

# Egypt's subverted transition: state institutions against the muslim brotherhood

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**Egypt's Subverted Transition: State Institutions against the Muslim Brotherhood**

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February 2021

**Abstract**

Most scholars have attributed the Muslim Brotherhood's (MB) brief and disastrous stay in power after the January 2011 uprising in Egypt to the MB's political decisions, behavior and tactics. There is general academic agreement that President Muhammad Morsi's government fell because of its failure to govern democratically, competently, and inclusively. To curb an escalation of conflict between the Morsi government and a growing opposition, therefore, the military had to overthrow the former on July 3, 2013. Such an interpretation of post-uprising Egyptian politics places primary responsibility on the MB for Egypt's thwarted democratic transition. A variation of that interpretation links the MB's ouster to the character of political Islam, its incompatibility with secular democracy, and the necessity of religious "reformation" to precede democratization in the Middle East. This essay argues, however, that the MB's rule was short-lived because of three main factors: (1) the failure of the 2011 uprising to curb the power of Egypt's key state institutions, mainly the military, police, and judiciary; (2) political polarization that drove an electorally defeated secular opposition to support military intervention against Morsi's government; and (3) the inability of the MB-controlled elected Parliament and Presidency to impose their authority on unelected institutions in pursuit of major structural reform. In the end Egypt's entrenched state derailed the post-Mubarak transition to restore authoritarian rule.

**Keywords:** Egypt, Muslim Brotherhood, state institutions, polarization

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# **Egypt's Subverted Transition: State Institutions against the Muslim Brotherhood**

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February 17, 2021

## **Abstract**

Most scholars have attributed the Muslim Brotherhood's (MB) brief and disastrous stay in power after the January 2011 uprising in Egypt to the MB's political decisions, behavior and tactics. There is general academic agreement that President Muhammad Morsi's government fell because of its failure to govern democratically, competently, and inclusively. To curb an escalation of conflict between the Morsi government and a growing opposition, therefore, the military had to overthrow the former on July 3, 2013. Such an interpretation of post-uprising Egyptian politics places primary responsibility on the MB for Egypt's thwarted democratic transition. A variation of that interpretation links the MB's ouster to the character of political Islam, its incompatibility with secular democracy, and the necessity of religious "reformation" to precede democratization in the Middle East. This essay argues, however, that the MB's rule was short-lived because of three main factors: (1) the failure of the 2011 uprising to curb the power of Egypt's key state institutions, mainly the military, police, and judiciary; (2) political polarization that drove an electorally defeated secular opposition to support military intervention against Morsi's government; and (3) the inability of the MB-controlled elected Parliament and Presidency to impose their authority on unelected institutions in pursuit of major structural reform. In the end Egypt's entrenched state derailed the post-Mubarak transition to restore authoritarian rule.

Keywords: Egypt, Muslim Brotherhood, state institutions, polarization

## **Introduction**

Following its January 2011 uprising which ousted Hosni Mubarak from power less than a month later, Egypt's first genuinely free elections brought the Muslim Brotherhood (MB) to power. But a popularly desired "democratic transition" after decades of authoritarian rule turned out to be "nasty, brutish and short" when a military coup overthrew the MB government in July 2013.

Most scholars have attributed the MB's brief and disastrous stay in power to the MB's political decisions, behavior and tactics. There seems to be academic agreement that the government of President Muhammad Morsi fell because it failed to govern democratically, competently, and inclusively (Wickham 2013; Khan 2014). To curb an escalation of conflict between the MB government and a growing opposition, therefore, the military was compelled to intervene decisively on July 3, 2013. Such an interpretation of post-uprising Egyptian politics primarily blames the MB for a thwarted democratic transition. A variation of that interpretation links the MB's ouster to the character of political Islam, its incompatibility with secular democracy, and the necessity of religious "reformation" to precede democratization in the Middle East. This essay argues, however, that the MB's rule was short-lived because of three main factors: (1) the failure of the 2011 uprising to curb the power of Egypt's key state institutions, mainly the military, police, and judiciary; (2) political polarization drove an electorally defeated secular opposition to support military intervention in the post-Mubarak political process; and (3) the inability of the MB-controlled elected Parliament and Presidency to impose their authority on unelected institutions in order to implement major structural reforms. In the end an entrenched Egyptian state subverted democratic transition to restore authoritarian rule.

It is important to point out that between Mubarak's downfall in February 2011 and President Morsi's ouster in July 2013 Egypt's transition had two main phases. The first, lasting more than a year and a half under the Supreme Council of the Armed Forces (SCAF), had an enduring impact on the second year-long phase under President Muhammad Morsi. In fact, SCAF dictated and continually changed the rules of the political game and state institutions of

the *ancien regime* managed the ill-fated course of post-Mubarak politics. The military government controlled the constitutional process, setting the rules for elections and the bounds of authority of elected institutions. The elections gave the MB's Freedom and Justice Party (FJP) 45 percent of the seats in parliament and its chairman, Morsi, the presidency. Newly established Islamist Salafist parties came second with about 25 percent of parliamentary seats. The MB also held a majority in the Shura Council (Upper House) with 58 percent of the seats. Through these electoral victories, the MB controlled the 100-member Constituent Assembly, selected by the two houses of parliament to draft a new constitution for Egypt.

Analysts anticipated the MB's rise to power via the ballot box at the post-uprising juncture. The oldest and best organized political organization in Egypt, the MB had a unified, functioning internal structure and strong ideological basis. Sometimes outlawed and long repressed since its founding in 1928, the MB's participation in national politics and diverse forms of grassroots activism in civil society allowed the MB to build a significant support base. When Anwar Sadat (1970-81) and Hosni Mubarak (1981-2011) gradually dismantled the Nasser-era populist 'social contract' that bound peasants, workers, youths, professionals, and the educated middle class to Egypt's republican regimes (Hinnebusch 2000: 129–30), the MB maintained a deep and robust presence in society with its extensive social and economic services and penetration of professional associations and universities campuses (Wickham 2002). In past elections held under repressive rule, the MB had shown its ability to turn out millions of voters with its electoral machine and willingness to abide by electoral rules and cope with changing structures of contestation (Lust-Okar 2005).

Unforeseen, however, was the 2013 military coup which imposed a vengeful and the most repressive regime Egypt has had (Hawthorne 2019). Scholars operating with conventional paradigms of transitions from authoritarianism to democracy considered the crucial transition to have taken place when free and fair elections gave the victorious MB a plurality in Parliament and control of the executive branch that had previously exercised centralized control of the state. The coup, however, demonstrated how effectively the military could dominate the process of transition and suppress popular demands for political participation.

### **Authoritarian ruler, strong institutions**

The 2011 uprising pitted popular mobilization against an authoritarian state entrenched in stable, centralized institutions that coordinated elite rule over a fragmented society and polarized opposition (Shehata 2009). The state institutions derived their strength from a tradition of hierarchical bureaucracy and administration that long unified Egypt in the Nile Valley and Delta where most of its population have lived (Wenke 1989) and established perhaps the world's oldest state system (Handoussa 1994: 9). Within the Middle East and North Africa (MENA), moreover, Egypt has had a high degree of national identity, social homogeneity, and defined territorial boundaries (Gershoni and Jankowski 1986: 164) that predated the formation of post-colonial regimes. The state in 19th century Egypt consolidated its hold over society with an early and large-scale introduction of European technologies and bureaucratic models of authority (Toledano 1998: 261). Consequently, the presidential regimes of Gamal Abdel Nasser, Anwar al-Sadat and Hosni Mubarak could wield influence over state institutions without overtly politicizing their character or identities. Yet key state institutions, the military most of all, could have a semblance of separation from each ruler and claim to serve national rather than their particularistic interests. During the 2011 uprising that separation of ruler from institutions was seen in the military's relatively quick desertion of Mubarak, followed by the judicial dissolution of his National Democratic Party (NDP). Hence, Mubarak's personalized system of political rule collapsed but the state apparatus remained virtually intact (Darwisheh 2014).

Indeed, the military has been republican Egypt's incontestable political

kingmaker, producing all of Egypt's presidents – Muhammad Naguib, Gamal Abdel Nasser, Anwar al-Sadat and Hosni Mubarak – from 1953 to 2011. Despite its defeats in the battles of 1948 and 1967, the military retained political authority as an anti-colonial staunch defender of national sovereignty. Its resistance to the invasion of Suez Canal in 1956 and its “victory” in the Arab-Israeli War of 1973 reinforced its reputation as a patriotic institution and protector of the Egyptian nation in popular imagination (Van de Bildt 2015). In practice retired officers were de facto rulers of most of provincial Egypt, its local governors, and mayors and heads of government authorities managing state economic activities (Abul-Magd 2017). They worked behind the scenes, evaded the rule of law, and autonomously managed their affairs and finances while keeping an extensive presence in the economy and civilian bureaucracy (Sayigh and Ottaway 2012). Apart from exercising legal and de facto control over public assets, the military employed hundreds of thousands of civilians who enjoyed housing, healthcare, job security and other perks and had a direct interest in the military's role in politics. The military was ironically regarded as the least corrupt state institution. When bread riots broke out in March 2008, the army gained a name for efficiency when it distributed bread from its own bakeries (Schenker 2011). In December 2011, the ruling military council showed its financial power by extending a USD 1 billion loan to the Egyptian central bank to shore up the faltering Egyptian pound (*Al-Sharq Al-Awsat* December 3, 2011).

Among the social forces that revolted in January 2011, some distinguished between the Mubarak regime and state institutions. Many protestors, especially youth groups who had only known Mubarak's rule, blamed him and his ilk for autocratic rule, corruption and abuse of power. They genuinely believed that their protests forced Mubarak's fall and regarded their demands to have been met when he was removed and



his hated security police melted away. But the 2011 “revolutionaries” neither acted to seize power nor forged a unifying political program. It was as if many protesters believed that Egypt without Mubarak would do well without bottom-up pressure for radical reform that would seize authority from the military and infuse institutions with new modes of governance and state-society relations. If anything, anti-Mubarak protestors in Tahrir Square embraced soldiers, chanting, “The People and the Army are One Hand.” They only invited the military to side with them against Mubarak.

In the event the generals, not the “revolutionaries,” removed Mubarak from power on February 11, 2011. To that degree, the military used the 2011 uprising to fortify its position within the power structure that was in danger of being captured by Mubarak’s family, the NDP headed by his son, Gamal, and the Ministry of Interior’s security agencies that supported them. Instead of having to endorse the old and ailing Mubarak’s succession as president by Gamal, the military could independently determine its own choice for the next president. With popular support from the 2011 uprising, the military blocked the presidential succession without appearing to dictate political events or jeopardizing its status, power and interests.

While Mubarak’s cronies disappeared and Gamal’s neoliberal capitalist allies faded, the armed forces united behind their leadership kept firm control of Egypt. Elite fragmentation has been suggested as an important condition for a successful democratic transition (O’Donnell et al. 1986). In Egypt, the elites in key institutions stayed sufficiently united to impose the rules and processes of the “transition” and take over executive authority from the fallen presidency. By abandoning Mubarak, the military posed as a partner, protector, and guide of the 2011 Revolution, ready to move Egypt

step by step in the direction of “democracy.” In a replay of an old discourse of the inseparability of the military and the people (Van de Bildt 2015), the generals won popular support without actually enacting reform and accountability.

At that juncture, a group of senior military generals established the SCAF,<sup>1</sup> which arrogated to itself the task of overseeing the transition for an initial period of six months (later extended to 18 months) according to its own rules. From then the SCAF frequently expanded its powers with constitutional declarations and amendments, effectively attaining authoritarian continuity and bureaucratic control while acceding to a hastily implemented electoral process to coopt some constituents and test the popularity of the opposition at the ballot box. The military deftly prevented a popular pluralistic post-uprising institutional order from emerging that could manage the pluralistic political spectrum of the uprising. Conscious of the risk of a direct confrontation with rebellious youth movements demanding genuine change, the generals’ strategy was to preempt a transition that entailed actual civilian oversight of the armed forces. At the same time, they wanted to end mass mobilization that could destabilize their rule and disrupt economic activities, for example, strikes by workers at military production sites (Beinin 2012).

### *The military and the transition*

The collapse of Mubarak’s NDP left the MB as the only political organization

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<sup>1</sup> Headed by the then 75 years old Field Marshal Hussein Tantawi, SCAF, Egypt’s highest military body, is composed of about 20 top senior military generals of each branch of the armed forces that convene in times of war and emergency.

with countrywide networks. The SCAF saw in the MB a social force that could calm the people down, get them off the streets and bring some degree of stability. The SCAF's priority lay in curbing grassroots political dissent and cross-ideological mass mobilization that sustained collective action to pressure the regime and fight repression. Likewise, the MB preferred the streets demobilized to secure their position in a new order (Alexander 2011). Hence, the military's best bet was an electoral process which it could oversee while it broadened its support base and kept the opposition divided. Early elections without a shared vision of the course of transition, a consensus over electoral rules,<sup>2</sup> or reformed civilian institutions led to frenetic competition that exhausted and excluded the revolutionary forces, and prevented them from forming a broad-based national unity government.

Consequently, the elections exacerbated the polarization of the opposition forces between Islamists who had solid bases and non-Islamists or secularists who lacked support and experience for effective electoral mobilization. Electoral victories and a clear parliamentary majority gave the Islamists a virtual monopoly over the drafting of a new constitution. Here, the SCAF's plan of transition, with decision-making based on majority rule, undermined prospects for a consensus among the revolutionary forces. Between Mubarak's and Morsi's overthrow, Egyptians went to the polls five times – for the March 2011 constitutional referendum (which was replaced by the SCAF's constitutional declaration in the same month),<sup>3</sup> the 2011–2012 parliamentary elections,

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<sup>2</sup> The military set a complex electoral law, where one-third of parliamentary seats were reserved for independents and the remaining two thirds for party lists.

<sup>3</sup> The military appointed a constitutional reform committee which made eight revisions to Egypt's constitution. On March 19, with 41 percent voter turnout, Egyptians voted in a referendum and approved the amendments at 77.2 percent of the votes. Two weeks later,

the 2012 elections to the Shura Council (Upper House), the 2012 presidential election, and the December 2012 constitutional referendum.

As it were, the process of transition had been confined to the conduct of elections that intensified struggles among the opposition forces instead of mobilizing popular demands for reforming the political system. In a milieu of raging intra-opposition battles, state institutions, notably the judiciary and the military, gained leverage and authority by mediating between winners and losers. The military maximized its legal authority through decrees and laws (constitutional declarations) and broadened its jurisdiction, in each case with the sanction of the judiciary. Judges appointed by Mubarak had vested interest in limiting the pace of change so that state institutions could safeguard their interests, maintain impunity, and subvert the formation of a more constructive political framework. For instance, the Mubarak regime's notorious State of Emergency Law<sup>4</sup> was actually extended to cover the disturbance of traffic, the blockade of roads and the spread of rumors. A new law criminalized workers' strikes and the penal code had a new chapter that outlawed "spreading terror and threatening law and order." Furthermore, the code of military justice was amended to give military tribunals sole jurisdiction over officers accused of making ill-gotten gains (El-Ghobashy 2016). In the first ten months of SCAF rule, more than 12,000 civilians and opponents of the regime were subjected to speedy military trials. With the judicial

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however, and in disregard for popular will, the SCAF issued an interim constitution of 63 articles, which was *not* presented to popular approval, to describe how Egypt should be governed during the transitional period.

<sup>4</sup> Egypt's emergency law had been in place continuously since the assassination of president Anwar Sadat in October 1981, who was succeeded by Mubarak. Lifting of the law was a key demand of the 2011 uprising.

sanction of the Supreme Constitutional Court (SCC), the military retained its right to overrule any part of the constitution that contradicted the “basic tenets of the Egyptian state and society” (Sayigh 2011). In other words, the judiciary placed the military above the constitution and all opposition forces, Islamist and non-Islamist. The judiciary intervened in the electoral process by disqualifying high-profile presidential candidates<sup>5</sup> who had generated passionate support in the run-up to the 2012 elections. In particular the judiciary prohibited the MB’s chosen presidential candidate, its leading strategist and key financier, Khairat al-Shater,<sup>6</sup> from standing. The MB was forced to field Muhammad Morsi, who joined the MB in 1970s, and was known for his loyalty to the MB leadership.

In fact, military intervention in the electoral and political outcomes during the transition went further. On November 1, 2011, just two weeks before parliamentary elections were held, the military wanted to impose so-called supra-constitutional principles drafted by Deputy Prime Minister Ali al-Selmi of Isam Sharaf’s interim cabinet. Unelected officials were put in charge of creating a new constitution, 22 articles of which placed the military as the ultimate guarantor of the constitutional order. The military’s aggrandizement was abundantly clear from Article 9 and Article 10 of the principles that precluded the military budget from review by Parliament. The document provoked outrage as it was seen to be the military’s attempt to grab power before the new constitution was drafted. Mass protests forced the Selmi document to be withdrawn

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<sup>5</sup> The High Election Commission disqualified ten candidates in all, including the MB’s chosen Khairat el-Shater; Omar Suleiman, Mubarak’s former vice president and intelligence chief; and Hazem Salah Abu Ismail, a popular Salafist leader.

<sup>6</sup> Egypt’s presidential electoral commission disqualified al-Shatir on the grounds that he was released from prison in the previous six years (he was released from prison in March 2011)

but by then the military was determined not to be subject to the authority of elected institutions. The military would veto any legislation related to military matters, including the military's economic activities,<sup>7</sup> decisions on war and peace or even the composition of the 100-member constitution-drafting committee. Nor had the military any intention of ceding its privileges to the elected parliament and presidency. In the end, the Selmi principles were largely incorporated into the constitutions that were passed under Morsi (and, after the 2013 coup, Sisi). The military dominated the National Defense Council, maintained exclusive control of defense policies, and kept its budget and economy above public scrutiny and state oversight.

### **The MB from victory to polarization to defeat**

The first phase of the transition under SCAF rule marked the end of the implicit cross-class and cross-ideological coalition that overthrew Mubarak. But victory over Mubarak exposed the lack of a shared strategy to extract power from the state. Without a clear vision and defined goals, the protests lost momentum once the dictator was gone. Without a high degree of popular mobilization, the opposition could not hold the political elites accountable or construct a new constitutional order. To compound the opposition's weakness, the military and other state institutions found support from part of the social forces that rose against Mubarak – above all, the secular forces who feared the Islamists and were prepared to block their rise to power by allying with the state. In

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<sup>7</sup> The military in Egypt has been playing a significant role in the economy by providing all sorts of products and services from basic consumer goods to housing construction, resort management, and arm manufacturing. Therefore, any genuine democratic transformation would have posed a threat to the military as democracy would place its budget to public oversight by elected institutions.

that sense, the first, SCAF-ruled, phase of the “transition” rebounded on the second, MB-ruled, phase. The opposition underwent crucial realignments and polarization that resulted in the willingness of part of the original anti-Mubarak movement to support state institutions and the military’s political involvement.<sup>8</sup>

Actually, the MB and the non-Islamists did not split over such issues as the position of the military or the old elites. Nor did they disagree on the demands of the 2011 uprising, which included ending corruption and police brutality, and improving socio-economic conditions. Instead, their early disagreements over the course of the transition mutated into existential issues such as the identity of the state (whether it should be a ‘civil state’, *dawla madaniya*, or a civil state with an Islamic reference), the role of Sharia, constitutional articles, and so on. Overlooked in all this was the position of the military in the state. Indeed, a Pew Research Center poll conducted in March 2013 showed that the military still remained the most trusted and popular of the political forces in Egypt. About 73 percent of those polled said that the military had a good influence on the country, albeit lower than the 88 percent registered in a 2011 survey conducted a few weeks after Mubarak was ousted.<sup>9</sup>

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<sup>8</sup> The collective action between Islamists and non-Islamists was further undermined by the so-called ‘Second Revolution’ or the Battle of Muhammad Mahmoud Street on November 19, 2011. Protestors gathering near Tahrir Square demanded justice for their relatives who were killed during the January 2011 uprising, the resignation of the government, reform of the interior ministry, and the transfer of power from the SCAF to a civilian president. The police and the military attacked the protestors who clashed with the security forces over five days. However, activists had lost the ability to mount massive protests while the Islamists, mainly the MB, boycotted the protests and kept silent on the security assaults on the protestors.

<sup>9</sup> Pew Research Center (25 April 2011) “Egyptians Embrace Revolt Leaders, Religious Parties, and Military, As Well,” available at:

<https://www.pewresearch.org/global/2011/04/25/egyptians-embrace-revolt-leaders-religious-parties-and-military-as-well/> (accessed 5 November 2020); “Egyptian military gets higher ratings

Another weakness of the opposition was its flawed grasp of the new balance of power created by the uprising itself. The outcome of the uprising meant different things to different segments of the revolutionary forces that included youth groups, and leftist, liberal, and secular parties. The secularists and liberals were not institutionalized forces that could negotiate, compromise, or form coalitions with the Islamists. The former's electoral defeats and exclusion from the drafting of a new constitution conditioned them to regard the MB's rise to power as an ideological and political threat they could not reverse through democratic mechanisms. Having to choose between participating in the formal electoral process and continuing to mount street protests to renew their revolutionary legitimacy, they chose the latter. They thereby hoped to compel the military to change the political rules in their favor. But their organizational weaknesses, inexperience, abstention from electoral contestations, and anti-Islamist mobilization ruled out the formation of a cross-class and cross-ideological coalition around which a new polity could be established. By pitting the legitimacy of the street against the legitimacy of the new elected parliament, the non-Islamists made little effort to build new representative institutions to challenge or replace the existing ones.

It has been variously argued that “the 2011 revolution was an example of ‘dispersed mobilization’ that is not indicative of collective goals or shared values” (Rennick 2013: 3), or that “the various forces that participated in the revolution spent little of the ten months since their stunning victory in Tahrir Square party-building, with

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than most political parties,” available at:

<https://www.pewresearch.org/fact-tank/2013/07/01/egyptian-military-gets-higher-ratings-than-most-political-parties/> (accessed 5 November 2013).



many of them eschewing party politics on principle and others focusing, instead, on the politics of protest rather than of party organization” (Brown 2012: 4). Hence, although the uprising ‘pushed for change and reforms in, and through, the institutions of the existing regime’ (Bayat 2013: 53), the lack of organizational strength, cohesiveness and visibility hampered a determined drive towards accountability and institutional reform. By default, perhaps, and not just by design, state institutions became veto players during the transition.

The revolutionary forces were not merely split along an Islamist-secularist divide. This was evident from the distribution of votes among liberal and revolutionary figures ahead of the 2012 presidential elections: the Nasserite Hamdin Sabahi (21 percent), the liberal Islamist Abdul Mun’im Abul Futuh (18 percent), the MB’s Muhammad Morsi (25 percent), the secular ex-military Ahmed Shafiq (24 percent of the vote), and the secular ex-diplomat Amr Musa (11 percent). The collective votes of the secular candidates exceeded those won by the MB or the old regime alone. Had the revolutionary forces united behind one candidate, the transition might have resulted in a balance between a secularist executive and an Islamist legislature that could have encouraged the MB and the non-Islamist forces to negotiate and compromise – instead of the latter’s forming an alliance with the state to end the MB’s rule. In the past, when it labored to survive authoritarian rule, when electoral victory was unimaginable, the MB kept a patient, gradualist approach to political participation. But Mubarak’s precipitous overthrow created an opening that enticed the MB away from its gradualist approach. Now the superbly organized MB also had little incentive to compromise with their weak, unorganized and divided non-Islamist opponents. In the event the MB won all the elections but real power still lay in the institutions of the old regime.

The MB's cooperation with other forces was also hindered by the rise of a conservative leadership in the MB prior to 2011. The rise was partly forced by the heavy repression that the Mubarak regime unleashed against the MB's reformists after its members had won around 20 per cent of the seats in Parliament in 2005. In 2007, Mubarak amended the constitution to prevent the MB from making further electoral gains (Shehata and Stacher 2007; Lynch 2008). Within the MB, the response to repression widened the rift between conservatives, who feared for the survival of the movement, and reformists who pressed for political participation and openness. As political space was reduced, so the reformists were weakened vis-à-vis the conservatives. The growing influence of figures such as Mahmoud Izzat, Khairat al-Shatir, and Mahdi Akif in the MB's Shura Council and the Guidance Bureau, the results of MB's internal election in late 2009, and the election of Muhammad Badie as its new leader in 2010 handed control to the seniors and conservatives (Al-Anani 2010). The struggle between conservatives and reformists was compounded by the defection of important reformists, such as Deputy General Guide Muhammad Habib, Leadership Bureau member Abdul Mun'im Abul Futuh and certain prominent leaders of the 1970s, who accused the leadership of violating the MB's regulations and illegally engineering Badie's ascent.

With little encouragement to compromise with other political forces or to be content with partial victory, the MB's conservative leadership decided to support the SCAF's transition plan and declined to join anti-SCAF protests. Soon, the MB became preoccupied with the procedural aspects of transition as opposed to the task of building political alliances at which their reformist leaders were masters under authoritarian rule. In a way, the conservative leadership was correct: the MB's Freedom and Justice Party

won every one of five elections held between March 2011 and December 2012. In another sense, all that was a Pyrrhic victory: the more handily the MB won, the more polarized Egyptian society was between Islamists and non-Islamists. The MB lost a part of the populist legitimacy and sympathy they had garnered under authoritarian rule. Above all, its victory in isolation left the MB incapable of leading broad alliances to win concessions from the state and vulnerable to renewed repression.

Despite its populist ideology and rhetoric that resonated with many Egyptians, the MB was not a revolutionary movement. Its leaders preferred gradualist “reform” within the existing institutional structure over confrontation with the state apparatus. This set the MB apart from other radical and militant Islamist movements. Unlike the non-Islamist opposition, the MB was wary of revolutionary transformation. The MB knew that the uprising had not uprooted a political order firmly controlled by the old regime. But the MB’s long experience had helped it to build a disciplined organization known for patient social outreach, efficient electoral politics and extensive campaigning. The MB took to formal democracy because it seemed unrealistic to leave behind 60 years of authoritarianism quickly. Egypt required a procedural democracy to build democratic institutions that restrained both leaders and opposition in their fight for power. In other words, for the MB, the state was doing well if it introduced accountability, accepted the rule of law, and reformed the judiciary. To overcome the opposition of revolutionary forces to an election- based transition and to force its non-Islamist opponents to accept their electoral defeat, the MB sought to legalize its victories through the rule of law and constitution-making. To craft a new constitution, the MB needed its electoral victories to be endorsed by the military, the police, and the judiciary. This explains why the 2012 constitution drafted by the MB acquiesced to the

military's demands that its budget should not be subject to civilian oversight, the defense minister had to be an army general, and the National Defense Council had to have a majority of military commanders. But such a statist approach to change ceded absolute power to the military.

The MB's strategy led it to win elections under military rule that the judiciary later nullified. The MB made two catastrophic errors. First, the MB expected to benefit from elections and thought that reform was possible even when the military held its veto power over elected institutions. After Morsi was elected president with electoral turnout of 52 percent, the MB underestimated how alienated it was from the public when the non-Islamists were ready to work with the old regime to remove the MB from power. Second, the MB leadership ruled out any thought of a military coup. Morsi trusted the SCAF's youngest member, the pious 57-year old Abdel Fattah al-Sisi and appointed him Minister of Defense in consultation with the SCAF. The media soon questioned Sisi's relationship with the MB. For instance, Tawfiq Okasha, host of a Talk Show on Al-Fara'een television, warned of a threat of the "Brotherhoodization" of the state, and accused Sisi of being an MB member and Morsi's man in the military council (Mellor 2017: 205). The MB leadership believed that they had an accord with the military by agreeing with younger generals to protect them from civilian oversight. On his part Sisi denied any intention to seize power – unless "called upon by the people". He tactically drew the military back from the political scene while he monitored the decline of Morsi's popularity among an increasingly restive population. The secular opposition, itself in disarray, regarded the military as the only force that could balance the MB's influence. On July 1, 2013, when an interviewer asked if he trusted the military, Morsi replied, "Absolutely." Two days later the military overthrew Morsi and brutally

suppressed the MB with the support of the anti-MB forces (Tamimi 2014).

### *Elected Institutions without Authority*

In elections held during the SCAF-dictated transition, the MB won a clear popular mandate with 235 out of 508 seats in Parliament and 105 out of 180 seats in the Upper House. Initially, to reassure Egyptians that it did not seek political dominance, the MB's Shura Council pledged that it would not field a candidate for president. However, the MB retracted its decision for two main reasons. First, the SCAF retained far-reaching legislative powers vis-à-vis a parliament that was in constant danger of being boycotted by non-Islamist forces and being dissolved on judicial grounds. Without a new constitution, moreover, the MB parliamentarians were severely restricted and the military remained kingmaker and manipulator of post-Mubarak transformations. Second, despite its parliamentary strength, the MB leadership feared losing its influence with the challenge for the presidency by other Islamists (Abu Futouh who was expelled from the MB a year earlier and MB turned Salafist Abu Ismail) (Hamid 2014: 154) and secular candidates (ex-diplomat Amr Mousa and ex-general Ahmed Shafiq, the last prime minister under Mubarak). The MB considered these candidates to be hostile to its interests. In the event, the MB fielded Muhammad Morsi who won the presidential election by a very small margin against Ahmed Shafiq.

The arrival of Egypt's first democratically elected civilian president commenced a power struggle between the MB and the state institutions – over the composition of the Cabinet and the constituent assembly charged with drafting a new constitution, and the schedule and rules for new parliamentary elections. Through the judiciary, the

military undermined the popular mandate of the newly elected institutions. For instance, on June 14, 2012, two days before the second round of presidential elections that pitted Muhammad Morsi against Ahmed Shafik, and one day after Parliament announced the formation of the second Constituent Assembly, the Supreme Constitutional Court (SCC) ruled the parliament 'unconstitutional' because one-third of the parliament members were 'illegally elected'. The SCAF immediately dissolved Parliament by decree, issued a constitutional declaration that returned its generals uncontested, assumed broad legislative powers, and dominated the constitution-drafting process.

Another SCAF constitutional declaration required the new president to be sworn in, not before Parliament but the SCC. This shift reflected the alliance of state institutions which distrusted the elected president and viewed the MB as outsiders and old enemies of the state. An outraged Morsi refused to take his oath of office before the Mubarak-appointed SCC. In a symbolic gesture of defiance, he took his oath in Tahrir Square, the birthplace of the 2011 uprising. He vowed to achieve the aims of the uprising and reclaim his legitimate presidential powers. He insisted that no institution could stay above the law, and told the crowds that they were the source of authority (Lo 2019). A day later, however, Morsi relented and took his oath before the SCC. He effectively accepted the court's decision to dissolve parliament although he hinted at a continued contest for power over the institutions of government and the future constitution. Morsi took his oath before Mubarak-appointed chief justices, such as Adly Mansour (who became interim president after Morsi's overthrow). When he invited Morsi to take the oath, Judge Farouq Sultan specifically cited the authority of the interim constitution issued by military decree on June 17, 2012 which transferred powers of the president's office to the generals. On his part, Morsi stressed the

separation of powers, promising that the president “will work to guarantee the independence of these powers and authorities.”

The dissolution of the MB-controlled parliament pushed Morsi to shield himself from the judiciary by concentrating power in the presidency that was itself unrestricted by any legislature. Morsi tried to stop the SCC from subverting the constitutionality of the CA, the Upper House, and the presidency. He wanted to remove electoral politics from judicial review by asserting presidential authority. On November 22, 2012, Morsi issued a presidential decree that temporarily gave him powers beyond the reach of any court or judge. He sought to prevent the judiciary from interfering in the constitution-drafting process. He used his new authority to order the retrial of Mubarak after dismissing Mubarak-appointed Prosecutor General Abdel Maguid Mahmoud who was considered by many secular oppositions to have protected leaders of the old regime from being held accountable for their past actions.

Morsi’s decree backfired. It upset non-Islamists and antagonized the military and the judiciary. Thousands of protestors surrounded the presidential palace in Cairo while the military and the security forces were absent when protestors attacked dozens of MB offices around the country. Morsi’s decree was not the first to be issued in post-Mubarak Egypt. The military had used decrees to entrench its position. But Morsi’s decree was denounced by the secular opposition as an assault on democracy and regarded by the judiciary as a defiance of state institutions. Forced to cancel the decree – the military warned of “disastrous consequences” – Morsi pressed on with a referendum on a draft constitution. The secular opposition opposed his move while many judges refused to monitor the voting at the polling centers. After a widely boycotted referendum, Morsi

signed the new constitution into law at the end of December 2012.

The new constitution eliminated omnipotent presidency (Article 226) by limiting the president to two terms and empowered the parliament and prime minister to withdraw confidence from the government. Article 236 canceled all decrees and laws (passed by the SCAF and Morsi) that preceded the adaptation of the new constitution. And Article 51 allowed any one to form a political party without government censorship, whereas under Mubarak the ruling NDP controlled the formation of political parties through the Party Formation Committee, thereby ensuring no other party could develop to challenge its rule. But the Higher Elections Council declared that just under 33 percent of eligible voters had voted – the lowest proportion since the transition began – which implied that the constitution fell short of the national support such a document needed for legitimacy.

Between them the SCAF and the judiciary had deprived the president of an MB-majority parliament, a new constitution, and genuine authority over the mammoth bureaucracy, patronage networks and interests of the old regime, and the huge military presence in the economy and politics. Unable to control key ministries of the interior, defense and foreign affairs, the MB could barely reform the state to deal with Egypt's endemic socioeconomic conditions. But, without implementing far-reaching structural reforms, the MB – for that matter whoever else that won the elections – could not solve economic problems as a restive populace demanded.

The economy deteriorated. Worsening unemployment, a big factor in the 2011 uprising, heightened political tensions. In the popular view, Morsi and the MB, being



the victors in the electoral transition, had to meet the socioeconomic demands of the 2011 uprising which had rallied the masses around basic slogans of “bread, freedom and social justice.” Political instability, however, kept investors at bay and tourists away. The economy grew at its lowest rate, the currency depreciated, and foreign reserves dwindled. High youth unemployment, officially 13 percent, continued to rise. The economic conditions were now worse than those that triggered the 2011 uprising. The political stalemate further undermined the economy, bringing more street protests that demanded Morsi’s fall. The flow of aid from allies, such as Qatar, Turkey and Libya, kept Egypt afloat. But soaring food prices, and severe shortage in fuel and electricity, which led to dozens of people killed and wounded at gas lines, posed grave threats to the MB’s fragile rule and legitimacy.<sup>10</sup> At street level, law and order seemed to have broken down with aggravated traffic snarls, heightened incidence of crime, and persistent clashes between protestors and security forces. Yet a beleaguered Morsi was compelled to praise the police as a key protector of stability. In short, an absence of economic improvement, or a reduction in the brutality of the security forces fostered a public perception that the goals of their revolution had not been attained (Brumberg and Sallam 2012) and elections were pointless when protestors were being killed.

In the tense milieu of late April 2013, members of the Egyptian Movement for

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<sup>10</sup> Following Morsi’s ouster on July 3, 2013, the *New York Times* reported the sudden improvement in Egypt such as the police returning to the streets and the miraculous end to energy subsidies seemed to suggest the significant role of the *ancien* regime in the crisis. “Sudden Improvements in Egypt Suggest a Campaign to Undermine Morsi,” *New York Times*, July 10, 2013.

Change (*Kefaya*),<sup>11</sup> which regrouped the forces that brought Mubarak down, mounted an anti-Morsi campaign called *Tamarod* (meaning revolt or rebellion). Soon labelled the “second revolution” of June 30, 2013, *Tamarod* claimed to be a youth group whose main goal was to collect signatures for a petition to demand Morsi’s removal and fresh presidential elections. The campaign, however, was financed by a big businessman and Mubarak crony, Nagid Sawiris, received funding and support from the United Arab Emirates (Holmes 2019: 252), abetted by former SCC Judge, Tahani El-Gebali, organized and aided by the Ministry of Interior and security services, and given massive media exposure (Darwisheh 2018; Letourneau 2019). Whether or not *Tamarod* was genuinely started by young activists acting on their own, as its leaders claimed, the movement endorsed a form of political struggle in which it was legitimate for the army to remove an elected president if enough protestors asked for it (Faris 2013). In a matter of weeks, pro-*Tamarod* protests spread to most governorates via an orchestrated campaign that required extensive organization and resources beyond the capacity of a new and small youth group.

The public did not fear joining the anti-Morsi protests. The protestors knew that, unlike in 2011, neither the police nor the military would assault anti-Morsi demonstrations or defend the MB. As the secular opposition strongly pushed for military intervention, the now favorably regarded military issued an ultimatum: the MB and its opponents should find a solution or the military will impose its “roadmap for the future.” On July 3, following three days of large-scale, anti-Morsi demonstrations

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<sup>11</sup> *Kefaya*, meaning “enough”, is a grassroots movement that played an instrumental role in opposing hereditary transition under years before the 2011 uprising against Mubarak.

backed by the judiciary and the police, the SCAF staged a coup and overthrew Morsi. The coup represented the ultimate triumph of state institutions: Field Marshal Abdel Fattah al-Sisi appeared on national television with the SCC justices standing behind him. Sisi announced the suspension of the constitution, the arrest and detention of Morsi at an undisclosed location, and the appointment of SCC Chief Justice Adly Mansour as Acting President.

## **Conclusion**

As the preceding discussion showed, the deep legacy of authoritarian rule undermined “democratic transition” in post-Mubarak Egypt. The transition had neither a national dialogue nor political pact between the ruling elite and the revolutionary forces. Without a road map that could secure consensus among different opposition groups, the political process was hindered by judicial and legal complications. Electoral institutions built on shaky grounds produced severe political and ideological polarization among erstwhile allies of the 2011 uprising. Key state institutions hostile to reform remained intact as a nascent new constitutional order was subverted by military authority and judicial intervention. The polarization gave state institutions the pretext to stage a clash of two legitimacies, as it were, based in Tahrir Square and the elected parliament. In that way the military could claim its overthrow of Morsi and the MB saved Egypt from chaos and terrorism.

Unlike the military, the MB turned out to be a secondary actor whose “agency” was too weak to consolidate the legitimacy the movement gained at the ballot box. In a

very difficult situation, Morsi and the MB faced two options: compromise with an unreformed state, or compromise with a restive and unorganized street protest. It was part of their failed strategy and administration that Morsi could not demobilize his opponents in society but chose instead to appease the military. The MB had a strong presence in society but virtual absence in state institutions that had for decades distrusted the movement and feared its surge during the transition. In the end, the military realized its counter-revolutionary intent via an equally unreformed judiciary, which kept invalidating the MB's electoral victories, and the manipulated *Tamarod* and broader anti-MB secular opposition.

A military coup was, arguably, not the only alternative to the MB's majoritarian rule. Daunting as the prospect was the non-Islamists could have chosen to face the MB in future parliamentary elections. If the MB was as unpopular as its secular opponents charged, then the latter could move a no-confidence vote against the government, or even impeach the president if the opposition could win a two-thirds majority in a subsequent election. Such options would have strengthened the cause of Egyptian democracy. On the pretext of combatting 'totalitarian Islamist fascism', though, the secular opposition allied themselves with their old foes – proven repressive and anti-democratic institutions – only to be subjected to harsher rule than they had experienced under Mubarak, let alone Morsi and the MB.

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