

A question of faith? - Islamists and secularists fight over the post-Mubarak state

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Since the military coup of 3 July 2013, guns and batons have, broadly speaking, taken the place of open debate and elections in deciding the political future of Egypt.

How can the political struggle be understood with regard to the shape and content of the reformed post-Mubarak state that took place during the period of relative free debate and of tentative steps towards a democratic system from 11 February 2011 till 3 July 2013.¹ In light of the deepening polarisation between the Muslim Brothers and the more secular political tendencies that characterised the period, the conflict is often portrayed by the media and by some researchers as between a project of Islamisation and a secularist agenda.² To what extent does this hold true?

In this article I will argue a) that what took place was rather a power struggle involving competing elites as well as what is sometimes termed the “deep state”, i.e. the entrenched power holders from Mubarak’s time, especially in the military, the police and the judiciary, and b) to the extent that secularisation was at stake, in some important aspects Islamists turned out to be, if anything, more secularising than their secularist competitors.

What follows is nothing near a full treatment of the transitional period. Neither is it a formal study of constitutional issues, although it does dwell on some important aspects of the new constitution finalised in 2012. My primary interest here is what the struggle over the new constitution, and more broadly over the path to be followed in the transition process can tell us about the main forces at work at the heart of the intense political conflict that developed.

Keywords: political transition in Egypt; Islamists and secularists in Egypt; post-Mubarak state

Jumbling a key concept

To secure a basis for a meaningful discussion on issues of secularisation it is necessary to dwell a bit on the content of this term.

A typical broad definition of secularisation, taken from an online dictionary, is “the activity of changing something [...] so it is no longer under the control or influence of religion”.³ In terms of political systems it is often thought of as a strict separation of religion and state. In one sense this is a contradiction in terms, since as long as religion remains a factor influencing the morals and values of the population by the same token it will never be totally separate from their political behaviour. Trying to eradicate this kind of influence, for instance, by prohibiting parties with a religious reference in their program only serves to make religious influence less explicit and is more often than not, in reality, a move to exclude an unwelcome political contestant for power. An institutional separation of religion and state on the other hand is certainly a relevant issue and has, historically, been implemented by a number of countries, most notably by France, where a strict policy of the total religious neutrality of all state institutions has been in force since 1905 (Safran 2004). Turkey, often claimed as the beacon of secularism in the Middle East, has emphatically not followed this path. Turkey admittedly did under Mustafa Kemal Atatürk (1923-1938) remove religious leaders from the privileged position they enjoyed in the Ottoman state, but rather than separating religion from the state, it placed the legal religious life of the country under the supervision of a government agency, the *Diyanet İşleri Başkanlığı* (Presidency of Religious Affairs), commonly known as the Diyanet (Başkan 2014, 55).

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Whether secularisation in the sense of neutralising the state vis-à-vis religion is a good thing or not, is open for debate, and we will return to that below. Yet it seems fairly clear that one must separate between cases where such a process follows the free decision of the population through an open debate and free elections, or, as was the case in Turkey, it is forced on the population from above by an authoritarian leadership. It is also important to note that secularisation can proceed quite far in some aspects while the state in other aspects remains committed to a certain religion, as the historical development of the Scandinavian monarchies would attest to. This has to do with the other aspect of secularisation, often thought of as the reduced religiosity of the population, or alternately, the reduced role of religion in influencing the thinking and daily practice of people.⁴

Secularisation, then, can be understood to imply the movement towards a greater degree of separation of institutions of religion and those of the state, and towards a reduced use of religious references in deciding particular issues, and concurrently a movement towards the pluralisation of interpretations of religion and towards greater tolerance. The idea of “movement” here, of course, implies that these different layers of secularisation can all be described as a graduated scale.

Yet, for the purposes of this article, in order to explore the issues at stake in Egyptian politics we need to dig a bit deeper, to jumble up the concept a bit, as it were. A way of doing so is to ask for the reason why secularism and secularisation in Western societies is broadly considered in a positive light, and typically seen as the right path to follow for peoples and nations around the globe.

The answer can probably be found on three levels. First, secularisation has historically involved a struggle for reducing the power of clerical institutions. Eventually, as forms of representative rule emerged, this struggle would take on a democratising aspect because it involved reducing the power of non-elected institutions over society. At an early stage this was far from unequivocal: in Northern Europe kings and princes used the Christian reformation to establish their autocratic power and simultaneously confiscate the enormous landed estates and other riches belonging to the Catholic Church. Here then, it was not the people whose position was strengthened vis-à-vis the church, but rather royal power, which was as unelected as the church and typically further removed from the lives of ordinary people.⁵

In the Middle East similar developments happened in more recent history, as when military rulers in countries like Egypt in the 1950s placed the central institutions of Islamic learning and all their property directly under state control, while simultaneously eliminating the nascent democratic institutions that had been established by the previous generation. Part of the package was that the state sought to control also what was being taught, and in addition what was to be said during Friday sermons in the mosques. In this situation the strengthening of al-Azhar’s⁶ independence was for many Egyptians a part of the call for freedom raised in the revolution of 2011 (Brown 2011, 4).

Secondly, many believe that any introduction of religion into politics, for instance through political parties with a declared religious platform, is a bad thing. Especially it is felt that were religious parties to gain power in multi-religious societies this would easily lead to discrimination against religious minorities (Heng 2010, 26).

This is obviously an important argument, even if it is not immediately clear whether the danger of exclusionary hate campaigns against others are greater based on religion than based on ethnic lines of division or on non-religious ideology. It should be sufficient to mention the genocide in Rwanda, and the slaughtering of one million communists in Indonesia in 1965 without the population rising in protest. So this begs the question of whether there should be a general prohibition against forming parties on an ideological platform. Hardly anyone would defend such a view. There is also the point that if a large part of the population believes strongly in religion, it is an illusion to think that it is possible to effectively ban the mixing of religion and politics. A person who entertains strong views on what is right and what is wrong in relations between people, whether these views are linked to religion or not, will of course bring those views along if he or she engages in political work. Probably, then, it is best to let this happen in the open. And were it to be forbidden, who possesses the right to introduce such a ban, if not the majority of the population in the country in question? The new rulers in Egypt after the coup appointed a constitutional commission made up of 50 persons. The commission was dominated by people with close links to the state, in addition to a few representatives of the secular political trends. Islamists, who in the first free elections in Egypt after the revolution gained 70 percent of the popular vote, were now given 2 out of 50 seats.⁷ The prohibition against religion in politics introduced in a constitution worked out by such a committee could hardly be called

legitimate. (The referendum on this constitution in January 2014 took place under such circumstances that it cannot be considered to have conveyed a freely expressed popular will.⁸)

Thirdly, secularisation of politics may have a liberating aspect in making political issues the object of free consideration and decision by the members of society without giving privileged power to religious experts or to “kings by divine grace”. This is connected to the root meaning of the word “secular”. The term originally connoted something that exists “in time”, as opposed to God who remains “outside of time” (Taylor 2004, 194-195). Thus secularisation – making things secular – turns political issues into something human beings have the right to evaluate based on their best judgment, without barriers set by someone claiming to represent the will of God.

But what about when those who claim the right to rule from a position elevated above free discussion and decision of the people do so based on the fact that they possess the armed power, or with reference to themselves being the guardians of non-religious norms that cannot be the subject of debate? That would also imply that politics is lifted out of the public sphere and into a restricted space where it is directed by a self-appointed class of people who know best. To claim such an act as one of secularisation, because the limits that are drawn are not based in any holy scripture or because the rulers lean not on the omnipotence of God but on the omnipotence of their weapons, would seem at best a play with words. In this connection religious parties which are willing to compete on an open political market would seem to be far more secularising actors than others.

Not accidentally, perhaps, secular dictatorships, precisely in their efforts to legitimise their rule from above the will of the people, tend to develop cultic forms very similar to religious worship. The cult of Lenin in the Soviet Union, of Mao in China, and *par excellence* that of the holy Kim family in North Korea, are prime examples. But so is the Kemal worship in Turkey, where the image of the republic’s founder and the nation’s father is omnipresent and where his lavish mausoleum in Ankara is the object of what could easily be described as pilgrimage. All this fits well with the idea, long jealously guarded by the Turkish army, that the six pillars of Kemalism cannot be challenged as the ideological platform for the state (Daği 2012).

For the discussion of secularisation vis-à-vis the struggle over the political transition in Egypt after Mubarak to make more than superficial sense, it is necessary to devote special attention to this particular argument for secularisation: It is beneficial because it liberates a society and its members to freely discuss and decide on all matters relating to their well-being, and leaves no limits to this free deliberation except those agreed upon by a changeable majority.

In light of the discussion above I suggest that the core of the issue is not the specific role of religion, but whether or not the right of decision-making is fully or partially moved away from free deliberation in the public sphere. Doing so means establishing a right to rule that does not emanate from the popular vote. Whether the higher principle appealed to in the individual case is a deity or not, is a question of a secondary nature. Indeed, one may well argue that the very fact of lifting an idea up above the people means deifying it, and that working against this is, therefore, an act of secularisation. While limiting the freedom of popular rule is almost always legitimised through the reference to an allegedly higher principle or idea such as the nation, the logic of history and the like, more often than not the brutal core of the issue is who possesses the strongest military force and is willing to use it. In its most naked sense, then, overwhelming physical power becomes the higher principle in question.

In the concluding discussion of this report the question of secularisation as it relates to the struggle over Egypt’s transition will be treated according to this logic. Now we shall turn to investigating the transition period from February 2011 till July 2013 from two angles: the struggle over transitional procedure, and the text of the 2012 constitution.

Issues of process

As a prelude it is useful to draw a rough picture of the arrangement of socio-political forces in Egypt prior to the revolution.

Central to the equation, of course, were the institutions of the state, most powerfully represented by the military, the interior ministry with its police and security forces, and the judiciary. These institutions have a history going back to the time of Muhammad Ali who ruled and modernised Egypt in the early 19th century, and have dominated Egyptian society in particular since Nasser’s

revolutionary coup in 1952 (Springborg 1998, 146 ff). Especially in the top layers of the vast bureaucracy there are deeply entrenched interests in the continuation of the status quo.

The state institutions are penetrated by and intertwined with a vast clientelist network where resources are traded for loyalty in a pyramidal structure from the command posts of the state down to the common people through petty kings at various levels, be they key office holders, wealthy business men, big landowners, tribal chiefs, religious leaders or mafia bosses.⁹

Civil society, for its part, has been overwhelmingly dominated by the educated middle classes. Despite an increasing wave of strikes and the emergence of a few independent trade unions in the years prior to 2011, the working class mostly remained outside the political equation, as was even more the case with the peasants and rural masses. As for the middle classes, the modernisation process over the last two hundred years, combined with the intertwined struggles over political independence and cultural identity has produced two competing elites, both with an ambition to represent the increasing call for the right of the population to participate in political decision-making. Simplified, one of these elites is secular; the other Islamist.

The secular elite has dominated political power in independent Egypt since 1924. At the same time there has at any given time been large sections of this elite who have been in political opposition to those running the government, whether during the troubled semi-parliamentary system that existed before Nasser's time or during the authoritarian military-based rule that followed. Yet across the often sharp divide between those in position and those in opposition, and ideologically between nationalists, liberals and communists, there existed a common feeling of constituting the elite with a legitimate right to guide the people and lead the country (Hibbard 2010, 49 ff).

Yet from the 1930s onwards an alternative elite has challenged the secular hegemony. A segment of the middle classes came to challenge the dominant forces in the public sphere through a revival of religion, claiming to represent authentic and deep-rooted ethical standards against the imported ideologies and culture and the concomitant libertarianism of the incumbent elite (Rosefsky Wickham 2013, 179) .

As long as this dichotomy has lasted, deep distrust between the two groups has been the norm. For the religious side the secular elite has represented precisely what the Islamists viewed as the root problem of all ills in Egyptian society - abandonment of belief in God and disregard for the divine instructions for human behaviour embodied in the Sharia. This distrust has been compounded by what was seen as secularist support for, or at best a lack of critique of, the recurring brutal suppression of the Islamists by the rulers. For the seculars the Islamists represented all they viewed as backward in Egyptian society, most especially they were seen as wanting to regulate people's personal life strictly according to conservative norms. Feminists viewed them as reactionary defenders of patriarchy, Coptic Christians saw them as representatives of Muslim supremacy, and an intense dislike - bordering on hatred - against the Islamists brewed among the cultural elite who saw the Islamists as a deadly threat against artistic freedom (Shehata 2009).

While parts of the secular elite shared with the Islamists their opposition to the autocratic system of government, especially under Mubarak, the antagonistic relationship between these oppositional forces was made even more difficult by the stark discrepancy in strength, particularly as measured in organisational capacity and in an ability to mobilise grassroots support. During the long decades of authoritarian rule after 1952 the rulers of the state succeeded in partly eradicating, partly co-opting, most of what had existed of independent political activity in civil society. Despite the partial liberalisation initiated by President Sadat in the 1970s, by the time of the revolution most oppositional political structures were relatively poorly organised, even partly depending on state subsidies. In particular their links to the population were weak (Kassem 2004). The exception was the Islamists, in particular the Muslim Brothers, who had, despite harsh repression, been able to rebuild and preserve a nationwide organisation with strong roots in large sections of the population. As a result only two forces possessed a network able to rapidly mobilise widespread support - the Muslim Brothers (Shehata and Stacker 2012, 160) and the rulers, who worked through their clientelist web partly organised through the National Democratic Party (Menza 2012, 107 ff)

As it happened, the discrepancy in mobilising capacity was perhaps the central reason why the Islamists and the secular opposition, who had more or less worked together during the 18 days of uprising that led to the resignation of Mubarak, almost immediately fell apart over the proper way to proceed with the transition (which all agreed was the goal) from military to elected, civilian rule.

Already four days after Mubarak's fall the ruling Supreme Council of the Armed Forces (SCAF) appointed a committee of eight judicial experts charged with suggesting revisions of the constitution in order to prepare the ground for free and fair elections.¹⁰ The committee was headed by the well-respected former judge Tariq al-Bishri. While most members of the committee were non-political experts of constitutional law, it was critically noted by secular circles that Bishri himself was an, albeit moderate, Islamist-leaning public figure and, more ominously from their point of view, that the only person in the committee with an open commitment to an oppositional political grouping was Subhi Salih, a lawyer and former parliamentarian belonging to the Muslim Brothers.¹¹

The committee presented its proposals on 26 February. The most important changes included: candidates' acceptance in presidential elections would be much easier, the presidential term would be reduced from six to four years, and a two-term limit would be imposed; full judicial supervision of elections would be established, and the use of emergency laws would be restricted. In addition, crucially, the Bishri committee proposals stipulated that a new constitution would be prepared by a 100-member assembly to be appointed by a joint meeting of the two houses of the Egyptian parliament (after fresh elections to these bodies), and that this assembly then would have six months to produce a draft constitution to be accepted or rejected through a referendum.¹²

On 28 February the SCAF indicated that parliamentary elections were to be held in June and presidential elections in August.¹³ Together with the Bishri proposals, this meant that there had now emerged a *de facto* roadmap for the transition: First would come parliamentary elections. Then the new parliament would select a constitutional assembly. Presidential elections would take place during the preparation of the new constitution. When the proposals of the Bishri committee were put to a referendum on 19 March 2011, it therefore came to be seen as a vote for or against this roadmap.

The result was a landslide in favor of the proposed amendments, with 77 percent in favor and only 23 percent against.¹⁴ Yet it is interesting to note that the strongest resistance was in Cairo where the winning margin was only 60 to 40; a pattern we will see repeated on several occasions, not least in the referendum on the 2012 constitution. The SCAF duly made a constitutional declaration on 30 March, which gave the Bishri proposals, including the procedure for selecting the constitutional assembly, the force of law.¹⁵ By and large the roadmap was also followed, except that the process was somewhat delayed, with parliamentary elections taking place in November 2011-February 2012 and presidential elections in May-June 2012.

Despite the referendum's clear majority in favor of the constitutional amendments, and implicitly for the roadmap, the proposals were surrounded by huge controversy, and strong objections were voiced by members of the various more secular-oriented groups, as indicated by the relatively large no-vote in Cairo where their presence is strongest.

The main argument made against the roadmap was that it did not make sense for a country freshly emerging from long decades of autocratic rule to enter elections before the ground rules of a democratic system had been agreed upon by all main actors in society.¹⁶ The country needed a constitution first. While this was a plausible argument, the seculars struggled to find their feet when confronted with the question of who should make the new constitution, and by what means they should be selected. And the 'constitution-first-argument' coexisted with another, more pragmatic one: It was argued that rapid elections would favor groups that already possessed a strong organisation, i.e. the Muslim Brothers, while other groups needed an extended period to build their capacity for outreach.

The Brothers countered that in a situation where the country was ruled by a military council it was imperative that the principle of popular rule, for which the revolution had been fought, should manifest itself as soon as possible in the creation of legitimate elected institutions of civilian power. In addition, they argued, for a future constitution to be legitimate, it must be made by an assembly elected by the people. Again these arguments obviously had some force of logic. Yet at the same time the Islamists made them reasonably sure that they were in a position to do well in free elections, and would thus have a strong hand in shaping the new constitution.¹⁷

So it can already be seen at this point that immediately after the fall of Mubarak the broad revolutionary bloc starts to fall apart. This tendency only increased over time, developing into an intense polarisation of political life, which ultimately paved the way for a full restoration of the old regime (albeit without Mubarak) under the new strong man General, later Field Marshal, Abd al-Fattah al-Sisi. Many issues and events over the next two odd years played a role here, but in the

current article the focus is on developments directly related to the transition process towards elected civilian rule, with the formulation of a new constitution as one of its central issues.

Egypt's first free parliamentary elections since 1950 took place from November 2011 to February 2012. Most important were the elections for the legislative lower house of parliament, the People's Assembly. While 41 percent had taken part in the referendum in March of that year, an impressive 54 percent of eligible voters now turned out. The results were a resounding victory for the Islamist forces. The Freedom and Justice Party (FJP), newly formed as the political expression of the Muslim Brothers, took 43 percent of the seats,¹⁸ an alliance of conservative *salafi* parties led by the newly formed *Hizb al-Nur* took 24 percent, and 2 percent went to two minor Islamist parties. Altogether 68 percent of the assembly seats were now held by Islamists of various hues. Collectively, the fragmented array of parties emerging from the secular opposition under Mubarak gained at best 24 percent of the seats, the remainder going to offshoots of Mubarak's now dissolved National Democratic Party and to independents.

The elections to the People's Assembly were followed by elections to the Shura Council, the upper house of parliament. There was a striking contrast in participation in that only 13 percent cast their vote in the first round which was significantly fewer in the second. The main reason for the discrepancy is, in all likelihood, the fact that the Shura Council, created by then president Sadat in 1980, had always been devoid of any real power. However, in 2012, its election had acquired real importance in that the elected 180 members¹⁹ would, together with the 498 elected members of the People's Assembly, select the 100 member assembly that would work out the new constitution. In fact it was mainly the Islamist parties - the FJP and the *Nur* - that campaigned for the Shura elections. Consequently their dominance here became even stronger than in the lower house, with the FJP winning 105 seats - well over half - and the *Nur* winning 45, leaving only 30 seats for the non-Islamists.²⁰

These election results of course more than confirmed the fear of the secular forces. While the result for the FJP was not unexpected, the big surprise was the strong showing of the salafis. Now not only was there a vast Islamist majority, but this majority involved a quarter of the parliamentary seats being filled with people more religiously conservative than the Muslim Brothers.

The election results, therefore, increased the tensions between the competing ideological trends vis-à-vis the selection of a constitutional assembly. After weeks of deliberation the two chambers of parliament announced on 25 March a list of one hundred people who would be charged with writing the constitution. MPs represented 50 of them, 36 of whom belonged to Islamist parties, roughly reflecting their strength in the parliament itself. The 50 others were selected from outside parliament and the interpretation as to the composition of this group varied widely. According to the Muslim Brothers only 12 of those 50 were Islamists, but the critics stated that at least 29 of them were. The judgment of this mostly hinged on the question of whether one counted merely members of Islamist parties, or more broadly people with some kind of an Islamist (or Islamic) leaning. The interpretation was of crucial importance, since it made the difference between 48 percent Islamist representatives and 65 percent.²¹

Large segments of secular opinion were never going to accept the selection. Almost immediately a campaign started, calling for the secular representatives in the constitutional assembly to withdraw in protest. Ominously among these was Ali Salih, the representative from the Supreme Constitutional Court. Immediately upon the formation of the constitutional assembly legal complaints had also been filed against it.²² On 10 April a Cairo Administrative Court ruled to halt the implementation of the parliamentary decision creating the constitutional assembly. According to the ruling the joint parliamentary meeting had acted improperly in naming parliamentarians to fill half the 100 seats of the assembly.²³

Even before this the willingness of the established state institutions to bow to the popularly elected parliament had been put into question. After the constitution of the new parliament calls emerged for a new government to be established based on the parliamentary majority.²⁴ This was flatly rejected by the SCAF. With the pre-revolutionary constitution still largely in force there was nothing that would constitutionally force the SCAF to comply. Moreover, in its own declarations it had promised nothing more than to hand over power once a president had been elected. Yet no law *prevented* the generals from naming a new government in consultation with the parliament. Had they done so it would have

signalled a genuine intention to gradually let the elected institutions take over the political running of the country.²⁵

In the struggle over the constitutional assembly the contours of later developments are clearly visible. On the one hand the secularists had a plausible argument in that a constitutional assembly is something different from a regular parliament, and it was therefore imperative that all parts of society including the various ideological trends be represented, and that one part of the ideological spectrum should not monopolise the decisions. On the other hand, however, it would seem strange if the relative electoral strength of the various trends was not to be somewhat reflected in the composition of the assembly. Yet, the main problem was that the secularists refused to acknowledge the right of the elected assemblies to form the constitutional assembly. Instead they made an appeal to the non-elected institutions remaining from the authoritarian system - the courts and the SCAF. To clarify, there were two issues at stake here: One was the optimal composition of the constitutional assembly; the second was who possessed the right to decide. The first was a political question - obviously of huge importance - but with no definite answer, while the other was, if anything, more important for a fledgling process of democratisation. Either the ultimate arbiters of disputes would in the future be institutions based on the popular vote, or otherwise dissatisfied groups would continue to have access to extra-democratic institutions to tip the game their way.

Whatever the judgment here, the parliament chose to abide by the court ruling and started deliberations for a recomposition of the constitutional assembly that might be more acceptable to the secularist minority. The new assembly was finalised on June 12. The number of MPs had now been reduced to 39, of whom 24 belonged to Islamist parties. Yet again controversy linked to the interpretation of the composition of the 61 other seats immediately broke out, with secularists again considering the assembly as a whole to be tilted towards the Islamists. And again a case was filed with the Supreme Administrative Court to have the assembly dissolved (Ottaway 2012).²⁶

What added to the doubt over the future of the constitutional assembly was the fact that the Supreme Constitutional Court, on 14 June, ruled that the lower, legislative house of parliament - the People's Assembly - was unconstitutional because of flaws in the election system that had been used. The SCAF duly went on to dissolve the assembly, locking out MPs from the parliament building and surrounding it with security forces.²⁷ The FJP protested, stating that it should be the people "who decide if the parliament gets dissolved"²⁸, but in the absence of any substantial support from other political forces the party was powerless to prevent the dissolution. The court ruling had fastened on the complex election system, where two-thirds of MPs were elected from party lists in a system of proportional representation, while the last third were elected in individual 'first-past-the post' constituencies. The court declared that this system did not secure the required equality between citizens, because independents could not compete for two-thirds of the seats while party members could compete for all seats.²⁹ Whatever the constitutional basis for this, and what constituted Egypt's constitution at the time of the parliamentary elections beyond the SCAF's March 2011 declaration was at best unclear, it was obvious that the argument went directly against what had been the consensus of virtually the whole spectrum of the former opposition against Mubarak. Both the allocation of two-thirds of seats for party lists (up from one-third originally proposed by the SCAF) and the opening of individual seats for party members also, had been expressly called for in order to limit as much as possible a comeback for people aligned to the old regime and the defunct NDP with its clientelist network.³⁰

Clearly anticipating the possible election of a Muslim Brother as president, the SCAF, fresh from having removed the elected parliament, went on to announce on 17 June several amendments to its earlier transitional constitutional declaration. It was decreed that should the current constitutional assembly not be able to fulfil its mandate, the SCAF would take it upon itself to appoint a new constitutional assembly. The SCAF would also preserve the right to oppose any clause in the proposed new constitution if it should find it to be "in opposition to the goals of the revolution or its basic principles ... or the common principles of Egypt's past constitutions", in which case if deliberations between the SCAF and the assembly would fail to produce agreement the Supreme Constitutional Court (SCC) would have the final word. Furthermore, in contrast to Egyptian constitutional practice, where the president would take over legislative powers in the absence of a parliament, the SCAF now declared that it would keep legislative power to itself until a new parliament was elected. Finally, the

SCAF would take full command of the armed forces, including the right to declare war (the President would only be able to declare war with the acceptance of the SCAF).³¹

On 24 June Muhammad Mursi of the FJP and the Muslim Brothers were declared to have won the second round of the presidential elections with 51.7 percent of the votes against Ahmad Shafiq, the last prime minister under Mubarak, who got 48.3 percent.³² On 30 June Mursi was sworn in as President of Egypt, the country's first ever head of state who had been chosen in free elections. Yet it was a sign of the on-going tussle for real power that Mursi, against his wishes, was forced to swear his oath in front of the Mubarak-appointed judges of the Supreme Constitutional Court, who had just two weeks before ruled to dissolve the elected parliament which would have been an all-important support for the elected president. Now instead he found his position with only amputated powers, and was left alone to deal with the rather intact and powerful institutions of the old regime: the military, the security forces and the judiciary.³³

On 12 August Mursi turned the tables somewhat. He abolished the SCAF's 17 June declaration, and introduced a number of important amendments to the constitutional declaration in force, the most important of which was that he recovered for the presidency the power to legislate in the absence of a parliament. He also took over from SCAF the right to appoint a new constitutional assembly in the case of a failure of the current assembly to fulfil its mandate.³⁴ This might seem as a strengthening of Mursi's position, not least since it coincided with his removal of the two most prominent SCAF leaders from their posts, and their replacement with younger colleagues, including the introduction of Abd al-Fattah al-Sisi to replace the leader of SCAF until that point, Husayn al-Tantawi, as Minister of Defence. Yet it was a limited and relative strengthening. Still the country had no effective parliament, and the mainly technocrat government Mursi finally had announced on 2 August under the independent Hisham Qandil, was only slightly changed. The FJP had only 5 out of 34 ministers in the government, none of whom were in what is usually considered the more powerful posts. Notably the Ministry of Defence and that of the Interior continued to be run by officers from the army and the security forces, respectively.

That the position of the elected president continued to be precarious was reflected in his rather desperate measure taken on 22 November, when he moved to immunise his previous decrees as president from being cancelled, and most importantly the constitutional assembly (as well as the Shura Council, the upper house of parliament) from being dissolved, by any court or other entity. This was supposed to last until the country had a new constitution and a new parliament had been elected, respectively. In addition he granted the constitutional assembly an extra two months to finish its work so that, instead of 12 December, the deadline now became 12 February 2013.³⁵ The obvious background for Mursi's actions was that the Supreme Constitutional Court, which as we have seen had earlier dissolved the People's Assembly, was due to rule on 2 December on the legality of the constitutional assembly. A much expected ruling to dissolve the assembly would have thrown the whole political process into disarray.

As it happened, despite the immunity from dissolution and despite the generous delay granted it by the president, the majority in the constitutional assembly decided not to wait for the SCC ruling, but rushed through a final draft of the constitution in marathon sessions ending on 30 November. Mursi then scheduled a referendum for 15 December where the electorate would vote for or against the draft. The Judges' Club, dominated since 2010 by judges close to the Mubarak regime, tried to prevent the referendum from taking place by announcing that its members would refuse to perform their customary roles as election supervisors.³⁶

Nevertheless the referendum was duly held in two rounds, on 15 December and 22 December. 64 percent voted for and 36 percent against. Participation, at 33 percent, was markedly lower than in both the parliamentary elections the previous year and in the first post-revolutionary referendum in March 2011. While the overall result represented a clear approval for the new constitution by a majority of close to two-thirds, it was noticeable that Cairo, the capital and by far the most populous province, voted against by 57 percent to 43.³⁷

Already on 9 December Mursi had, in what was intended as a conciliatory move, partially retracted his 21 November decree. The new decree abolished the old one, but left valid "what had resulted from it", *i.e.* primarily the constitutional draft. While the former decree had immunised all "constitutional declarations, laws, and decrees made by the president", the new one preserved this

immunisation only for constitutional declarations. Finally Mursi decreed that in the case of a ‘no’ vote, he would ask for direct popular elections for[†] a new constitutional assembly.³⁸

As we have seen, this last eventuality did not materialise and the new constitution came into effect on 26 December when it was signed by the president. This implied a change in the legislative power, in that the formerly purely consultative *Majlis al-shura* was now part of the legislative process. In line with this, the new constitution in one of its transitional clauses stated that the existing Shura Council (only the lower house, the People’s Assembly, had been dissolved in June) would now hold exclusive legislative power until the election of a new lower house, now to be termed *Majlis al-nuwwab*, Council of Representatives, in accordance with pre-Nasser practice.³⁹

Thus Mursi no longer had the right to legislate, but would now, for the first time, have a functioning parliamentary body ruling by his side. For that purpose he now also activated a clause in the rules governing the Shura Council at the time it had been elected, namely that the president was supposed to appoint 90 members in addition to those 180 that had been elected. The SCAF had not bothered to fill those 90 seats, but Mursi now did, naming representatives from a number of political parties, mostly the main Islamist parties, in addition to a few secular groups who were willing to work with the president. There were also a number of appointees from the Christian churches, as well as eight women. Accounts vary as to whether the lack of appointees from parties strongly opposed to the president and to the new constitution was due to the unwillingness of these parties to take part or to the president’s intention to exclude them.⁴⁰ One may suspect, perhaps, that both were at play. Large questions surrounded the legitimacy of the newly empowered Shura Council. As shown above only 13 percent had bothered to vote in the election for the 180 original members, and the 90 new ones were seen as tilting the balance even heavier towards the Islamists, and towards loyalty to the president.

In any case, the next presumed step on the road to the establishment of the full constitutional set of elected governing institutions in Egypt would now be the holding of elections for the new lower house of parliament, renamed the Council of Representatives. The Shura Council on 19 January finished a revised law to govern these elections. It kept the system of two-thirds being elected on lists, and one-third in individual constituencies, but opened the possibility for independents to create their own lists or run on party lists. This was based on the transitional Article 231 in the new constitution which had been put there precisely to counter the argument the SCC had used when in June 2012 it dissolved the People’s Assembly on the grounds that the elections had not preserved the principle of equality in that independents were barred from running for two-thirds of the seats. Article 231 stated that both seats elected on lists and those elected in individual constituencies should be open to all, both party members and independents.⁴¹ The law was now passed for approval to the SCC, which duly rejected it on 18 February, once again blocking the progress of the transitional process. The argument this time shifted to a number of rather minor issues, perhaps most prominent of which was a call for a revision of constituency borders, in order to achieve a greater correlation between the number of eligible voters and the number of elected representatives from each constituency.⁴² The five critical points made by the court would perhaps have been seen as reasonable were it not for the SCC’s record in interfering negatively with the transition process, and its members’ rather obvious bias in favor of the old establishment.

The show went on. While the Shura Council was reconsidering the law, an administrative court annulled the president’s announcement that 21 April would be the date for the elections, citing the lack of an election law approved by the SCC.⁴³ On 11 April, the Shura council approved a revised election law in which some adjustments had been made to the constituencies.⁴⁴ On 21 April, the Supreme Administrative Court upheld the lower court’s decision to suspend the elections. By now it had long been clear that elections would have to wait for the fall. Finally, on 25 May, the Supreme Constitutional Court also rejected the new version of the election law, citing continued disagreement with the division of constituencies, and crucially introducing another issue which was that the law did not prohibit the use of slogans with reference to religions, and that this went contrary to the constitution’s concept of citizenship.⁴⁵ By now, in any case, the polarisation of Egyptian political life had reached a level that made any discussion of a compromise on the election law impossible. The process leading to the anti-Mursi demonstrations on 30 June and the military coup on 3 July was well in motion.

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Before we now move to consider the content of the 2012 constitution, it is worth noting a few important aspects of the situation as it developed from February 2011 to July 2013.

To begin with, the talk of “the period when the Muslim Brothers were in power” must be cautioned against. In the period in question, the Brothers and their political party - the FJP - did well in elections, and the two referendums went their way. But at no point in time did they hold anything close to dominant power over the institutions of state power in Egypt. From February to June 2012, the FJP was the leading force in the parliament, controlling 42 percent of the seats in the lower house and an outright majority in the upper house, which although generally powerless, was now tasked, together with the lower house, with choosing the members of the constitutional assembly. In the combined meeting of the two houses the Brothers controlled 47 percent of the seats.

Their power over the parliament was limited by not having an outright majority in the two organs possessing real power which were the lower house and the combined meeting. This meant they would have to seek agreement either with salafi groups to their right or with some of the secular representatives. More importantly the parliament itself had limited powers. The appointment and effectively the direction of the government was wholly in the hands of the SCAF, so that parliament had no influence over the executive power.

And when one Muslim Brother eventually acceded to what was theoretically the highest post in the state, on 30 June 2012, the parliament was already dissolved. Even if the Shura Council continued to exist, having fulfilled its role in electing the constitutional assembly; this upper house was now devoid of powers. Furthermore the SCAF had just removed the president’s power over the military and had taken legislative power for itself. So Mursi became president with both the armed forces and the power to legislate under the full control of the generals.

Furthermore the courts, most especially the Supreme Constitutional Court and the Supreme Administrative Court, acted as if it were in their right to exert veto power from above the elected representatives of the people. Since these institutions in their present shape was not the product of a democratic state, or even a state of law, but had been part and parcel of the autocratic state, this represented a huge problem for the transition towards democratic rule.

The power exercised by the army and the judiciary throughout the transitional period over and above the elected institutions, was part of a more general problem; the fact that the core institutions of the Mubarak state continued in an unreformed shape. The police and the security forces were under the command of an officer from their own ranks and acted or refused to act according to their own agenda⁴⁶ The core triangle of army, police and judiciary could largely rely upon the media, where both the state-owned and most private newspapers and TV channels eventually pulled out all the stops in attacking the actions of the elected parliament and the elected president.⁴⁷ The top layer of the business class who had benefited from the old regime was all too happy to add its resources to fight any real democratisation.

Against these formidable forces the 2011 uprising had only succeeded due to two factors: the temporary unity of the whole spectrum of oppositional voices, and a growing conflict of interests within the established power circles themselves, pitting the military against the business elite. As the revolutionaries split into vehement confrontations between the Brothers and the others, and as the sobering lessons of the Arab spring forged greater coordination among the counter-revolutionaries, now under the undisputed leadership of the army, the tables turned once again. The deep state could prepare for its major attempt to recreate the *status quo ante bellum*.

While it is far too early to write the history of the exact nature of the relationship between the Muslim Brothers and the main secular groups during the transition period, the main features of the following picture seem reasonably clear: After it became manifest that the Muslim Brothers were the dominant force in terms of voter support, and had come out as the strongest force in the short-lived Parliament and the ensuing constitutional assembly, and then won the presidency, the secular forces were unwilling to take part in any form of coalition as junior partners to the Muslim Brotherhood (MB) and its FJP. And when the same forces were dissatisfied with the constitutional assembly that had been named by the elected parliament, their solution was to boycott the assembly in an effort to delegitimise it. Over time a line had become clear which was that the seculars did not accord any legitimacy to the elected institutions as such, tending to view them as negative factors because they were controlled by an ideological opponent. In the end this worked to cement the attitude that the way to change the

political rule was not to campaign for a change through elections but to topple the elected president, along with the transition process he was administering, through popular mobilisation in the streets.

Issues of the constitution

While constitutions, including the Egyptian examples, deal with a wide range of issues, for the purpose of the present article, I will only briefly discuss some main issues that relate directly to the question of secularisation as discussed in part I above.⁴⁸

In the criticism levelled against the constitutional assembly and the draft constitution it produced, one central issue was the question of Sharia, or more broadly the role of religion in the Egyptian state. It was claimed that the Islamists promoted an agenda of aggressive Islamisation of the state.⁴⁹ Yet to start with, it is a striking fact that all major political groups agreed on maintaining the stipulation in Article 2 that not only is Islam the religion of the state but that “the principles of the Islamic Sharia is the main source of legislation”. This had been part of the constitution since 1981⁵⁰ and though removing it was mooted in the debate, no major group pushed such a suggestion. It is noticeable in this regard that in the constitution made after the 2013 military coup by an appointed committee of 50 with only two Islamist members, the same wording was kept in place.⁵¹ Interestingly, this contrasts with Tunisia where the constitutional assembly in which the MB’s counterpart, *al-Nahda*, holds 40 percent of the seats, voted in almost unanimously in January 2014 a constitution with no such mention of the Sharia, merely stating that “Islam is the religion of the state”⁵².

Article 2 was not the end of the story, however. Well aware that its wording since 1981 had had no tangible effects in changing legislation and had only in a limited way affected jurisprudential practice, the salafis tried to push for formulations that would reduce the scope for “interpreting away” the Sharia, as they saw it. At one point the *Hizb al-Nur* tried to remove the term “principles” from Article 2, to make it state squarely the Islamic Sharia was the main source of legislation.⁵³ When this failed to gain traction, the salafis pushed for alternative amendments. One suggestion was an addition stating explicitly that it is forbidden to make legal what is forbidden by Islam. In the end, after hard bargaining, they were able to have included in the final section of the constitution, the Chapter of Final and Transitional Clauses (*Al-ahkam al-khitamiyya wal-intiqaliyya*), under the sub-chapter of General Clauses, a separate article defining what was meant by “the principles of the Islamic Sharia”. Article 219 stated that this term included “its general evidence, its foundational rules and rules of jurisprudence, and its sources accepted by the Sunni schools of jurisprudence”.⁵⁴ Another addition, which was supported also by the Brothers, was a stipulation in Article 4 that the Council of Senior Ulama at al-Azhar, the main institution of Islamic learning in Egypt, should be consulted on all matters pertaining to Islamic Law.⁵⁵

The introduction of these clauses understandably raised fear among secular forces of a more literal interpretation of the Sharia under the new constitution. This was also, undoubtedly, the intention of at least parts of the *salafi* movement. Yet it is not so obvious what difference the new clauses would have meant in practice. For even the formulation in Article 2 by itself could, given sufficient *salafi* strength in the legislative assembly, be used to introduce hard-line Sharia legislation, such as a ban on alcohol and, perceivably, even the *hudud* punishments, including the chopping off of thieves’ hands. Only the balance of forces among the legislators would determine that. And on the other hand, Article 219 was also rather general and open for interpretation.

As for the role of al-Azhar in legislation, the formulation must be seen in light of the whole of Article 4 which is intended to underline the independence and importance of al-Azhar as the central institution of Islamic learning in Egypt. The military rulers in the 1950s had put al-Azhar with all its wealth and lands directly under state control. Successive presidents since then had sought control over the teachings of al-Azhar and, by extension, over the content of Friday sermons in mosques across the country. In this situation, for many pious Egyptian Muslims, the venerable standard-bearer of their religion had been reduced to a parrot of the state, and when the Mubarak regime fell, renewed independence for al-Azhar and the elevation of its status made part of the general call for freedom and dignity. This was certainly the view of the Muslim Brothers who had often been harshly critical of al-Azhar, yet saw in its rejuvenation a vital part of the revival of religion in the country.⁵⁶

An interesting glimpse into what future debates on Sharia-related legislation in the parliament might have looked like is given by a debate on 20 February 2013 in the Shura Council which, by that time, had assumed legislative power on a proposed law regulating bonds. The salafis had called for the

proposal to be presented to the Council of Senior Ulama at al-Azhar to hear their view, in conformity with Article 4 of the constitution. However, the spokesman for the FJP, Isam al-Iryan, retorted that there was no need for that in this case since the views of senior Azhar scholars were already known, and now it was for the elected legislators to make the decision. It is noteworthy that Iryan in the debate even invoked an interpretation of Article 219 that would give the legislature a rather wide scope for deliberation. Mentioning the reference to the Sharia's foundational rules and rules of jurisprudence, he declared that one such rule was the concept of *darura* (necessity) which may guide the choice between several possible interpretations of the Koran and Sunna, and may even, under extreme circumstances, make licit the setting-aside of Sharia injunctions. The MPs were involved in a collective *ijtihad*, he said.⁵⁷ While there may not be a total consensus on this view within the MB, these statements by one of their most prominent spokesman indicates that the idea that the Azhar clause might be used to install a clerical rule reminiscent of the Iranian Guardian Council did not reflect the intentions of the FJP. Furthermore Iryan's reading of Article 219 points to a broad interpretation of the Sharia quite removed from the literalism more common among the salafis.

In sum, it seems clear that the constitution came out somewhat more clearly on the side of strengthening the references of Islam and Islamic law than would have happened had the Islamists not had more than two-thirds of the parliamentary seats and, on that basis, dominated the constitutional assembly. The secular side argued that this showed the unwillingness of the Muslim Brothers to seek consensus. Yet this might seem a bit one-sided, since it presumes that the creation of a consensus would merely involve the MB reaching a hand out to the secular forces. Yet, measured in electoral strength, the Brothers were forced to relate to a salafi bloc of virtually equal size with all secular forces combined, including the remnants of the Mubarak's National Democratic Party (NDP). The resultant constitutional text is, therefore, a compromise formulation vis-à-vis the salafis. It seems likely that the efforts to pull it in a more secular direction were weakened by the on-and-off boycott of, and withdrawal from, the constitutional assembly by many representatives of the secular forces.

Looking at the constitutional text through the lens of the expanded concept of secularisation presented in earlier in this article, perhaps the gravest flaw of the constitution is the extent to which it leaves the military forces, and also the judiciary to a degree, beyond democratic control.

The crucial clauses here are those contained in Article 195 and Article 197. Article 195 determines that the Minister of Defence is the "General Leader" of the Armed Forces (the term used for the president is "Highest Leader"), and that the minister must be chosen from among the officers of the same forces. Article 197 provides for the creation of a National Defence Council (NDC). The council is headed by the president of the republic but has a majority of military officers, 8 out of a total of 15. If the fact that the Minister of the Interior has up to now always been a police officer is taken into account, the civilian minority in the Council is reduced to 6 out of 15. Crucially the NDC is tasked with "discussing the budget of the armed forces", and must be heard in connection with law proposals related to the armed forces. As for the budget, if Article 197 is read in conjunction with Articles 115 and 116, it might seem that the role of the NDC is merely consultative here. For Article 115 states that the Assembly of Representatives has the authority to settle the general budget of the state. In Article 116 it is further specified that this budget must include "all [the state's] revenues and expenditures without exception", that the parliament may make changes in the budget, and that the voting on the budget should take place chapter by chapter". Nevertheless, it seems clear that in the debate it was understood that the details of the military budget would only be discussed by the NDC.⁵⁸ Still, the ambiguity was marked enough that when the new constitution was written in the fall of 2013 under full military supervision, the generals saw to it that Article 203 on the NDC (the equivalent of Article 197 in the 2012 constitution) specified that after discussion in the NDC the budget of the armed forces would be introduced in the general budget as one single figure.

Article 198 added to the establishment of the military as a state within the state, in that it provided for the military judiciary system as an "independent judiciary authority", to adjudicate regarding "all crimes related to the armed forces or its officers or its individuals". And while civilians should in general not be tried before military courts, if they committed crimes "harming the armed forces", they could be.

It is otherwise noteworthy that the new constitution, in line with the previous one, lists the armed forces and the police as separate constitutional powers alongside the legislative, executive and judicial powers under the chapter heading "The General Powers". This is in contrast to the new Tunisian

constitution which does not provide these institutions with a similar status, thereby clearly placing them more directly under the authority of the other powers.⁵⁹

In light of the way the judiciary on several occasions interrupted the transition process, it is interesting also to see the tendency to strengthen the independence of the judiciary in a direction that moves it closer to being, alongside the armed forces, a separate “state within the state”. The 2012 constitution introduces a new article - Article 169 - stating that every judicial authority has its “independent budget”, and that it must be heard in connection with all law proposals relating to its organisation. There is also a small but significant change regarding the Supreme Constitutional Court. Article 176 deals with the composition of the court, then it states that “the law will clarify the authorities, judicial or otherwise, which will nominate [the members of the court], and the way to appoint them [...] and a decision on their appointment will be announced from the president of the republic.” On this point the previous constitution had merely stated that “the law will organise the method for forming the SCC”. Given the hue and cry which was made against any attempt by Mursi to make changes in the top judicial establishment, it is natural to read this as an awkward compromise between judicial authorities pressuring (probably with army support) for greater independence, and the FJP and its allies trying to keep enough government and parliament control to make possible a future reform of the sector. Again, a glance at the post-coup constitution is instructive. With the influence of elected representatives out of the way in the 2014 constitution, any ambiguity is removed from the two points discussed above. It is stated there that the budget of each judicial authority should be included in the state budget as one lump sum (Article 185), and for the SCC that its president will be chosen by the general assembly of the court (*al-jam’iyya al-’amma*) (Article 193), which also, more generally, governs the affairs of the court.

Finally, a central issue with regard to constitutions is the mechanisms they set up for changing the constitution. In the constitution which was finalised under Mursi’s presidency change was made relatively easy. No articles were classified as immune to change. To pass a change merely needed a two-thirds majority in both the upper and the lower houses of parliament followed by confirmation in a referendum (Article 218).

Conclusion

So how should the political struggle be understood during the transitional period? Was it indeed a struggle over secularism versus a project of Islamisation? As we have seen, the dividing line between the main opposing trends roughly conformed to that of Islamist vs. more secular forces. This tells us something about the cultural self-identification of the active groups on each side, of course. However, by itself it tells us fairly little about the social interests they represent, and especially about the issues they are struggling with.

While we have seen that there was some disagreement over the clauses in the constitution dealing with issues related to the Islamic sharia and its role in legislation, the amendments that were made to the constitution in this regard hardly amount to a radical strengthening of the role of the sharia. And crucially, as pointed to, *all* main political groups accepted the retaining of the main formulation in Article 2, that the principles of the Islamic sharia is the main source of legislation. It is, therefore, hard to see how these issues could explain the extreme polarisation of political life in the transitional period.

Rather it would seem more fruitful to think of the political struggle as a three-way competition for long-term and short-term positions of power between three main groups of actors: Islamist groups, secular political groups and the apparatus of state. Of these groups, the first possessed the power of its organisational strength and popular roots, crucially translated in a capacity to win elections. The last group possessed the power of the repressive force of the state, as well as the negative force of its ability to block the effectuation of any political decision not to its liking. The secular political groups, however, had no power to shape the events on its own, and could only influence things by acting in conjunction with one of the two others. It was the temporary alliance between the Islamists and the oppositional secular elite in the early months of 2011 that made possible the toppling of Mubarak. Also on some occasions later in the year, these forces formed together and were able to extract concessions from the then ruling SCAF, such as the dissolution of the parliament, the dissolution of the NDP, and the designing of the election law in a way not to open too much room for the old regime forces. Yet gradually, and especially after their poor performance in the parliamentary elections, the

secular forces started sharply to distance themselves from the Islamists and to gradually slide towards a *de facto* alliance with the military and the judiciary. Nonetheless, even the Islamists, while far stronger than the secular groups, were not strong enough to stand on their own. Having fallen out with the secular groups on the question of the transition process, the Muslim Brothers, in particular, relied on the SCAF sticking to the roadmap. So when the radical wing of the secular groups kept pushing forward with demonstrations demanding rapid advance for the demands of the revolution, the Islamists became worried that a chaotic situation could derail the process towards the establishment of institutions of elected power. This logic also guided its response to manifestations of various social groups pushing their demands. In this context it is worth quoting at some length from the Muslim Brothers' official statement after the killing of 28 people at the Maspero incident (Iskander 2012, 175-176) in October 2011, where demonstrators called for an end to discrimination against Coptic Christians:

All the Egyptian people have grievances and legitimate demands, not only our Christian brothers. Certainly, this is not the right time to claim them. The current government is only transitional, and the general conditions of our country are uniquely chaotic and confused. Even if decrees are issued to pass new laws, they would be reviewed following the formation of the elected parliament. Wisdom dictates patience and prudence: wait for a government elected by the people, which derives its legitimacy from the public, is loyal to the masses, and endeavors to meet their fair and legitimate demands, especially on the eve of free elections that we have always sought, and should make them happen without delay. That would help get the country to a state of stability and legitimacy, popular constitutionalism and the establishment of a sound democratic life.⁶⁰

During late 2012, with most secular forces boycotting the constitutional work and campaigning ever harder against Mursi, the Islamists were not in a position to push the military with regard to the constitutional text. It would seem by this time that if Mursi made any move to rein in the state institutions he was attacked, not only by representatives of these institutions themselves, but by most of the non-Islamist opinion who would accuse him of trying to "ikhwanize" ("brotherize") the state. The immunisation of the military from democratic control in the 2012 constitution most likely reflected this situation.

For their part the entrenched elites running the state institutions seem to have bided their time, while fending off any attempt at democratic reform of their institutions. For the army in particular, which was running the show unchallenged until Mursi became president, it seems a main strategy was to secure in the new set-up of things that the military forces would remain an independent entity in control of its own resources and command structure and with the capacity to interfere in political life should its interests become threatened. Nevertheless, there is no reason to doubt that across the state institutions there was a sustained fear of the Muslim Brothers. This fear had little to do with its Islamism, but everything to do with the fact that the Brothers was the only group independent of the state with a disciplined organisation and deep roots in Egyptian society strong enough to contemplate the herculean task of reforming the state apparatus. The fact that there were only very timid signs of such a reform underway under Mursi, did not make that fear go away. So when the intensifying polarization between the Brothers and the other forces that had supported the 2011 revolution gradually prepared the conditions for an offensive move, the military grasped this opportunity with both hands to try to rid itself completely of its main competition for power.

None of the three groups were, of course, in any way monolithic. They were all riddled with internal contradictions. Islamist parties outside the MB gradually grew more critical of the Mursi presidency, for instance, resulting in the *Nur* Party supporting the July 2013 coup,⁶¹ while the newly formed Strong Egypt party of the former leading Brother Abd al-Mun'im Abu al-Futuh prevaricated.⁶² Likewise, there were divergent interests between the military and the police, and not least between the military and parts of the old political establishment from Mubarak's NDP. Nonetheless, the main direction of events can best be understood by looking at the shifting confrontations and alliances between the three main groups.

Looking at the situation from this angle, it would seem that the attitude towards democratic reform has less to do with particular ideologies, whether Islamist or secular, and more with the perception of

what system would promote one's own group interest. This is why, in the Egyptian post-Mubarak setting, we see the Islamists most committed to the establishment of a system of rule based on popular elections. They knew that they were the best organized and enjoyed the broadest popular support. They also knew that they had no other way of securing sustained influence on political developments. The state institutions have no love lost for democratic institutions. Under pressure they might be willing to accommodate them, provided the "deep state" was insulated from reform instigated by these institutions. If given the opportunity, however, they would reduce these institutions back to what they were under Mubarak, a mere façade for authoritarian rule. As for the secular political groups, they are mostly ideologically committed to democracy. It is just that confronted with a situation where free elections would give power to the alternative elite of the Islamists, their inclination in practice has been first to try to postpone elections and to gain an influence on constitution-making larger than what reflects their degree of popular support, and when this strategy fails, prefer their Islamist competitors to be removed by military force.

It is reasonably clear that the state elites carried over from the Mubarak state are in no way democratically inclined. As for the competing non-state groups, it is of course not as simple as that the Islamists are democrats and the others are not. For one, there were Islamist groups supporting the coup, and seculars opposing it. Over and above that, however, I have tried to show in this article that mixed with the principled ideological stances towards democracy are strong perceptions of self-interest, or more precisely group interest. While most actors are, in principle, in favor of democracy, with the Islamists this has been reinforced in practice by the feeling that elections would bring them to power. For the other groups things worked the other way around.

Of course both groups would agree with the principle that democracy centrally means accepting that those with whom you disagree may win elections. The basic problem then becomes one of faith, but not of excessive religious faith or excessive lack of such faith. It is rather the lack of political faith, *i.e.* there is a pronounced lack of faith in the other. To accept that you have lost elections and now the others will rule for four years, you need to have faith in the system, and trust that those elected to power will not draw up the ladder of democracy behind them; that they will not deprive you of your right to compete on fair terms in order to oust them from their government or parliamentary seats at the next juncture. This, of course, is trust that can only be consolidated over time, through practice. Some say that a new democracy can only be considered settled after power has changed peacefully twice through elections. The initial phases of a democratisation process, then, will always be tense. In order to consolidate the democratic institutions the losers need to gamble on trust that is not yet fully there. In the Egyptian case they chose not to. So we will never know whether, given time, the Islamists would also have stuck to a democratic procedure when the opinion polls were turning against them.⁶³ Although, there were no clear breaks with such a procedure while Mursi was in position. The one debatable case is the November decree making his decisions immune against the courts. Still, there is little reason to doubt that this had one particular purpose, which was to protect the constitutional assembly from being shot down by the SCC, before it could finish its work, thereby putting off for an unknown time the reestablishment of an elected legislature. Moreover, it cannot be ignored here that Mursi was at the time (with an awkward exception for the Shura Council) the only elected authority in the country. The organ he pushed temporarily aside - the SCC - was in its current composition a left-over from Mubarak's time that had already shown its willingness to sabotage the democratic process based on flimsy constitutional argument.

Referring back to my initial discussion of secularization here, it is clear from the discussion of the "Islamic articles" of the constitution that tensions over Islamization vs. secularization of the state, *i.e.* the degree to which religion should inform the laws of the state, can hardly be seen as central to the political struggle that unfolded. However, what if we look at the same struggle through the lens of the expanded understanding of the term secularization suggested above, where "the core of the issue is whether or not the right of decision-making is fully or partially moved away from free deliberation in the public sphere"?

In this sense it is hard to avoid the conclusion that the Islamists, in particular the Muslim Brothers, were more secularizing than the secularists. This is not a judgment of intentions. It merely reflects the fact that for whatever reasons, some of which are discussed above, the Islamists have been the main proponents of moving towards a system in which the main political decisions are subject to free deliberation among elected officials in a parliament and in executive organs also based in elections,

and in which public debate is free as is political and civil society organisation. The self-declared seculars, on the other hand, have been hesitant in supporting the establishment of such elected institutions, and a majority segment of them ended up supporting their abolishment in the coup of July 2013.

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- ¹ Henceforth, the period between these dates will be referred to as «the transitional period».
- ² For a couple of examples, see “The World from Berlin: 'The New Islamization of Egypt Has Arrived'”, *Spiegel Online*, 26 November 2012. www.spiegel.de/international/world/german-media-morsi-power-grab-a-move-toward-egyptian-islamization-a-869320.html, and Mariz Tadros, “Egypt: the Islamization of state policy”. *Open Democracy*, 8 January 2013. www.opendemocracy.net/5050/mariz-tadros/egypt-islamization-of-state-policy
- ³ For a definition, see, www.wordreference.com/definition/secularisation
- ⁴ For a discussion of the two aspects, see Linda Woodhead, 2004, 339ff.
- ⁵ For a discussion of the changes in state-church relations through the Reformation, see, Chris Thornhill, 2011, 88ff.
- ⁶ The reference here is to the nationwide institution of religious learning centred on the thousand-year-old mosque and religious university in Cairo’s medieval city.
- ⁷ See, “Egypt’s constitutional committee marginalises Islamists: Nour Party”, *Ahram Online*, 2. September, 2013. english.ahram.org.eg/News/80570.aspx
- ⁸ See, “Egypt: Activists Arrested for ‘No’ Campaign”, *Human Rights Watch*, 13 January 2014. www.hrw.org/news/2014/01/13/egypt-activists-arrested-no-campaign
- ⁹ See, Menza 2012, 3-5 and Kassem 1999.
- ¹⁰ “Ex-judge to head Egypt reform panel”, *Al Jazeera*, 15 February 2011. www.aljazeera.com/news/middleeast/2011/02/201121563130198336.html
- ¹¹ See, Heba Saleh and Roula Khalaf, “Egypt reform panel under fire from rights groups”, *Financial Times*, 15 February, 2011. www.ft.com/intl/cms/s/0/a3123eb2-392a-11e0-97ca-00144feabdc0.html#axzz3IkJX4huQ
- ¹² See, “Key constitutional amendments announced, Egypt”, *Ahram Online*, 27 February 2011. english.ahram.org.eg/NewsContent/1/64/6537/Egypt/Politics-/Key-constitutional-amendments-announced,-Egypt.aspx
- ¹³ See, “Egypt sets dates for referendum and polls”, *Ahram Online*, 1 March 2011. english.ahram.org.eg/NewsContent/1/64/6693/Egypt/Politics-/Egypt-sets-dates-for-referendum-and-polls.aspx
- The People’s Assembly that had been elected in November and December 2010 was dissolved by a SCAF decree on 13 February 2011 along with the upper house of parliament, the Shura Council, elected in June 2010.
- ¹⁴ See, “Egypt referendum results: 77.2 per cent say 'Yes' to the amendments”, *Ahram Online*, 20 March 2011.
- ¹⁵ See *Constitutional Declaration 2011* at the official government website. www.egypt.gov.eg/english/laws/constitution
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- ¹⁹ In the constitution of the time the president of the republic preserved the right to appoint an additional 90 members. However SCAF, which possessed the prerogatives of the presidency February 2011 to June 2012 never made these appointments, leaving it to Muhammad Mursi to fill the remaining seats in December 2012.
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