⁸ *Ibid.*

²⁵⁹ See Reilly, Nordlund, and Newman, *supra* note 243, at 6.

²⁶⁰ For a detailed analysis on the compilation of works by Jürgen Habermas, see Shane O’Neill, *The Politics of Inclusive Agreements: towards a Critical Discourse Theory of Democracy*, POLITICAL STUDIES ASSOCIATION, Feb. 26, 2002, <http://onlinelibrary.wiley.com/doi/10.1111/1467-9248.00272/abstract>, at 503.

²⁶¹ See O’Neill, *supra* note 260, at 504.

²⁶² *Ibid.*, at 507.

²⁶³ *Ibid.*, at 506. But since this can be a process highlighted by trials and errors, it must be understood that all laws are, in principle, revisable.

²⁶⁴ See O’Neill, *supra* note 260, at 506.

to be established first.²⁶⁵ So while the military-backed government harshly addresses the country's security situation, the *particular problem* which should be *on the formal agenda* primarily consists of two aspects, first, Egypt's polarized population, divided between support for the military-backed government and the Muslim Brotherhood; and second, the government's poor channels of communication with society, citizens, and political parties for decades, which has excluded the people's will and voice from affecting any decision-making processes.

3. *Commitment to Support*

The government should clearly indicate its credible *commitment to support* a reconciliatory initiative comprised not just of the opposition parties but of society as a whole. The decision makers and the constituencies within society would therefore be able to develop more agreed-upon accountability relationships and further commit to supporting a singular aggregate political will.²⁶⁶ This process would facilitate an effective policy solution and become an indispensable source of legitimacy where the government and people are equally empowered with the responsibility to shape, implement, and enforce the law.

4. *A Commonly Perceived, Potentially Effective Policy Solution*

To explore a solution within Egypt's legal framework, two important points relating to behavior and political will must be given attention. First, if the government seeks to restore a sustainable stability amidst the current conditions, the intensification of crackdowns on any opposition and limitations on freedoms must be replaced with the government's acknowledgment of the existing ideological shift in the population's perception of state governance. In a conflict-prone society like Egypt, this implies that using old repressive mechanisms and strategies can only exacerbate the existing crisis and any stability achieved through old tactics will only be temporary. Second, for people to submit to the authority of the state, the legislators' political will-formation must be linked to a democratic reconciliatory process, whereby inclusion and communication are ensured and equal liberties within the social contract are intertwined with the principle of popular sovereignty.²⁶⁷

Furthermore, citizens must have the ability to address issues in three main ways. First, they should be able to frame problems in an understandable way and pressure authorities to make changes; second, they should be able to question discriminatory acts of the government, which for example, result in the intolerance of a certain group; and third, they should have the competence to "evaluate critically a variety of competing claims, including the ability to adopt a self-critical perspective towards their own claims".²⁶⁸ In doing so, it is necessary to promote the equality of effectiveness of those who participate in the democratic process so that no group has its interests repressed to those of another.²⁶⁹

5.4 POINTS OF DISCUSSION

As previously stated, political will is a broad concept and can tend to encompass the very elements which it sets out to study. Complex interactions like cooperation, negotiation,

²⁶⁵ See Post, Raile, and Raile, *supra* note 246, at 662.

²⁶⁶ *Ibid.*, at 665-667.

²⁶⁷ See Jürgen Habermas, *BETWEEN FACTS & NORMS: CONTRIBUTIONS TO A DISCOURSE THEORY OF LAW AND DEMOCRACY*, translation by William Rehg, (MIT Press, 1996), at 95.

²⁶⁸ See Jim Bohman, *DELIBERATIVE DEMOCRACY: ESSAYS ON REASON AND POLITICS*, (MIT Press, 1997), at 321-348.

²⁶⁹ See O'Neill, *supra* note 260, at 512.

compromises, and reform may all be within its confines. So it is only pragmatic to analyze a few points of concern in order to improve the understanding of its potential effectiveness as a guiding framework.

First, the preferences of elite interests must be taken with regard to the desired outcome. In Egypt, the military typically prefers the prevalence of its interests and the dominance of its pre-established rule. Strongly holding its position and excluding or banning the opposition, the military elite can pose a challenge to the mobilization of political will. But the problematic status quo urgently demands an inclusive approach that breaks away from past tactics of securing governance. If this process remains unachievable, then the military elite risks the eruption of less controllable chaos and conflict in the near future.²⁷⁰ Yet to make matters worse, the Muslim Brotherhood have also kept a distance from engaging in negotiations with the military-backed government.²⁷¹ To move forward, the art of compromise which may seem like a surrender to both adamant sides, is the only alternative to the political deadlock in Egypt.²⁷²

Second, it is necessary to consider whether international models of democracy-building may need to be adjusted in order for developing democracies to adapt to them accordingly.²⁷³ A key paradox in Egypt's current battle for democracy is to create and promote a cohesive political sphere which could accommodate political parties and represent the various peoples within society. Indeed, far-reaching limitations on inclusion have been maintained and political parties have consistently been marginalized, yet the current security situation is certainly alarming. So, in introducing restrictions on inclusion, the state should maintain a certain standard of protecting rights and freedoms—even if not necessarily and fully compliant with internationally-recognized standards at this moment—but not hinder any progress in achieving democracy on the long run.²⁷⁴

Third, a democratic process still primarily relies on citizens' competence in certain matters, something which has yet to be realized in Egypt. To form an aggregate political will, the public must bring a specific understandable issue to the government for action. As discussed, in Egypt, there is a lack of political culture where the practice of rights, freedoms, and laws is mature and developed within the minds of citizens. This partially constitutes the political disaffection in Egypt which is caused by the mentioned factors of the lack of legal literacy, legal mobilization, and legal socialization, i.e. legal empowerment. Considering the political will for reform exists, this could gradually be mitigated in the presence of improved communication between the government and the people.

5.5 CONCLUSION

For the past three years, Egypt has been a ticking time bomb, politically, economically, and socially. The country has faced continuous unrest and remains divided over the military's leading role in defending the population against fundamentalist regimes.²⁷⁵ As of today, November 30, 2013, it was announced that the new Egyptian constitution drafted by the Committee of 50 will

²⁷⁰ See Said Shehata, *El-Sisi and Morsi: The third way in Egypt?*, AHAM ONLINE, Nov. 23, 2013, <http://english.ahram.org.eg/NewsContentP/4/87134/Opinion/-ElSisi-and-Morsi-The-third-way-in-Egypt.aspx>

²⁷¹ *Ibid.*

²⁷² See Richard Bellamy, *LIBERALISM AND PLURALISM: TOWARDS A POLITICS OF COMPROMISE*, (Routledge, 1999), at 103. ("Political conflicts are standardly divided into three categories: conflicts of interests for limited resources, ideological conflicts involving rival-rights claims and the collision of opposed identities each seeking recognition.")

²⁷³ See Reilly, Nordlund, and Newman, *supra* note 228, at 2-3.

²⁷⁴ *Ibid.*, at 5.

²⁷⁵ See Middle East Monitor, *Chomsky: No one can alienate the Muslim Brotherhood*, MEMO, Oct. 17, 2013, <http://www.middleeastmonitor.com/news/americas/7834-chomsky-no-one-can-alienate-the-muslim-brotherhood>

be made public in 10 days.²⁷⁶ However, there is very little hope that it will bring about any stability, limit the heavy-handed powers of Egypt's military, or even open the door for civilian scrutiny of state affairs—let alone improve the human rights situation in the country.²⁷⁷ So, where do the present events steer Egypt in its battle for democracy? Will human rights eventually find placement on the formal agenda or will the regime's repressive tactics indefinitely repress the people? Most importantly, is there a way out of the Egyptian dilemma?

This research has interrogated Egypt's current crisis through a human rights lens. In its attempt to explore the preconditions necessary for the realization of an environment fit to foster human rights, each chapter of this thesis surveyed a specific function—through historical, socio-legal, and political analyses—to explain Egypt's situation. After a description of the research methods in the first chapter the chapter developed a history of Egypt's far-reaching, fundamental laws which established the Egyptian police state as it is today. It explained how law is exercised and evolved in Egypt's civil society to impact the status of citizens and distance them from political involvement on every level. It also analyzed the historical development of human rights violations and state failures which led up to the revolution and further, drew links between Egypt's past and present events, showing a pattern of continuity. This historical analysis was a necessity to appropriately develop the recommended solutions in context of Egypt's environment.

Subsequently, the third chapter developed a brief study of the most frequently recommended solutions proposed by the international community and NGOs in response to Egypt's half century-long human rights dilemma. There, it was concluded that international law and its non-confrontational supervisory mechanisms are only as effective as states allow them to be due to the sensitive issue of state sovereignty. Considering more avenues for internationally-influenced solutions, the feasibility of targeted or "smart" sanctions was tested and found to be another dead letter due to the problematic application of sanctions and Egypt's geopolitical importance in the Middle East.

Seeking solutions on the domestic level, the fourth chapter proposed the socio-legal solution of legal empowerment, which is comprised of legal literacy, legal mobilization, and legal socialization. Scrutinizing these constituents deduced that legal literacy is blocked by high illiteracy and lack of democratic culture; legal mobilization is hindered by heavy military presence, corrupt legal practice, and overburdened courts; and legal socialization is obstructed by social ignorance, restrictions on freedoms of expression and press, and lack of information laws. This signaled the arrival to yet another dead end.

Finally, the fifth chapter attributed the failure of democratic reform to the lack of political will by the state. Aware of the broad implications this may have and the expansive implications of the term, a definition was utilized to break down political will into the following four elements: the key decision makers, presence of a particular problem and its placement on the formal agenda, commitment to support, and effective policy solution. Applying this definition to re-examine Egypt's current events demonstrated that an existing political will is indeed existent yet extreme and repressive of a segment of the population. The proposed solution to the Egyptian dilemma could only be realized by acknowledging four points: first, the significant shift in the population's perception of governance; second, the importance of including a broader segment of society in the political process; third, the initiation of a reconciliatory initiative to negotiate, bargain, and set terms of government in the presence of mutual compromise; and fourth, the good will to establish and develop the means of communication between the population and the government. If any political process or transition excludes these main strategies, it will inevitably be short-lived and doomed to failure.

²⁷⁶ See Zvi Bar'el, *New Egyptian constitution expected to entrench role of military*, HAARETZ, Nov. 30, 2013, <http://www.haaretz.com/news/middle-east/.premium-1.560080>

²⁷⁷ See Haitham El-Tabei, *Egyptian committee begins vote on new constitution*, ALAKHBAR, Nov. 30, 2013, <http://english.al-akhbar.com/content/egyptian-committee-begins-vote-new-constitution>

EPILOGUE: FINAL THOUGHTS ON A SOCIAL CONTRACT

This thesis represents an initial step toward analyzing the underlying chronic problem of Egypt and remains widely open to refinement. My next step would continue in the assessment and re-definition of political will alongside the concept of a social contract. To present the reader with a final linkage between the past and present on which to reflect, the Age of Enlightenment beginning in 17th century Europe was a time of breaking away from tradition and embracing reason. It became an age which based the foundational thoughts for most modern-day democracies.²⁷⁸ I believe the Enlightenment era could be likened to the current times of Egypt as it aimed to promote “progressive social reforms that opposed the long-established aristocracies and monarchies of the time”.²⁷⁹ The virtue of the contributions of the Enlightenment era mainly supported the natural, inalienable rights of citizens,²⁸⁰ much like Egypt’s current aims. Nevertheless, as observed, the idea of inherent rights is not yet comprehended by the Egyptian government, or most of Egyptian citizens for that matter. So, I conclude the study with this thought, that Egypt lacks the very elementary fundamentals of governmental structure and democratic thought. And in a country with no clear existence of a social contract and a lack of realization—by both the government and people—of the mutually reinforcing roles in the state, it would be puzzling to discuss real human rights implementation and enforcement. Therefore, the focus at this moment in Egypt, should be on understanding the basics of political philosophy; how a basic social contract could be established, and how to open efficient channels and means of communication between the government and its people, and vice versa.

²⁷⁸ See Marko Rodriguez and Jennifer Watkins, *Revisiting the Age of Enlightenment from a Collective Decision Making Systems Perspective*, LOS ALAMOS NATIONAL LABORATORY, Jul. 31, 2009, <http://arxiv.org/pdf/0901.3929.pdf>, at 1.

²⁷⁹ *Ibid.*

²⁸⁰ *Ibid.*

BIBLIOGRAPHY

BOOKS AND LAW REVIEWS

Chantal Kourilsky, *Legal Socialisation: From Compliance to Familiarisation through Permeation*, EUR. J. OF LEGAL STUDIES, <http://www.ejls.eu/1/13UK.pdf>, (Last retrieved Dec. 01, 2013).

Abdalla Hassan, *Changing News, Changing Realities: Media Censorship's Evolution in Egypt*, (2013)

Abram Chayes and Abram Chayes, *THE NEW SOVEREIGNTY: COMPLIANCE WITH INTERNATIONAL REGULATORY ARRANGEMENTS*, (Harvard Univ. Press, 1995).

ABROGATED CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 11 Sept. 1971, *as amended*, May 22, 1980, May 25, 2005, Mar. 26, 2007, *as replaced*, Mar. 20, 2011, <http://www.egypt.gov.eg/english/laws/Constitution>, (Last retrieved Dec. 01, 2013).

Anna-Maria Marshall and Scott Barclay, *In Their Own Words: How Ordinary People Construct the Legal World*, AMERICAN BAR FOUNDATION, (2003), <http://cscs.res.in/dataarchive/textfiles/textfile.2007-09-20.1808132681/file>, (Last retrieved Dec. 01, 2013).

Beth Simmons and Lisa Martin, *International Organizations and Institutions*, HANDBOOK OF INTERNATIONAL RELATIONS, (Sage, 2001), <http://scholar.harvard.edu/bsimmons/publications/international-organizations-and-institutions>, (Last retrieved Dec. 01, 2013).

Beth Simmons, *MOBILIZING FOR HUMAN RIGHTS: INTERNATIONAL LAW IN DOMESTIC POLITICS*, (Cambridge Univ. Press, 2009).

Curtis Ryan, *Political Strategies and Regime Survival in Egypt*, JOURNAL OF THIRD WORLD STUDIES 18, (2001), <http://gsw.edu/~atws/volumes/vol18.htm>, (Last retrieved Dec. 01, 2013).

Elvira Redondo, *The Universal Periodic Review: Is There Life Beyond Naming and Shaming in Human Rights Implementation?*, 4 NEW ZEALAND L. REV., (2012), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2111607, (Last retrieved Dec. 01, 2013).

Hussein Amin and James Napoli, *Media and Power in Egypt*, (2000).

Ilia Siatitsa and Maia Titberidze, *Human Rights in Armed Conflict from the Perspective of the Contemporary State Practice in the United Nations: Factual Answers to Certain Hypothetical Challenges*, ADH RESEARCH PAPER, (2011).

James Mahoney and Richard Snyder, *Rethinking Agency and Structure in the Study of Regime Change*, (1999).

James White, *The Invisible Discourse of the Law: Reflections on Legal Literacy and General Education*, UNIV. OF COLORADO LAW REV., (1983).

Jim Bohman, *DELIBERATIVE DEMOCRACY: ESSAYS ON REASON AND POLITICS*, (MIT Press, 1997).

Jonathan Kozol, *The Human Cost of an Illiterate Society*, COMPOSING KNOWLEDGE, (1985), http://uncgengtas.wikispaces.com/file/view/Kozol_The+Human+Cost+of+an+Illiterate+Society.pdf, (Last retrieved Dec. 01, 2013).

Jost Delbrueck, *International Protection of Human Rights and State Sovereignty*, 57 IND. L. J. 4, Jan. 10, 1982, <http://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=2302&context=ilj>, (Last retrieved Dec. 01, 2013).

June Tapp and Felice Levine, *Legal Socialization: Strategies for an Ethical Legality*, 27 STANFORD LAW REV. 1, <http://www.jstor.org/stable/1227929>, (Last retrieved Dec. 01, 2013).

Jürgen Habermas, BETWEEN FACTS & NORMS: CONTRIBUTIONS TO A DISCOURSE THEORY OF LAW AND DEMOCRACY, translation by William Rehg, (MIT Press, 1996).

Law No. 156 of 1960, PRESS LAW, *Al-Jarida Al-Rasmiyya* [The Official Gazette], (Egypt).

Law No. 162 of 1958, LAW CONCERNING THE STATE OF EMERGENCY, *Al-Jarida Al-Rasmiyya* [The Official Gazette], (Egypt).

Law No. 177 of 2005, POLITICAL PARTIES LAW, *Al-Jarida Al-Rasmiyya* [The Official Gazette], (Egypt).

Law No. 58 of 1937 (*reformed in 1952*), *Al-Jarida Al-Rasmiyya* [The Official Gazette], (Egypt).

Law No. 58 of 1937, CRIMINAL CODE (REFORMED IN 1952), *Al-Jarida Al-Rasmiyya* [The Official Gazette], (Egypt).

M. Yingling and Mohamed Arafa, *After the Revolution: Egypt's Changing Forms of Corruption*, BALTIMORE J. OF INT'L. LAW, (2013), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2246459, (Last retrieved Dec. 01, 2013).

Manfred Nowak, UN COVENANT ON CIVIL AND POLITICAL RIGHTS: CCPR COMMENTARY, (1993).

Marc Galanter, *Changing Legal Consciousness in America: The View from the Joke Corpus*, 23 CARDOZO L. REV. 6, Feb. 5, 2013, <http://www.marccgalanter.net/documents/theviewfromthejokecorpus.pdf>, (Last retrieved Dec. 01, 2013).

Meyer Abrams, THE MIRROR AND THE LAMP: ROMANTIC THEORY AND THE CRITICAL TRADITION, (1953).

Mohamad Arafa, *Egypt between Fear and Reform in its Second Revolution: The Failure to Protect the Fundamental Human Rights Over and Over Again*, IND. L. REV., (2013).

Mohamed Arafa, *President Mursi's Egypt Arab Spring: Does Egypt Continue to be a Civil State or Under the Umbrella of Islamic (Shari'ah) Law and Islamism?*, 9 US-CHINA L. REV. 6, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2190217, (Last retrieved Dec. 01, 2013).

Nathan Brown, THE RULE OF LAW IN THE ARAB WORLD: COURTS IN EGYPT AND THE GULF, (Cambridge Univ. Press, 1997).

Oona Hathaway, *Do Human Rights Treaties Make a Difference?*, 111 Yale L. J. 8, Apr. 26, 2002, <http://yalelawjournal.org/the-yale-law-journal/article/do-human-rights-treaties-make-a-difference?>, (Last retrieved Dec. 01, 2013).

Oona Hathaway, *Hamdan v. Rumsfeld: Domestic Enforcement of International Law*, INT'L LAW STORIES, July 2007, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1009621, (Last retrieved Dec. 01, 2013).

Oona Hathaway, *Why Do Countries Commit to Human Rights Treaties?*, 51 J. OF CONF. RES. 4, 2007, <http://jcr.sagepub.com/cgi/content/abstract/51/4/588>, (Last retrieved Dec. 01, 2013).

P.J. Vatikiotis, *THE HISTORY OF MODERN EGYPT: FROM MUHAMMAD ALI TO MUBARAK*, (John Hopkins Univ. Press, 1991).

Ramadan Ali Al-Shoronbasy, *AHKAM AL-WASIYA WA AL WAQF FI AL-SHARI'A AL-ISLAMIYA [THE GENERAL PRINCIPLES OF THE WILLS AND TRUSTS IN ISLAMIC SHARI'A]* (2005).

Richard Bellamy, *LIBERALISM AND PLURALISM: TOWARDS A POLITICS OF COMPROMISE*, (Routledge, 1999)

Richard Haass *et. al*, *THE NEW ARAB REVOLT: WHAT HAPPENED, WHAT IT MEANS, AND WHAT COMES NEXT*, (Council on Foreign Relations, 2011).

Roger Cobb, Jennie-Keith Ross, and Marc Ross, *Agenda Building as a Comparative Political Process*, *AMERICAN POLITICAL SCIENCE REVIEW*, (1976).

Sadiq Reza, *Criminal Procedure: A Worldwide Study*, (Carolina Academic Press, 2007), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1854957, (Last retrieved Dec. 01, 2013).

Sadiq Reza, *Endless Emergency: The Case of Egypt*, 10 *NEW CRIMINAL L. REV.*, 532 (2007) http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1088827, (Last retrieved Dec. 01, 2013).

Samuel Huntington, *Democracy's Third Wave*, 2 *J. OF DEMOCRACY*, (1991), http://elib.ukma.kiev.ua/H/huntington_democr_third_wave.pdf, (Last retrieved Dec. 01, 2013).

Sarah El-Ghazaly, Erin Evers, and Sirine Shebaya, *Entrenching Poverty in Egypt: Human Rights Violations that Contributed to the January 25 Revolution*, 14 *YALE H. R. & DEV. L. J.* 2., (2012), http://www.law.yale.edu/documents/pdf/LawJournals/5._El-Ghazaly_et_al.pdf, (Last retrieved Dec. 01, 2013).

Simon Halliday and Bronwen Morgan, *I Fought the Law and Law Won? Legal Consciousness and the Critical Imagination*, *CURRENT LEGAL PROBLEMS*, (2013), <http://clp.oxfordjournals.org/content/early/2013/05/03/clp.cut002>, (Last retrieved Dec. 01, 2013).

Sir Arthur Conan Doyle, *A STUDY IN SCARLET*, (Ward Lock and Co., 1887).

Susan Silbey, *After Legal Consciousness*, 1 *ANNU. REV. L. SOC. SCI.*, (2005), http://web.mit.edu/ssilbey/www/pdf/after_legal.pdf, (Last retrieved Dec. 01, 2013).

Tamir Moustafa, *The Struggle for Constitutional Power: Law, Politics, and Economic Development in Egypt*, (Cambridge Univ. Press, 2007), (Last retrieved Dec. 01, 2013).

William Kelly Simpson, Robert Ritner, Vincent Tobin, Edward Wente, Jr., *The Literature of Ancient Egypt: An Anthology of Stories, Instructions, Stelae, Autobiographies, and Poetry* (2003).

ELECTRONIC SOURCES

Ahmad Abdel Halim, *Supporting Public Participation in Egypt*, CIPE, Feb. 22, 2005, <http://www.cipe.org/pdf/publications/fs/halim.pdf>, (Last retrieved Dec. 01, 2013).

AL-MASRY AL-YOUM, *CAPMAS: More than 16 million illiterate people in Egypt in 2012*, *EGYPT INDEPENDENT*, Sept. 8, 2013, <http://www.egyptindependent.com/news/capmas-more-16-million-illiterate-people-egypt-2012>, (Last retrieved Dec. 01, 2013).

AL-MASRY AL-YOUM, *Court rejects lawsuit challenging Muslim Brotherhood ban*, EGYPT INDEPENDENT, Nov. 24, 2013, <http://www.egyptindependent.com/news/court-rejects-lawsuit-challenging-muslim-brotherhood-ban>, (Last retrieved Dec. 01, 2013).

AL-MASRY AL-YOUM, *Egypt's primary education ranks last in Global Competitiveness Report*, EGYPT INDEPENDENT, Sept. 8, 2013, <http://www.egyptindependent.com/news/egypt-s-primary-education-ranks-last-global-competitiveness-report>, (Last retrieved Dec. 01, 2013).

AL-MASRY AL-YOUM, *Tamarod petition has 22 million signatures*, EGYPT INDEPENDENT, June 26, 2013, <http://www.egyptindependent.com/news/tamarod-petition-has-22-million-signatures>, (Last retrieved Dec. 01, 2013).

AMNESTY INTERNATIONAL, *Agents of Repression: Egypt's Police and the Case for Reform*, Dec. 29, 2012, <http://www.amnesty.org/en/library/asset/MDE12/029/2012/en/576aa9cc-bd07-4724-a410-95b02009c317/mde120292012en.pdf>, (Last retrieved Dec. 01, 2013).

AMNESTY INTERNATIONAL, *Brutality Unpunished and Unchecked: Egypt's Military Kill and Torture Protesters with Impunity*, (2012), <http://www.amnestyusa.org/research/reports/brutality-unpunished-and-unchecked-egypt-s-military-kill-and-torture-protesters-with-impunity>, (Last retrieved Dec. 01, 2013).

AMNESTY INTERNATIONAL, *Egypt moves ahead with law to stifle non-governmental organizations*, AMNESTY INTERNATIONAL, May 29, 2013, <http://www.amnestyusa.org/news/news-item/egypt-moves-ahead-with-law-to-stifle-non-governmental-organizations>, (Last retrieved Dec. 01, 2013).

Andrea Perkins, *Mubarak's Machine: The Durability of the Authoritarian Regime in Egypt*, GRADUATE SCHOOL THESES AND DISSERTATIONS, (2010), <http://scholarcommons.usf.edu/etd/1737>, (Last retrieved Dec. 01, 2013).

Anne Alexander, *Internet role in Egypt's protests*, BBC NEWS, Feb. 9, 2011, <http://www.bbc.co.uk/news/world-middle-east-12400319>, (Last retrieved Dec. 01, 2013).

Azza Suleiman, *Advocating for Equal Rights for Egypt's Women*, EQUALITY NOW, (2011), http://www.equalitynow.org/partner/azza_suleiman, (Last retrieved Dec. 01, 2013).

Benjamin Reilly, Per Nordlund, and Edward Newman, *Political Parties in Conflict-Prone Societies: Encouraging Inclusive Politics and Democratic Development*, UNITED NATIONS UNIVERSITY: POLICY BRIEF, 2008, <http://unu.edu/publications/policy-briefs/political-parties-in-conflict-prone-societies-encouraging-inclusive-politics-and-democratic-development.html>, (Last retrieved Dec. 01, 2013).

Brian Katulis, *Managing Change in Egypt: Advancing a New U.S. Policy that Balances Regional Security with Support for Egyptian Political and Economic Reforms*, CENTER FOR AMERICAN PROGRESS, June 2012, http://www.americanprogress.org/wp-content/uploads/issues/2012/06/pdf/egypt_change.pdf, (Last retrieved Dec. 01, 2013).

COMMITTEE AGAINST TORTURE, GENERAL COMMENT 2, *Implementation of Article 2 by States Parties*, U.N. Doc. CAT/C/GC/2/CRP. 1/Rev.4 (2007), http://www1.umn.edu/humanrts/cat/general_comments/cat-gencom2.html, (Last retrieved Dec. 01, 2013).

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, *Implementation of the International Covenant on Economic, Social and Cultural Rights: Egypt*, U.N. Doc. E/C.12/EGY/2-4, Dec. 22, 2011, http://www.un.org/ga/search/view_doc.asp?symbol=E/C.12/EGY/2-4, at 25-79, (Last retrieved Dec. 01, 2013).

Dalia Kaye, Frederic Wehrey, Audra Grant, and Dale Stahl, *More Freedom, Less Terror? Liberalization and Political Violence in the Arab World*, (2008), http://www.rand.org/content/dam/rand/pubs/monographs/2008/RAND_MG772.pdf, (Last retrieved Dec. 01, 2013).

Daniel Brumberg and Hesham Sallam, *Special Report: The Politics of Security Sector Reform in Egypt*, UNITED STATES INSTITUTE OF PEACE, Oct. 2012, http://www.usip.org/sites/default/files/resources/SR318_0.pdf, (Last retrieved Dec. 01, 2013).

Daniel Calingaert, *Election Rigging and How to Fight It*, GOZAAR, Apr. 22, 2009, <http://www.gozaar.org/english/library-en/democracy-classics-en/Election-Rigging-and-How-to-Fight-It.html>, (Last retrieved Dec. 01, 2013).

Doug Keillor, *Human Rights Council Universal Periodic Review Prompts Egypt to Promise NGO Reform*, THE CENTER FOR HUMAN RIGHTS AND HUMANITARIAN LAW, Mar. 24, 2010, <http://hrbrief.org/2010/03/human-rights-council-universal-periodic-review-prompts-egypt-to-promise-ngo-reform/>, (Last retrieved Dec. 01, 2013).

EGYPT SOURCE, *Top News: US State Department Calls for Transparency in Egypt's Courts*, ATLANTIC COUNCIL, Nov. 5, 2013, <http://www.atlanticcouncil.org/blogs/egyptsource/top-news-us-state-department-calls-for-transparency-in-egypt-s-courts>, (Last retrieved Dec. 01, 2013).

Emily Alpert, *Egyptian media still not free after Mubarak, report says*, LA TIMES, Apr. 5, 2012, http://latimesblogs.latimes.com/world_now/2012/04/egypt-media-restricted.html, (Last retrieved Dec. 01, 2013).

Ernesto Londoño, *Egyptian minister says U.S. tried to use NGOs to control country's future*, WASHINGTON POST, Feb. 13, 2013 http://www.washingtonpost.com/blogs/blogpost/post/us-tried-to-use-ngos-to-control-countrys-future-egyptian-minister-says/2012/02/13/gIQADxgKBR_blog.html, (Last retrieved Dec. 01, 2013).

FREEDOM HOUSE, *Freedom of the Press 2012: Egypt*, <http://www.freedomhouse.org/report/freedom-press/2012/egypt>, (Last retrieved Dec. 01, 2013).

FREEDOM HOUSE, *Timeline of Human Rights Violations in Egypt Since the Fall of Mubarak*, Aug. 9, 2013, <http://www.freedomhouse.org/article/timeline-human-rights-violations-egypt-fall-mubarak>, (Last retrieved Dec. 01, 2013).

Geoffrey Aronson, *US Navigates Egypt's Turmoil With Eye on Military Role*, AL-MONITOR, July 3, 2013, <http://www.al-monitor.com/pulse/originals/2013/07/us-egypt-protests-military-coup-muslim-brotherhood.html>, (Last retrieved Dec. 01, 2013).

George Pulikuthiyil, *Legal Literacy for Social Empowerment*, JANANEETHI FOUNDATION, (2009), <http://www.jananeethi.org/jananeethi/reports/esseylegalliteracy.htm>, (Last retrieved Dec. 01, 2013).

HAGUE INSTITUTE FOR THE INTERNATIONALIZATION OF LAW [Hereinafter HIIL], *Rule of Law Quick Scan Egypt: Prospects and Challenges*, April 2012, http://www.hiil.org/data/sitemanagement/media/Quickscan_Egypt_130812_digitaal_def.pdf, (Last retrieved Dec. 01, 2013).

Haitham El-Tabei, *Egyptian committee begins vote on new constitution*, ALAKHBAR, Nov. 30, 2013, <http://english.al-akhbar.com/content/egyptian-committee-begins-vote-new-constitution>, (Last retrieved Dec. 01, 2013).

HUMAN RIGHTS COMMITTEE, DRAFT GENERAL COMMENT NO. 34, U.N. Doc. CCPR/C/GC/34/CRP.2 (2010), <http://www1.umn.edu/humanrts/gencomm/hrcom34.html>, (Last retrieved Dec. 01, 2013).

HUMAN RIGHTS COMMITTEE, GENERAL COMMENT 20, *Article 7 (Forty-fourth session, 1992)*, U.N. Doc. HRI/GEN/1/Rev.1 (1994), <http://www1.umn.edu/humanrts/gencomm/hrcom20.htm>, (Last retrieved Dec. 01, 2013).

HUMAN RIGHTS COMMITTEE, General Comment 29, States of Emergency (article 4), U.N. Doc. CCPR/C/21/Rev.1/Add.11 (2001)

HUMAN RIGHTS COUNCIL, *National Report on the Universal Periodic Review*, Seventh Session, Feb. 19, 2010, A/HRC/WG.6/7/EGY/1

HUMAN RIGHTS COUNCIL, *Working Group Report on the Universal Periodic Review*, Fourteenth Session, Mar. 26, 2010, A/HRC/14/17

HUMAN RIGHTS WATCH, *Anatomy of a State Security Case: The "Victorious Sect" Arrests*, Dec. 2007, <http://www.hrw.org/sites/default/files/reports/egypt1207web.pdf>, (Last retrieved Dec. 01, 2013).

HUMAN RIGHTS WATCH, *Behind Closed Doors: Torture and Detention in Egypt*, (1992), <http://www.hrw.org/sites/default/files/reports/Egypt927.pdf>, (Last retrieved Dec. 01, 2013).

HUMAN RIGHTS WATCH, *Egypt: Margins of Repression - State Limits on Nongovernmental Organization Activism*, March 2005, <http://www.hrw.org/reports/2005/egypt0705/egypt0705.pdf>, (Last retrieved Dec. 01, 2013).

HUMAN RIGHTS WATCH, *Monopolizing Power - Egypt's Political Parties Law*, January 2007, <http://www.hrw.org/legacy/backgrounders/mena/egypt0107/egypt0107web.pdf>, (Last retrieved Dec. 01, 2013).

HUMAN RIGHTS WATCH, *The Road Ahead: A Human Rights Agenda for Egypt's New Parliament*, January 2012, <http://www.hrw.org/sites/default/files/reports/egypt0112webwcover.pdf>, (Last retrieved Dec. 01, 2013).

HUMAN RIGHTS WATCH, *Work on Him until He Confesses: Impunity for Torture in Egypt*, Jan. 2011, http://www.hrw.org/sites/default/files/reports/egypt0111webwcover_0.pdf, (Last retrieved Dec. 01, 2013).

HUMAN RIGHTS WATCH, *World Report 2010: Egypt*, January 2010, <http://www.hrw.org/world-report-2010/egypt>, (Last retrieved Dec. 01, 2013).

Hussein Abdel Fattah, *Free media in Egypt in a truce with dictatorship*, THOMPSON REUTERS FOUNDATION, Apr. 24, 2013, <http://www.trust.org/item/20130423165412-nhse81>, (Last retrieved Dec. 01, 2013).

Hussein Amin, *Strengthening the Rule of Law and Integrity in the Arab World*, (2006), http://www.arabruleoflaw.org/Files/PDF/Media/English/P2/Egypt_MediaReportP2_En.pdf, (Last retrieved Dec. 01, 2013).

INTERNATIONAL CRISIS GROUP, *Lost in Transition: The World According to Egypt's SCAF*, MIDDLE EAST REPORT N. 121, Apr. 24, 2012, <http://www.crisisgroup.org/en/regions/middle-east-north-africa/egypt-syria-lebanon/egypt/121-lost-in-transition-the-world-according-to-egypts-scaf.aspx>, (Last retrieved Dec. 01, 2013).

INTERNATIONAL CRISIS GROUP, *Policy Briefing - Marching in Circles: Egypt's Dangerous Second Transition*, Aug. 7, 2013, <http://www.crisisgroup.org/en/regions/middle-east-north-africa/egypt-syria-lebanon/egypt/b035-marching-in-circles-egypts-second-transition.aspx>, (Last retrieved Dec. 01, 2013).

Jack Donnelly, *State Sovereignty and Human Rights*, GRADUATE SCHOOL OF INTERNATIONAL STUDIES, June 23, 2004, <http://www.du.edu/gsis/hrhw/working/2004/21-donnelly-2004.pdf>, (Last retrieved Dec. 01, 2013).

James Boyle, *The Politics of Reason: Critical Theory and Local Social Thought*, UNIV. OF PENN. L. REV., (1985), <http://law.duke.edu/boylesite/politics.htm>, (Last retrieved Dec. 01, 2013).

Jay Gordon, *Smart Sanctions Revisited*, Carnegie Council for Ethics in International Affairs, (2011), <http://www.invisiblewar.net/wp-content/uploads/2010/08/Smart-Sanctions-Revisited2.pdf><http://www.invisiblewar.net/wp-content/uploads/2010/08/Smart-Sanctions-Revisited2.pdf>, (Last retrieved Dec. 01, 2013).

Jesse Rosenfeld, *In Deeply Polarized Egypt, Revolution's Social Justice Slogans are Seldom Heard*, THE DAILY BEAST, Oct. 10, 2013, <http://www.thedailybeast.com/articles/2013/10/10/in-deeply-polarized-egypt-revolution-s-social-justice-slogans-are-seldom-heard.html>, (Last retrieved Dec. 01, 2013).

Jonathan Berr, *Hosni Mubarak's Economic Achievements*, DAILY FINANCE, Feb. 10, 2011, <http://www.dailyfinance.com/2011/02/10/hosni-mubaraks-economic-achievements/>, (Last retrieved Dec. 01, 2013).

Kareem Fahim, *Small Protest in Tahrir Square Restores Dissent to Cairo's Heart*, NY TIMES, Nov. 19, 2013, http://www.nytimes.com/2013/11/20/world/middleeast/small-protest-in-tahrir-square-restores-dissent-to-cairos-heart.html?_r=0, (Last retrieved Dec. 01, 2013).

Khaled Diab, *Egypt's draft constitution leans towards conservative Islam*, THE GUARDIAN, <http://www.theguardian.com/commentisfree/2012/oct/23/egypt-draft-constitution>, (Last retrieved Dec. 01, 2013).

Khaled Elgindy, *Egypt's Troubled Transition: Elections without Democracy*, Brookings INSTITUTION'S SABAN CENTER FOR MIDDLE EAST POLICY, (2012), <http://dx.doi.org/10.1080/0163660X.2012.666192>, (Last retrieved Dec. 01, 2013).

Kirsten Otte, *Not As Strong As We Thought: The Puzzling Collapse of the Mubarak Regime in Egypt*, (2012), <http://researchrepository.murdoch.edu.au/12341/>, (Last retrieved Dec. 01, 2013).

Kristina Kausch, *Defenders in Retreat: Freedom of Association and Civil Society in Egypt*, FUNDACIÓN PARA LAS RELACIONES INTERNACIONALES Y EL DIÁLOGO EXTERIOR, April 2009, http://www.fride.org/download/WP82_Egypt_Defenders_Retreat_ENG_may09.pdf, (Last retrieved Dec. 01, 2013).

LA FÉDÉRATION INTERNATIONALE DES LIGUES DES DROITS DE L'HOMME [Hereinafter FIDH], *Rights Organizations Warn that New Counter-Terrorism Law would Re-Establish Foundations of Police State and Intensify Violence and Terrorism*, FIDH, Nov. 8, 2013, <http://www.fidh.org/en/north-africa-middle-east/egypt/14228-rights-organizations-warn-that-new-counter-terrorism-law-would-re>, (Last retrieved Dec. 01, 2013).

Lawrence Wocher, *Deconstructing "Political Will": Explaining the Failure to Prevent Deadly Conflict and Mass Atrocities*, (2001), <http://www.princeton.edu/jpia/past-issues-1/2001/10.pdf>, (Last retrieved Dec. 01, 2013).

Leila Fadel, *Muslim Brotherhood sells cheap food ahead of holiday and Egypt parliament vote*, THE WASHINGTON POST, Nov. 5, 2011, http://articles.washingtonpost.com/2011-11-05/world/35283999_1_muslim-brotherhood-eid-al-adha-new-party, (Last retrieved Dec. 01, 2013).

Liam Stack and Ethan Bronner, *Egypt Sentences Blogger to 3 Years*, NY Times, Apr. 11, 2011, <http://www.nytimes.com/2011/04/12/world/middleeast/12egypt.html>, (Last retrieved Dec. 01, 2013).

Lina Attalah, *Egypt scrutinized at Universal Periodic Review*, EGYPT INDEPENDENT, Feb. 18, 2010, <http://www.egyptindependent.com/news/egypt-scrutinized-universal-periodic-review>, (Last retrieved Dec. 01, 2013).

Lori Ann Post, Amber Raile, and Eric Raile, *Defining Political Will*, Politics & Policy, (2010), <http://onlinelibrary.wiley.com/doi/10.1111/j.1747-1346.2010.00253.x/abstract>, (Last retrieved Dec. 01, 2013).

Louisa Loveluck, *Education in Egypt: Key Challenges*, MENAP CHATHAM HOUSE, [BHTTP://WWW.CHATHAMHOUSE.ORG/SITES/DEFAULT/FILES/PUBLIC/RESEARCH/MIDDLE%20EAST/O3I2EGYPTEDU_BACKGROUND.PDF](http://WWW.CHATHAMHOUSE.ORG/SITES/DEFAULT/FILES/PUBLIC/RESEARCH/MIDDLE%20EAST/O3I2EGYPTEDU_BACKGROUND.PDF), (Last retrieved Dec. 01, 2013).

Maha Azzam, *Egypt's Military Council and the Transition to Democracy*, CHATHAM HOUSE, May 2012, http://www.chathamhouse.org/sites/default/files/public/Research/Middle%20East/bp0512_azzam.pdf, (Last retrieved Dec. 01, 2013).

Manar Ammar, *In Egypt, Human Rights is Last on the Military Agenda*, OCCUPY.COM, Oct. 17, 2013, <http://www.occupy.com/article/egypt-human-rights-last-military-agenda>, (Last retrieved Dec. 01, 2013).

Marwa Awad, *Egypt gives army power to arrest civilians despite emergency law expiration*, AL ARABIYA NEWS, June 13, 2012, <http://www.alarabiya.net/articles/2012/06/13/220510.html>, (Last retrieved Dec. 01, 2013).

Mathias Färdigh, *Press Freedom and Corruption: One of the Mass Media Functions in Promoting Quality of Government*, (2007), http://mafardigh.files.wordpress.com/2010/10/press_freedom_and_corruption.pdf, (Last retrieved Dec. 01, 2013).

Michael Jansen, *Islamic Brotherhood failed to understand the majority of Egyptians rejects fundamentalism*, THE IRISH TIMES, Aug. 15, 2013, <http://www.irishtimes.com/news/world/middle-east/islamic-brotherhood-failed-to-understand-the-majority-of-egyptians-rejects-fundamentalism-1.1495562>, (Last retrieved Dec. 01, 2013).

Middle East Monitor, *Chomsky: No one can alienate the Muslim Brotherhood*, MEMO, Oct. 17, 2013, <http://www.middleeastmonitor.com/news/americas/7834-chomsky-no-one-can-alienate-the-muslim-brotherhood>, (Last retrieved Dec. 01, 2013).

Mohamed Abd El-Kader, *Shaab Legislative Committee refuses to increase the penalty for torture*, AL-MASRY AL-YOUM, Feb. 16, 2010, <http://www.almasry-alyoum.com/article2.aspx?ArticleID=244193&IssueID=1683>, (Last retrieved Dec. 01, 2013).

Mohamed Farhat and Ali Sadek, *Report on the State of the Judiciary in Egypt*, ARAB CENTER FOR THE DEVELOPMENT OF RULE OF LAW AND INTEGRITY (2006), [HTTP://WWW.ARABRULEOFLAW.ORG/FILES/PDF/JUDICIARY/ENGLISH/P2/EGYPT_FINALREPORTP2S4_EN.PDF](http://WWW.ARABRULEOFLAW.ORG/FILES/PDF/JUDICIARY/ENGLISH/P2/EGYPT_FINALREPORTP2S4_EN.PDF), (Last retrieved Dec. 01, 2013).

Nathan Brown, *When Victory Becomes an Option: Egypt's Muslim Brotherhood Confronts Success*, THE CARNEGIE PAPERS, Jan. 2012, http://carnegieendowment.org/files/brotherhood_success.pdf, (Last retrieved Dec. 01, 2013).

Negad El-Borai, *Civil Society and Human Rights in Egypt: Egyptian Style Waltz 2004-2009*, UNITED GROUP LAW, 2009, <http://ug-law.com/downloads/Civil%20Society%20and%20Human%20Rights%20in%20Egypt-eg.pdf>, (Last retrieved Dec. 01, 2013).

Nermine Abdel Bary, *Empowering civil society by law*, AHARAMONLINE, June 6, 2013, <http://english.ahram.org.eg/NewsContentP/4/73085/Opinion/Empowering-civil-society-by-law.aspx>, (Last retrieved Dec. 01, 2013).

Noah Rayman, *Egypt Military Chief Open To Presidential Run*, TIME, Nov. 21, 2013, <http://world.time.com/2013/11/21/egypt-military-chief-open-to-presidential-run/>, (Last retrieved Dec. 01, 2013).

Nour Iskandar, *Egypt: Where and Who are the World's Illiterates?*, UNESCO, (2006), <http://ddp-ext.worldbank.org/EdStats/EGYgmrpro05.pdf>, (Last retrieved Dec. 01, 2013).

Orla Guerin, *Egypt protests: New law condemned as 'repressive'*, BBC News, Nov. 24, 2013, <http://www.bbc.co.uk/news/world-middle-east-25079696>, (Last retrieved Dec. 01, 2013).

Palanisamy Sathasivam, *Legal Literacy is a catalyst for socio-economic progress of the society: Chief Justice of India P Sathasivam*, LIVE LAW NEWS NETWORK, Oct. 28, 2013, <http://www.livelaw.in/legal-literacy-is-a-catalyst-for-socio-economic-progress-of-the-society-chief-justice-of-india-p-sathasivam/>, (Last retrieved Dec. 01, 2013).

Patrick Kingsley, *Egyptian foreign minister sets out timetable for elections*, THE GUARDIAN, Nov. 8, 2013 <http://www.theguardian.com/world/2013/nov/08/egypt-timetable-elections-foreign-minister-fahmy>, (Last retrieved Dec. 01, 2013).

Rabha Allam, *Engaging with traditional and modern Islamic NGOs in Egypt*, AL-AHRAM CENTER FOR POLITICAL AND STRATEGIC STUDIES ACPSS, May 2012, <http://media.leidenuniv.nl/legacy/policy-brief--islamic-ngos-in-egypt.pdf>, (Last retrieved Dec. 01, 2013).

Raghda El-Ebrashi, *Empowering NGOs in Egypt: The Need for a New Legal Framework*, SKOLLWORLDFORUM, Dec. 19, 2012, <http://skollworldforum.org/2012/12/19/empowering-ngos-in-egypt-the-need-for-a-new-legal-framework/>, (Last retrieved Dec. 01, 2013).

Report of the Working Group on the Universal Periodic Review, HUMAN RIGHTS COUNCIL, Seventh Session, Feb. 19, 2010, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/EGSession7.aspx>, (Last retrieved Dec. 01, 2013).

Richard Spencer, *Egypt military to retain key powers in new constitution*, THE TELEGRAPH, Nov. 21, 2013, <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/egypt/10465842/Egypt-military-to-retain-key-powers-in-new-constitution.html>, (Last retrieved Dec. 01, 2013).

Ruth Palmquist, *The Historical Approach to Research*, UNIVERSITY OF TEXAS AT AUSTIN, (1997), <https://www.ischool.utexas.edu/~palmquis/courses/historical.htm>, (Last retrieved Dec. 01, 2013).

Ryan Broderick and Sarah LeTrent, *8 issues Egypt is facing*, CNN, Jul. 10, 2013, <http://edition.cnn.com/2013/07/10/living/cnn-buzzfeed-what-egypt-is-fighting-for/>, (Last retrieved Dec. 01, 2013).

Sahar Aziz, *Rule Of Law, Not Rule By Law for Egypt*, HUFFINGTON POST, Nov. 26, 2011, http://www.huffingtonpost.com/sahar-aziz/rule-of-law-not-rule-by-l_b_1113644.html, (Last retrieved Dec. 01, 2013).

Sahar Aziz, *To Stop Corruption, Egypt Needs a Freedom of Information Law*, HUFFINGTON POST, http://www.huffingtonpost.com/sahar-aziz/to-stop-corruption-egypt-_b_1538999.html, (Last retrieved Dec. 01, 2013).

Said Shehata, *El-Sisi and Morsi: The third way in Egypt?*, AHAM ONLINE, Nov. 23, 2013, <http://english.ahram.org.eg/NewsContentP/4/87134/Opinion/-ElSisi-and-Morsi-The-third-way-in-Egypt.aspx>, (Last retrieved Dec. 01, 2013).

Sara Yasin, *Egypt: self-censorship and the military hinder press freedom*, X INDEX, Dec. 5, 2011, <http://www.indexcensorship.org/2011/12/egypt-self-censorship-scaf-press-freedom-egypt-independent/>, (Last retrieved Dec. 01, 2013).

Sarah El-Nashar, *Education Reform in Egypt*, INTERNATIONAL EDUCATION POLICY, (2012), http://isites.harvard.edu/fs/docs/icb.topic1203150.files/Panel%205%20-%20Rethinking%20the%20Ordinary/Sarah%20El%20Nashar_Egypt_Education%20Reform.pdf, (Last retrieved Dec. 01, 2013).

Sarah Lynch, *Will Egypt stay sweet on al-Sisi in the long run?*, USA TODAY, Oct. 29, 2013, <http://www.usatoday.com/story/news/world/2013/10/29/egypt-military-sisi/3186527/>, (Last retrieved Dec. 01, 2013).

Sassin Assaf, *Comparative Report on the State of the Media in Egypt, Jordan, Lebanon and Morocco*, ARAB CENTER FOR THE DEVELOPMENT OF RULE OF LAW AND INTEGRITY & IFES, May 2007, <http://www.ifes.org/-/media/Files/Publications/White%20PaperReport/2007/677/Media%20Comparative%20Report%20FINAL.pdf>, (Last retrieved Dec. 01, 2013).

See Marko Rodriguez and Jennifer Watkins, *Revisiting the Age of Enlightenment from a Collective Decision Making Systems Perspective*, LOS ALAMOS NATIONAL LABORATORY, Jul. 31, 2009, <http://arxiv.org/pdf/0901.3929.pdf>, (Last retrieved Dec. 01, 2013).

See Sarah El-Nashar, *Education Reform in Egypt*, INTERNATIONAL EDUCATION POLICY, (2012), http://isites.harvard.edu/fs/docs/icb.topic1203150.files/Panel%205%20-%20Rethinking%20the%20Ordinary/Sarah%20El%20Nashar_Egypt_Education%20Reform.pdf, (Last retrieved Dec. 01, 2013).

Shane O'Neill, *The Politics of Inclusive Agreements: towards a Critical Discourse Theory of Democracy*, POLITICAL STUDIES ASSOCIATION, Feb. 26, 2002, <http://onlinelibrary.wiley.com/doi/10.1111/1467-9248.00272/abstract>, (Last retrieved Dec. 01, 2013).

Sir Winston Churchill, *Speech by Sir Winston Churchill*, Sept. 19, 1946, <http://www.peshawar.ch/varia/winston.htm>, (Last retrieved Dec. 01, 2013).

Sophie Shevardnadze, *'Morsi failed to govern democratically, his case is over' - Foreign Minister of Egypt*, RT, <http://rt.com/shows/sophieco/morsi-egypt-democracy-future-115/>, (Last retrieved Dec. 01, 2013).

Thomas Carothers, *Promoting the Rule of Law Abroad*, Carnegie Endowment for International Peace, Jan. 28, 2003, <http://carnegieendowment.org/2003/01/28/promoting-rule-of-law-abroad-problem-of-knowledge/8sd>, (Last retrieved Dec. 01, 2013).

Tony Mendel, *Political and Media Transitions in Egypt*, INTERNEWS, Aug. 2011, http://www1.umn.edu/humanrts/research/Egypt/Internews_Egypt_MediaLawReview_Aug11.pdf, (Last retrieved Dec. 01, 2013).

UN GENERAL ASSEMBLY, CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT, Dec. 10, 1984, *United Nations, Treaty Series*, Vol. 1465, at 85, available at <http://www.unhcr.org/refworld/docid/3ae6b3a94.html>, (Last retrieved Dec. 01, 2013).

UNESCO, EFA MONITORING REPORT, REACHING THE MARGINALIZED 98 (2010), [HTTP://WWW.UNESCO.ORG/NEW/EN/EDUCATION/THEMES/LEADING-THE-INTERNATIONAL-AGENDA/EFAREPORT/REPORTS/2010-MARGINALIZATION/](http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/efareport/reports/2010-marginalization/), (Last retrieved Dec. 01, 2013).

UNESCO, *Illiteracy and human rights*, International Year for Human Rights 1968, (1968), <http://unesdoc.unesco.org/images/0015/001551/155105eo.pdf>, (Last retrieved Dec. 01, 2013).

UNICEF, *A Human Rights-Based Approach to Education for All*, UNESCO, (2007), http://www.unicef.org/publications/files/A_Human_Rights_Based_Approach_to_Education_for_All.pdf, (Last retrieved Dec. 01, 2013).

Willem van Genugten, *The universalization of human rights: reflections on obstacles and the way forward*, GLOBAL VALUES IN A CHANGING WORLD, (Amsterdam: KIT Pub., 2012), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1747778, (Last retrieved Dec. 01, 2013).

WORLD TRIBUNE, *Report: Morsi fails to win over Army, poll finds 82 percent favor coup*, WORLD TRIBUNE.COM, June 28, 2013, <http://www.worldtribune.com/2013/06/28/report-morsi-fail-to-win-over-army-poll-finds-82-percent-favor-coup/>, (Last retrieved Dec. 01, 2013).

Youssef Wardany, *The Mubarak Regime's Failed Youth Policies and the January Uprising*, WILEY, December 2011, <http://onlinelibrary.wiley.com/doi/10.1111/j.1759-5436.2012.00288.x/abstract>, (Last retrieved Dec. 01, 2013).

Zeinab Abul-Magd, *The Egyptian military in politics and the economy: Recent history and current transition status*, CMI Insight, Oct. 2013, <http://www.cmi.no/publications/file/4935-the-egyptian-military-in-politics-and-the-economy.pdf>, (Last retrieved Dec. 01, 2013).

Zvi Bar'el, *New Egyptian constitution expected to entrench role of military*, HAARETZ, Nov. 30, 2013, <http://www.haaretz.com/news/middle-east/.premium-1.560080>, (Last retrieved Dec. 01, 2013).