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Islamists and Rights Activists in Egypt: The Potential for Convergence

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Egyptian Islamist protester holding a placard reading "No for supra-constitutional principles" in Cairo's Tahrir Square, Egypt - July 2011 © EPA



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There is a need for a clear conceptual framework before one attempts to understand the relationship between Islamists and the human rights movement. The human rights movements in many Western countries combine a social arm with a legal/organizational arm and sometimes have partisan/political backing. As such, a movement is a comprehensive entity that uses its tools and utilizes its representatives to advocate for certain objectives and realize specific gains. The Arab human rights struggle, however, is split along the ideological landscape. Everyone practice it, including Islamists, but its definition exclusively covers non-Islamist rights organizations, since their establishment by, mainly, leftist and Nasserist figures.¹ These organizations can hardly be considered a ‘movement’, not only in quantitative terms, but also in terms of the diversity of issues they tackle without a clear overarching intellectual framework. These organizations have clashing positions on issues such as funding, belong to various kinds of local and external networks, and take different positions vis-à-vis the political regime. Their operational strategies include, inter alia, documentation, solidarity campaigns, legal aid, and campaigning. Observers are somewhat confused when analyzing the Egyptian civil society scene due to the politics of “substitution” or “replacement” used by some parties. By this I mean, for example, that a researcher following the behavior of professional associations could identify how they resort to political performances that are not very different from those of political parties. Analytical frameworks of political parties might in this case prove to be more explanatory for the phenomenon at hand, than analyzing it from the standpoint of being representative professional entities, and so on.

Some studies assumed that rights groups “contributed, even if in small ways and from the tight corner to which they were constrained, to the uprising of 2011.”² After the revolution, some believed that their main role was to monitor the performance of Islamists, and to hold them in check, after their political ascendance. In parallel, their position towards the State was unstable, to the extent of supporting the rebellion against an elected president and welcoming a military intervention in the democratic process, in spite of the historically well-known crackdown of military regimes on human rights. These organizations failed, before the 2011 uprising and at the moment of a huge momentum in 2011 and 2012, to deepen and broaden its support base. They did not heed the hostile signals the State sent to human rights NGOs, regularly and repeatedly, before the

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uprising and right after it. Nor did they notice the clear trajectory towards neutralizing all independent NGOs at large. This is exactly what happened when the Parliament passed the NGOs bill in 2016, and after it was promulgated as Law 70/2017, along with the amendments to the National Human Rights Council law of 2003 that were passed in early July 2017 as well.

This paper cannot account for the whole matrix of complex relationships between Islamists, across the spectrum, and human rights organizations, in each and every sector. The paper, however, seeks to review, in broad brushstrokes, the contours and important turning points of the relationship between the two groups of actors.³

1. Islamists and rights groups... problems and gaps

There are various points of entry and levels of analysis to better understand the relationship among actors in civic and political spaces. The relationship between the Islamist ‘space’ and rights groups can be addressed in light of several problematics, which offer, in turn, a number of analytical tools. Perhaps the most important such problematics are:

1. The ideological problematic:

It is hardly possible to understand the interactions between rights groups and Islamist movements without exploring the moment these groups were established. Most of the leaders who founded the Arab Organization for Human Rights, that soon gave birth to the Egyptian Organization for Human Rights, followed by the dispersal of founders among various platforms, had Marxist and Nasserist backgrounds, at the moment of breakdown of these ideologies. They turned towards human rights as a “Universal” vision, and a less biased alternative ideological framework, on the one hand, and a more “objective”, ‘technocratic’ and ‘professional’ platform on the other hand. It was also the moment the Muslim Brotherhood made their entry into the newly born representative democracy of the early 1980s.



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The emerging human rights actors were viewed in opposition to the prevailing religious perceptions, in terms of jurisprudence, mobilization, and institutions (including official religious institutions). A clear position came through: that religious conceptions and the legacy of Islamic traditions are laden with threats to human rights; they are not suitable except for those who believe in them, and; they come with the possibility of extremism and violating the rights of others.⁴ Early conflicts within that emerging rights faction were concerned with the inclusion of Islamists in the Egyptian Organization for Human Rights. The majority refused, and adhered to a vision of “civil/secular” cohesion of the organization. Meanwhile, various factions in the organization disagreed on foreign funding. This was a moment that will leave its mark on the relationship between the two camps up to the present.

The first generation of rights activists dispersed into various organizations after major disputes in 1993. Most dedicated their efforts to activism and advocacy, while the CIHRS paid special attention to theoretical and intellectual engagement with human rights issues, producing many works in this regard. There is, for example Moataz El Fegiery’s studies about the Muslim Brotherhood and human rights. In his work, he argues for a link between the MB and Shari’a, where Shari’a and Islamic jurisprudence are presented as a threat to human rights, if they are ever codified into law. The CIHRS has had a special focus on Sudan, publishing and celebrating the work of Sudanese academic Abdullah Al-Nai’m, who is a follower of Mahmoud Mohamed Taha. The latter was executed for apostasy in 1983, by the Ja’far Al-Numeri regime, after Shari’a was declared the law of the land in Sudan. In line with Taha’s work, A-Nai’m stresses the need to break free from Islamic jurisprudence or *fiqh*, and to establish a framework that is essentially normative or ethical, rather than a legislative/legalistic one, in making use of the Islamic framework.

In general, there seems to be a confusion between contemporary movements, such as the MB, and the rich legacy of centuries of ethical and legislative theories, judicial precedents, and institutional models, that extended from the Atlantic shores to China. This is also the case in spite of critique that many waged, including the author, against the MB, specifically since the mid-2000s. This critique highlighted the fact that the MB/s knowledge of *fiqh* is, strangely and amusingly,

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little, while their awareness of relevant contemporary ijtiḥad outside Egypt, and even inside it, is really poor. The MB's vision regarding a disciplined and rigorous renewal of Shari'a is almost absent altogether, in spite of decades of rhetoric about the need to applying Shari'a.⁵ The absence of a clear MB vision based on substantial efforts to renew Shari'a was clearly manifested in their confused performance, in this regard, after 2011. They did not possess a clear blueprint for a genuine Islamic mode of governance, how to bridle security agencies, how to enhance public Shura, rebuild platforms of ijtiḥad, liberate the economy from capitalist investment strategies. Instead of recruiting religious institutions, such as Al-Azhar and Darl Al-Oloum for example, to play intellectual, legislative and educational roles, the MB gambled instead on mobilizing young people in these institutions.

There was a prevalent intellectual confusion due to the ambiguity of how truly "Islamist" the MB movement was on the one hand and the possibilities of a renewal of fiqh on the other hand. Thus, human rights NGOs kept on looking in for humanist philosophies in the common traditions, while dismissing fiqh as a non-renewable framework. Rights groups that took over this intellectual task, beside the operational rights advocacy struggles, did not produce a substantial body of work that teases out a distinct stream of "Arab" critique for the modernist human rights approach, matching the ones produced by critical Western voices, within their cultural sphere. This was caused by two factors: First, rights activists are not adequately familiar with the Islamic scholarly tradition and fiqh, given their Leftist and Nasserist backgrounds. They kept on looking for suitable philosophical frameworks for human rights in the common cultural heritage to enable a "secular" relationship to the past.⁶ Second, rights groups, since they were founded, are ontologically grounded in Modernism as an intellectual framework, after the Socialist regime's crisis. This consequently made them wedded to a legalistic approach, which necessitates accepting state sovereignty as part of the imaginary of methodological nationalism.⁷ The main tool in this regard is international law in addition to advocacy, monitoring, and accountability, especially within the framework of the United Nations; all of which fall squarely under the framework of the Nation-State.

This trend was established by Mohamed Al-Sayed Saed. His interventions were the

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most important stream within that trend. He managed, along with a group of researchers, albeit in the discipline of philosophy, in making CIHRS with its activities and publications, a space for thinking and intellectual deliberation. His openness as a thinker and an organizer allowed dialogue, and the reception of voices from across a wide spectrum, in events CIHRS hosted.⁸ It is noteworthy that Saed was keen since his early writings in the 1990s, to elaborate on the relationship between Islam and Human Rights. He published a paper in the mid-90s in the first volume of *Ruwaq Arabi*. Before he died, he published a paper about an Islamist project rooted in the Palestinian cause, for world peace. He did not possess, however, enough religious knowledge to engage with the problematics that rights groups pointed out in the Islamist approach. His work is, thus, ‘about’ the issue, not substantially engaged with the issue.⁹ It did not produce a paradigm shift for the parties concerned. Nor did it lead to consensus on commonalities, or an agreement on the possibility of collective work for the movements that remained adversaries for years. Each movement kept to its political and intellectual grounds, perhaps because the shift from the Left to the human rights sphere was the maximum distance most rights groups founders were able to cross ideologically and due to the fact that most were then no longer young.¹⁰

Ideologically speaking, human rights actors suffered a hole in their critical approach. Their critique of Islamist discourse and scholarly tradition is not comparable to what they could have been able to achieve had they also critiqued the Western human rights paradigm. Their critical discourse had opted not to consider Islam a parallel universal human rights approach, nor to consider it a rival human rights approach. This is very different from what Anthony Chase, from the Western viewpoint, or Abdulaziz Sachedina, from an Islamist viewpoint presented in their works.¹¹ The dominant critical discourse among Egyptian rights actors did not explore the specificity of the Western genealogy of the human rights discourse, as Talal Assad did, and how it revolved around the individual’s sovereignty in parallel to state sovereignty. The latter remained the ultimate reference under which the human rights logic worked in practice, despite hypotheses about the ‘Universality’ of these rights.¹² Under such a framework, still, the state maintained the right to declare a state of exception at its own discretion (the sovereignty principle), and at such times all guarantees of rights are reduced to their absolute



minimum.¹³

The proponents of the human rights system who adopt the Universal Declaration of Human Rights (UDHR) have simply turned this text into an ultimate reference. They assume that applying Shari'a, as Islamists demand, would inevitably erode citizenship; that reaching political power is the highest priority of Islamists; and that they are not really worried about human rights. While Islamists are criticized as being very ideological, most human rights activists describe Islamists as "*Muta'aslimun*[persons who manipulate Islam to their ends]". They keep cautioning against the "despotism of the majority", while also reminding everyone about the danger of Islamists, and that they are against freedom of expression, women rights, minority rights, and personal rights: as if the danger of the Islamist Ideology is the main challenge.¹⁴

In "After Evil", Robert Meister noted that the human rights regime became an "Ideology" in itself. It is not about rights groups versus social and political movements. It is about a conflict between ideologies where rights groups cannot be categorized under the banner of, say, Liberalism. As such, rights groups occupy their own ideological niche.¹⁵

This is a very important point of departure if we want to 'genealogically' understand the rights movement. With this in mind, we can see how the pioneering human rights activists of the 1980s in Egypt moved from an ideological regime towards the human rights ideology, embracing relevant political positions and expectations from the political realm, and how it wishes to radically change this sphere, especially when engaging with Islamists. We can also see how far it accepts to adapt to the status quo, and to use the channels provided by despotic and totalitarian regimes to support specific rights agendas, especially women rights, as we will detail later this study. Meister also raised the question of the moral problematic when human rights is perceived as "post-religious", if we may say so, since this exclusion of religion does not resolve the very problematic of the moral grounding of rights.

Samuel Moyn suggests that the human rights movement is premised on an ethical promise that appeared after the political failure of grand ideologies rooted in the emergence of modern nation-states and born of the enlightenment era claims to



universality. According to this understanding, universality should have founded “an international community” through the meeting of willing states. It is this very state that repeatedly violated the rights of citizens, and it is the same state that practiced sovereignty through waging wars of genocide, throughout the past decades and until the present. Therefore, the global rights movement was not able to break with political calculations, and it was not able to rise above them. Moyn, through an elaborate analysis, suggests that the quest for universality and attempts to tackle recurrent genocides contributed to the development and the rise of the concept of “transitional justice”. It is a concept that the global human rights movement saw as combining an ethical essence and the possibility for engaging justice in through negotiations, rather than radical interventions.¹⁶

The insistence of Egyptian and Arab rights groups on a “borrowed” universality that lacks fresh contributions to the critique of this universality or questioning its concepts, led them to occupy the space of deliberating on the dangers of Shari’a, instead of critiquing the philosophy of the state.¹⁷ These rights groups do not give Shari’a enough credit as part of the cultural tradition that formulated perceptions of “the legal”.¹⁸ And while they had effectively chosen, as stated earlier, to be elitist and stay away from populism, they did not succeed during the popular uprising post January 2011, or after the brutal removal and neutralization of the MB to lay down deeper roots and move from the space of organizations to the realm of movements. Islamist movements had also failed in institutionalizing their rights-based activities, that were exclusively concerned with the cases of their own members, beside their initial inability to conceptualize the ‘political’, ending up in a state of confusion torn between utopian ideas and pragmatic actions.

2. The problematic of structure:

Since the 1980s, social sciences researchers differentiated between old and new social movements. Labour movements were considered a classic example of old movements that are based on extensive recruitment with strict membership roles; they are hard to leave; they live long, they use strategies of mobilization; and are based on an ideological vision and a hierarchical structure. Islamist movements are thus an old social movement given the common characteristics. The new movements are the ones that revolve around specific demands that they are



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formed form to push for; they resort to innovative means for mobilization that do not rely on membership, while relying sometimes just on support functions and advocacy activities; they change their goals more flexibly; are not grounded in rigid ideologies; and it is hard for them to enter alliances, to merge, or transform their nature.¹⁹

There is a body of literature that criticizes this rigid dichotomy. It considered that class and social divisions, which social movements formed to challenge, changed in nature as modernization evolved and globalization spread. Therefore, both old and new movements alike are facing a new reality that pushes them towards new protest tactics, in the context of shifting lines of separation between the two categories. This also led to a whole new plethora of mobilization tools, means of practicing opposition, and the extension of alliances beyond borders. The old and new movements also started attracting a plurality of classes. They are not closed as before to any specific community, faction, or class.²⁰

A third categorization soon made its entry: the “non-movements”. The most prominent scholar who applied the concept to the youth protests in Egypt and Iran is Asef Bayat. Such protests are spontaneous and use innovative and diverse modes of mobilization with sustained pressure that seeks to induce change. Non-movements disappear, leaving behind pools of expertise that help form new non-movements without necessarily repeating earlier patterns. This is something Bayat also described as: Street politics or daily life politics.²¹

What concerns us here is to try and gauge the contours of rights groups and socio-political Islamic movements. Various rights organization appeared in the mid-1980s. The first one was the Egyptian Organization for Human Rights. Years later, the CIHRS was founded in 1993. The Arab Network for Human Rights Information (ANHRI) was formed in 2004. Many organizations and associations appeared, and some of them concerned themselves with specific themes, like women or labour rights. It is hardly possible to say with any certainty that there is an organized movement for human rights in Egypt. We can, however, refer to how these organizations, combined, approach the concept of new social movements of “limited size”, that lack a considerable societal backing in comparison to the Islamic movement (the MB in particular). It is not necessary to even compare the size of membership and capacity to mobilize between the two sides; the rights



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groups and the Islamist movements. The Islamist movement engaged formal political action within partisan politics since the mid-1980s. They politicized civic and professional unions after controlling their boards. Rights groups, on the other hand, kept moving within the civil society framework. Some of them became active on the international level through conferences and global rights coalitions and networks.

This difference in structure caused a perpetual tension in the relationship between the two categories of actors, even when they cooperated to coordinate protests after the 2003 US invasion of Iraq. That moment mobilized the public sphere to some extent, and “Kefaya” movement was created. Throughout the years, the substantial weight and influence of the Muslim Brotherhood remained the reason for this movement to resort to independent one-sided decisions that clashed with agreements reached at the street level among grassroots. It kept justifying this by stating that it was the movement that had paid the highest price in confrontations, a position that it thought gave the movement the right to last-minute changes in agreements in certain situations. This disparity, and contradiction sometimes, between the structure and weight of the two groups of actors, the Islamists and the rights-based groups, had its repercussions on the nature of the relationship between the two sides. It also affected the chances of defending common interests by seizing available political opportunities.

Tarrow assumed that movements usually seek to push their demands forward whenever an opportunity appears in the political arena.²² There are no clear ways to map such opportunities or to measure the odds of success or failure in the case of authoritarian regimes. In this regard, Tarrow and Tilly noticed that conditions through which social movements harvest gains from political opportunities, does include the plurality of power holders in the regime, the instability of ruling political coalitions, and the openness of the regime to include new players.²³ These are conditions not available in totalitarian regimes. As such, instead of “taking advantage of available opportunities”, “opportunism” prevailed among various actors, who sought to present themselves to the political authority as replacements for the other group of actors, in spite of the disparity in their influence.²⁴ This aborted, over the last 30 years, the opportunity to build broad coalitions. It undermined trust between civil and political actors, and contributed



to the absence of a culture of negotiation and long-term dialogue among various actors in the civil and political spheres.²⁵

3. The life-subjectivity-personal problematic:

For almost anyone who had a direct experience with both rights' activists and Islamists, there is a clear difference between the two factions both in everyday practices and lifestyles. This is something that remains unstudied in the literature addressing the tense relationship between the two factions. This behavioural difference was not altered by the golden opportunity provided by the January 25th revolutionary moment, nor by the 18 days following days in Tahrir square - with what that entailed in terms of crossing borders between the two groups, and standing on common grounds in terms of dreams and struggles.

Becoming part of the square did not depend on the ideology one believed in; it was thus a good opportunity to build a new map of relationships and coalitions. However, soon after the parties became divided because of the proposed constitutional amendments, the moment of the square was lost for good. Rights groups were present in the square as individuals, and not under their organizational banners. This was the right measure and in line with their professional and impartiality prerogatives as defenders of human rights. However, many prominent figures in these groups adopted anti-Islamist public positions early on, and they joined certain camps in various political situation. In other words, they crossed the line between professional neutrality and direct intervention. This made these groups and those defenders look as if they were both the monitor and the adversary at the same time. Meanwhile, daily hostile verbal exchanges between Islamist activists and rights actors flared up from 2011 to 2013. This led the grassroots level of the Islamist movement to see enemies in the rights groups, except for figures that steered the relationship wisely and fulfilled their roles as rights actors without entering the direct political struggle arena. Ahmed Saif Al-Islam was the most prominent example of such people. The Islamists went really far in smearing prominent figures in the rights groups, especially after the Ittihadiya presidential palace confrontations. This went as far



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as sourcing and then disseminating private videos of prominent rights' activists and their private social events in order to discredit them and question their ethics. Young Islamists for example widely posted personal videos for Gamal Eid on twitter).

Enmity and the search for opportunities of doing harm went even as far as archiving positions of prominent rights activists on Twitter and Facebook, starting January 2013. These positions were later used against those who supported public protests on 30th June (these were demonstrations against President Mohammad Morsi and the MB) when they condemned Rab'aa and following massacres, to remind them that they supported protests that ultimately “betrayed the democratic process in July 3rd and as such have some of the blood spilled on their hands”. In return, the MBs are reminded of Ittihadiya Presidential palace events half way through Morsi's one year in office and of their demonstrators who used verbal violence against their adversaries in the street, and how they physically assaulted them in some situations, which led to injuries in various governorates, especially Alexandria. Another recurrent narrative is the condemnation of how the MBs betrayed the revolution and hijacked it since the 18 days in Tahrir square, no less, when they communicated with the, then head of the Intelligence Service, Omar Soliman, and of how they then took over as the main player and excluded others, how they mobilized and resorted to shows of force in the elections, then “betrayal” in Mohamed Mahmoud events between largely secular protesters and security forces, how they monopolized decision-making through the Parliament, while drafting the 2012 Constitution, the Morsi Constitutional Declaration, etc. Some even insist, while condemning Rab'aa massacre as a central and symbolic tragedy of the Muslim Brotherhood, on hinting at how the sit-in included armed persons and that the MB was exploiting the death of their supporters. So, while MB young activists commemorate the Rab'aa massacre, young rights activists commemorate the Mohamed Mahmoud and Ittihadiya events, and so on and so forth in a vicious circle.

Mustonen tried to explore the perspectives of “lifestyle” and their influence on political adversaries and how the upper cosmopolitan class became hostile to the January 2011 revolt especially after the Islamist rise, given the big differences in their everyday lives, and imagining Islamists as “others”, who do not represent the



‘real’ Egypt.²⁶ It is possible to conduct a similar comparison through another study, about the role of differing lifestyles in creating an adversary relationship between rights groups and Islamists. There is no systemic or rigorous research of this renewed animosity, on the level of the personal consciousness, within the ranks of both parties. The author, however, given her involvement in following social media platforms for years, possesses many examples that are relevant to how this relationship was influenced in the virtual/personal space. Such a space will need more discipline, and will be one of the hardest reconciliations ahead, in terms of managing and controlling, when the moment comes, in the future, for the sake of a general civil reconciliation.

2. 25 January uprising and beyond, accumulating disagreements and renewed conflicts

The Islamist movement, as a political faction, with the Muslim Brotherhood at its heart, was not particularly occupied with organized and institutionalized human rights work. For decades, the movement suffered systematic violations and persecution, since the assassination of its founder, Hassan Al-Banna in 1949, then throughout Nasser’s conflict and repression with the MB after the 1952 Revolution. The MB rights advocacy was channelled through professional unions, especially the Bar Association, followed by solidarity from the Engineers and Physicians Syndicates with their detained members. Before 2011, there had been a sustained dialogue between the MB and human rights organizations to document (and/or campaign against) violations, detentions, torture, and military trials.

Three organizations with Islamist links were established in the early 2000s to work on human rights. The first one was Sawasiya Center, that was founded in 2004 and stayed active until 2013, when its founder and director, lawyer Abdelmon`iem Abdelmaqsoud who belonged to the MB, was arrested. Sawasiya issued many reports documenting various types of violations, including against students; it monitored and exposed violations in parliamentary and professional unions elections; it documented police actions, violations against Egyptians abroad and the Palestinians under occupation, and Muslims in the West. Sawasiya stayed



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removed from the concerns of other rights groups, because of ideological conflicts and the fact that it was mainly concerned with cases of detainees and torture cases. It did not challenge or contribute to a broad conception of the human rights agenda especially when it comes to basic citizen or labour rights.²⁷

The second organization was the Victims Center for Human Rights (Dahaya) in Alexandria. It was founded in 2009 at a personal initiative of Haytham Abu Khalil, in partnership with Ibrahim Al-Za'farani, who explicitly declared that the Center was not run by the Muslim Brotherhood.²⁸ The Center organized events and participated in various collective activities within the rights movement, openly, in 2009 and 2010. It also reached out to many rights groups, more than Sawasiya ever did. Then by the end of 2010 it closed down though Abu Khalil remained active in civil society.²⁹ He criticized the post-2011 MB political performance, and later on publicly resigned from the group. Away from a professional assessment of Islamist opposition media platforms abroad after 2013, the show hosted by Abu Khalil, Hakna Kolna or Our Right, All of US, on Al-Sharq Channel, was probably unique in the Arab media scene because it specialized in highlighting rights violations³⁰

The third and last organization is El-Shehab Center in Alexandria, founded in 2006. The founder, Khalaf Bayoumy, a lawyer, had earlier managed the MB detainees' committee in Alexandria. He used to monitor arbitrary detention and torture, while providing legal aid for the families of detainees. After the public space opened up in 2011, he founded the Egyptian Association for Legal Studies and Development (El-Shehab) in 2012. He then left Egypt after the military seized power, but El-Shehab remains active in exile, from Istanbul. El-Shehab work, in general, lacked professional documentation capacity and the ability to utilize available international mechanisms, nor was it able to reach out to prominent international rights organizations.³¹

It is perhaps useful to trace the contours of conflict between rights defenders and Islamists (MB at the forefront of the latter group) after 2011. In this conflict, the crises were recurrent, and their details reflected the dynamics of the uneasy relationship between the two groups.

The first disagreement within the political and rights arenas was centred on the 2011 Constitutional amendments. Some Liberal and Leftist groups stressed the



need for a new constitution. The Islamist movements, however, preferred a restricted amendment for the constitution and to work on a new constitution later on. The Supreme Council of the Armed Forces (SCAF) first promised an amendment through a complementary constitutional declaration but then after a referendum supported these specific amendments the SCAF added many articles that were not part of the original document voted on and issued an almost new constitution. Though the SCAF, thus, made it clear that its authority rises above that of the voters and the constitution, the quick developments and conflicts among other political actors did not allow for a serious alignment, in one camp, strong enough to confront the SCAF.

Soon after, the government cracked down on NGOs. A total of 43 staff members from several NGOs, including 19 Americans, faced a criminal trial over charges that included receiving funding from foreign entities without a government permit. In spite the fact that a judicial decision was issued banning the travel of those charged in the case, the foreign suspects returned to their countries onboard a US military plane in March 2012 under ambiguous legal conditions.³² The MB criticized the move by the ruling SCAF in a statement issued by spokesperson Mahmoud Ghozlan, who explicitly condemned the way the suspects left the country. The official media repackaged the story when the case was reopened in March 2016, claiming that the plane that took the Americans abroad was simply a 'private' jet and not a military aircraft, while accusing the MB of facilitating the suspects' travel and undermining national security.³³

The political events of 2011 and 2012 moved fast and in an intensive manner until June 2013 when the military seized power with the support of civilian factions, the Grand Imam of Al-Azhar and the Coptic Pope. Not all events constituted sites of conflict and disagreement between rights organizations and the Islamist movement. Some of the individuals belonging to both camps differed regarding their positions in street protests, shared demonstrations and clashes. They engaged in verbal attacks through social media platforms. There were not any major events, however, before the deadly protest of Mohamed Mahmoud, except for the Maspuro Massacre of Coptic protesters that the Church opted to ignore and avoid a confrontation with the SCAF.

It is important to focus some attention on the trajectory of fact-finding



followed. We will use these milestones to shine a light on the turns and twists of the relationship between rights groups and Islamists, especially the MB.

Mohamed Mahmoud protests in November 2011 were preceded by demonstrations in 28 October, where various political factions demanded the speedy transfer of power from the military to an elected civilian government and president before April 2012. Then a meeting was held on 2 November 2011 to explore the negative ramifications of the Al-Salmi document. The document contained a constitutional framework put together by then deputy prime minister Ali Al-Salmi in the summer of 2011 to control the transition process including the formation of the Constituent Assembly and to firewall the interests and autonomy of the Armed Forces. Islamists who expected to win the parliamentary elections, scheduled for November 2011, and form this Assembly were incensed. Some rights advocates suspected the document could cement the Islamist-Military alliance, holding Islamists responsible for what they described as “the violations of SCAF against the civil state”. See in Arabic [http://www.egyptianpresssyndicate.org/News/138253.aspx](#)

[http://www.egyptianpresssyndicate.org/News/138253.aspx](#) During the meeting, representatives of various political factions including the MB and the Wasat Party agreed to take part in a demonstration on 18 November. MB spokesperson Ghozlan reaffirmed that position on 17 November. See in Arabic: [http://www.egyptianpresssyndicate.org/News/138253.aspx](#) The 6 April Movement and other revolutionary groups said they intended to take part as well. On the day of protests, disagreements erupted when Islamist political groups left the scene by the end of the day fearing that prolonged protests could delay the parliamentary elections that were to be held few days later. They left behind members of youth movements and martyrs’ families in a sit-in in Tahrir square. Protesters and police forces clashed near the Ministry of Interior’s headquarters until 25 November. The police used rubber and live bullets and tear gas. Scores of protesters were killed, hundreds injured while many suffered greatly and almost suffocated to death because of the excessive use of tear gas.³⁴ Amnesty International called for ceasing exports of arms and tear gas to the Egyptian Ministry of Interior until the police is restructured.³⁵



Various factions and individuals who participated in these protests differ bitterly on the details of what happened. Some factions blamed the MB for what their “absence and abandoning the revolutionaries”. The author has her personal account of the events as an eyewitness. She witnessed the participation of a variety of actors, including young MB and Salafi activists. They were joined by groups of teenagers from poor neighbourhoods and slums, who had long nursed their resentment against police personnel. From pupils to former criminal convicts, the protests brought together lots of different people who recognized in the revolutionary moment a chance for sublimation, pride, and reintegration. In other words, it was more like an Intifada that gained momentum on account of the many calls from various political movements to go to the square. The MB position was clear, notwithstanding accusations of betrayal from other factions. The MB agreed to take part in the demonstration that preceded the clashes then issued two statements during the week-long bloody events explicitly and strongly condemning the Ministry of Interior and stressing the importance of holding the parliamentary elections as scheduled. The statement blamed unidentified parties for escalating the protests in order to postpone the elections. The MB called on the SCAF to ensure security and fulfil agreements and promises related to the elections.³⁶ It is no longer debatable that the young MB members in 2011-2013 did not heed leadership decisions, and that many of them were present at the protests, driven by their generational identity and preferences.³⁷

The protests were examined by a fact-finding committee that President Morsi decreed to investigate the events from January 2011 to June 2012, the date he took office. Ahmed Ragheb, a rights activist and a member of this committee, said their report that was to be sent to the President in early January 2013 included a lot of new evidence that would have led to reopening trials “provided that there was the necessary political will”. The report took about six months to prepare by 17 fact-finding teams confirmed, according to Ragheb, the involvement of police and military personnel in using live ammunition and birdshots against demonstrators. State agencies and government-owned TV declined to share evidence they had regarding the killing of protestors. The report indicated that the tear gas used by the police forces during the protests killed several demonstrators by suffocation, because the police violated pertinent rules of engagement and use of gas.



Ragheb declined to reveal the names and identities of suspects, to keep information confidential, and fearing that some of them might flee (especially given that the report was not issued yet when he gave this official statement). Among the most prominent recommendations of the report was calling for unifying the investigation and prosecution authority involved in all cases, and to avoid any discrimination among suspects in terms of which courts they are referred to, be it military or civilian. There was also a recommendation to send all records and evidence to dedicated investigation units. It also called for a revision of the Police Law and the Ministerial Decision on the use of fire arms in order to make both consistent with international human rights treaties and conventions. Finally, the committee asked that investigations in the virginity tests case be reopened and that recommendation was the most opposed by the representatives of the police and army in the committee. See in Arabic: www.almazryalyoum.com/news/details/268976

It is noteworthy in this context, that the committee condemned the army and police, and demanded accountability. This report, however, was not published. President Morsi received the report on the 2 January 2013 from the committee and “assigned... Judge Mohamed Ezzat Shurbas, the head of the committee and Judge Omar Marwan the Secretary General of the committee, to deliver the report and its attachments to the Public Prosecutor Office to act upon it”. See in Arabic: www.ahram.org.eg/archive/Al-Mashhad-Al-Syiassy/News/192281.aspx Some committee members were told by political and rights activists when they repeatedly asked the Presidential team about the report, that the President trusted the army commanders and would not release the report.³⁸ Before the end of January, Human Rights Watch demanded that the report be published in order to guarantee victim rights. Parts of the report, however, were first See in Arabic: gate.ahram.org.eg/News/299636.aspx leaked by



the Muslim Brotherhood to Al-Jazeera and consequently broadcast after the Rab’aa massacre (August 2013), when the Islamist movement had become embroiled in a bloody conflict with the regime that was being formed at the time after Morsi was removed from power on 3 July 2013. See in Arabic: <https://www.youtube.com/watch?v=20...> "..."

The main objective of the Islamist Movement in 2011 was to ensure that parliamentary elections are held. But after they secured their landslide victory, this Parliament did not hold for long. Conflicts erupted about the Constituent Assembly that was chosen then dissolved, only to be formed for a second time to the renewed dissatisfaction of some parties. In what follows, we focus on the performance of the so-called “Parliament of the Muslim Brotherhood”, with respect to human rights issues. We will address three important cases: Port Said stadium riots, NGOs Law, and enforcing international Human Rights mechanisms.

A fact-finding committee was formed by the Parliament to investigate the deadly events in Port Said stadium. When the committee only released a weak report, almost all observers and interested parties became so angry that the committee claimed that it was working on a final report that should reveal the facts about the hideous murders in the stadium This final report was never issued. The initial short report was discussed in Parliament in February 2012 and held the Port Said Police Department and the Central Security Section of the Canal Governorates, fully responsible for the death of football fans. It accused them of grave negligence, but the Port Said Criminal Court which handled the case put Al-Masry Club fans on trial and sentenced 11 defendants to death in June 2015. It also ordered that 10 others serve life sentences, sent 10 to maximum security prisons, and 12 to serve 5-year terms. The convicts included the Port Said Head of Security and other police officials. In February 2017, the Egyptian Court of Cassation upheld the 11 death sentences. The case was judicially closed. See in Arabic: <https://www.youtube.com/watch?v=20...> "..."

The second case where the MB Parliament could have played a game changing role was the civil associations law. Very tough negotiations occurred in parliamentary committees with government representatives from the Ministry of



Social Solidarity. Meanwhile, security and intelligence agencies pressed all relevant parties to sustain their influence in this field, especially their almost full control over the flow of foreign funds to domestic NGOs. The MB managed this time to reach an acceptable bill in a way consistent with the demands of most NGOs, according to rights groups. The Parliament, however, was dissolved before the law was promulgated.³⁹

The third case is related to the ratification of the Rome Statute of the International Criminal Court. Although Egypt signed the Statute on 26 December 2000, it had not ratified it till then, giving the ICC no jurisdiction over Egypt, let alone the bloody events since 2011. Ratifying the ICC treaty became a sensitive issue because of ongoing debates after repeated violations by security and military agencies against street protesters and the rising number of people who have been disappeared since the revolution broke out. The “We will find them” campaign was established to look for the persons who disappeared during the revolution. It kept on working for a long time, then it could not cope with challenges and rising counterrevolutionary pressures. The enforced disappearance phenomenon took a brutal turn after 2013. See in Arabic an interview on this campaign with prominent human rights lawyer Ahmad Seif Al-Islam and activist Nermine Youssri on *Naharik Said* talk show, Nile TV, 13 August 2012, available at

www.youtube.com/watch?v=GFN9zzp4aMs. See in Arabic: www.siyassa.org.eg/News/1581.aspx In June 2012 the MB-dominated parliament refused a call from a rights coalition to ratify the Rome Statute. Then when the lower house was dissolved by a court order, Shura Council took over the legislative functions under a decree from President Morsi. It again refused to ratify the Rome Statute claiming that the ICC was a politicized body.⁴⁰ Ironically, the MB attempted to raise a case with the ICC after the military takeover, but the court declined the request in early 2014. Judge Hisham Al-Bastawisi raised the question of ratification again in early 2018, but to no avail. See in Arabic: www.siyassa.org.eg/News/1581.aspx

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In summary, this political roller coaster produced more disagreements and discord among various political factions. The parliament was dissolved before Morsi came to office. The fact-finding committees he established did not yield any results on the fate of detainees, whose whereabouts were unknown, nor on accountability for the violent acts that occurred since January 2011. The Committee on detainees did not achieve what it set out to do, primarily accounting for the fate of all detainees and ensuring their release. The fact-finding committee on violent acts submitted a report to the presidency but President Morsi refused to publish it. In April 2013, the Egyptian *Shorouk* and the British *Guardian*, published excerpts from a leaked copy of the report on the illegal use of live ammunition by the police, and torture against demonstrators detained by the army.

The Presidency, no doubt, faced pressures and engaged in a delicate balancing act with security agencies and the armed forces that were antagonistic. Attempts to change the makeup of the Constituent Assembly reached a deadlock. Fearing the Assembly might be dissolved at the hands of the judiciary, the MB opted to a consultative committee for the Assembly that included ten members, including prominent professors of Constitutional Law (e.g. Dr. Tharwat Badawi, Dr. Souad Al-Sharqawi, and Dr. Ahmed Kamal Abulmagd, who should have been members of the Constituent Assembly itself in the first place), beside political science professors and public intellectual figures. The author was chosen as a member in this committee that sought to broaden the margin of freedoms in the constitutional draft. The work of the committee faced many obstacles, including from the Muslim Brotherhood, especially the repeated changes in the draft and how the members of the Constituent Assembly were not keen to be in direct communication with the committee. Assembly speaker Judge Hossam Al-Ghiriani turned down a request that the committee present around 60 amendments to the plenary after six weeks of continuous work. This all led eight members of the committee, including the author, to resign after issuing a public statement. Committee members faced a wave of bitter criticism from MB followers after the extensive media coverage of this statement.⁴¹

The human rights community did not allow Morsi enough time to consolidate his grip on a power that has been long in the hands of deep state institutions, huge economic interests, remnants of the former regime, and security agencies. One



hundred days into Morsi’s presidency, rights groups issued a statement criticizing him (perhaps as a reaction to claims by his supporters that there was a 100-day plan, a declaration which in itself betrayed their political shallowness). See in Arabic: www.cihrs.org/?p=4523

Bakinam Al-Sharqawi, a President’s Assistant, invited a group of rights advocates to an extended discussion, over several rounds, about how to reform the Ministry of Interior, especially the members of the National Initiative for Police Reform (NIPR) that took off in 2011.⁴² When Morsi suddenly issued a Constitutional Declaration, various political actors protested the presidential performance and soon thereafter supporters and opponents clashed at the presidential Ittihadiya palace. This led the rights advocates to withdraw from the dialogue with the presidency.

During the Ittihadiya events, MB supporters attacked the tents of peaceful protesters camped in front of the presidential palace. After many hours, more MB opponents and proponents came to the area and clashes broke out. Thugs escalated the situation and tried to break into the palace in what some MB members described as the first coup attempt against president Morsi. Eight MB supporters were killed. The ninth death was that of opposition activist Al-Husseini Abu-Deif, for whose murder the MB was blamed.

The Ittihadiya events were a turning point in the antagonistic relationship between rights activists and MB members. Torture or physical assault cases were documented. The most prominent one was the torture of Ola Shahba, an activist who was detained and beaten for hours by MB supporters until activist Mohamed Al-Qassas intervened and got her released. A Christian Copt was also held and beaten up. Furious rights groups issued several statements, demanding (again) that a fact-finding commission be established. They even threatened President Morsi to raise the issue internationally, but the political events led the country quickly to what happened on 30 June 2013. See in Arabic: goo.gl/219d1h



The 3rd July forceful removal of the elected government led by Morsi was not something that many of those who took part in the 30th June protests particularly expected or foresaw, but the quickly unfolding events do not absolve rights groups and advocates from their partial responsibility for the ultimate outcome as the military seized power. Some prominent rights activists publicly supported the *Tamarodor* Rebellion campaign, a position that politicized human rights action and raised question about the boundaries of political engagement for rights advocates and the significance of their active non-alignment or impartiality with respect to political factions and parties). On 27th June, a time of heightened mobilization, 20 rights groups issued a press release claiming that Morsi’s one year in power witnessed an unprecedented scale of human rights violations. See in Arabic: www.egyptianpresssyndicate.org/2013/06/27/20-organisations-condemn-morsi%E2%80%99s-one-year-in-power-witnessed-an-unprecedented-scale-of-human-rights-violations goo.gl/BSDTzX With their long experience in documenting violations by security agencies, they should have been aware of how such practices were committed by police and army personnel. Such an understanding would not fully exonerate the MB from using violence in some confrontations with revolutionary movements. Consequently, they should not have believed each and every accusation against the MB, especially when these allegations came from their nemeses or lacked any credible evidence.

The Rab’aa massacre was a milestone at which rights groups and advocates returned to their position of opposition to the regime after a period of oscillation and volatility following the coup of 3 July. The coup was followed by recurrent massacres from the Republican Guard barracks to the Military Parade Platform where people were killed by the Army and the Police, before reaching the dramatic turning point of Rab’aa and the bloody protests at Al-Fath mosque.

Some rights groups kept on insisting that the post 3 July regime was legitimate enough since it rested on the public 30 June demonstrations. It is unfortunate that women rights organizations appealed to the interim president Adly Mansour who took office with military support, See in Arabic: www.egyptianpresssyndicate.org/2013/06/16/16-organisations-appeal-to-adly-mansour goo.gl/mQ9Kmp They called upon him to increase the representation of women and hold all those who committed crimes against the country under Mubarak, SCAF, and Morsi,



accountable, and ensuring that the police forces are restructured. “While stating our concern over the growing political role of the military institution, at the expense of democracy and national security process,”. It was naïve that these organizations expected from interim President Mansour to rein in the army. These organizations and many influential figures in them themselves suffered, months later, from government retaliation (e.g.: Azza Soliman was charged and released on bail while Mozn Hassan was banned from traveling. This regime that brutally killed and detained Islamist women activists did the same to revolutionary activists like Mahinour Al-Masry and others.

The women rights organization issued their statement about a week after the massacre at the Republican Guard quarters on 8 July, when army and police soldiers fired at demonstrators killing 51 people while another 400 were wounded according to the Ministry of Health. This was the first alarm sounded to rights NGOs about the oncoming bloodletting. Fifteen organizations signed a statement on 9 July, entitled, “Before the Country Slides into a Vicious Circle of Violence that May Never End, Unbiased Investigations Should Start and Include Independent Rights NGOs”. See in Arabic: [http://www.egyptianrights.org/2013/07/09/15-organizations-demand-independent-investigations-into-7-july-massacre/](#) Then came the Military Parade Platform or Manassa protests where nearly 100 people were killed. The Rab’aa massacre exceeded them all. As many as 932 people were killed according to a rights group, while many more were injured and at least 800 detained.⁴³ A statement was quickly issued by the main rights groups, condemning the massacre, though it referred in its title it also condemned MB terrorist practices, in an obviously bad situation analysis and a misunderstanding of the balance of power at the moment. See in Arabic: [http://www.egyptianrights.org/2013/07/15/egyptian-rights-groups-condemn-mb-terrorist-practices-and-7-july-massacre/](#) Four months later, many of these Egyptian rights groups, were joined by Human Rights Watch, in a statement: “Egypt: No Acknowledgement or Justice for Mass Protest Killings, Set Up a Fact-Finding Committee as a First Step”. The groups demanded, once again, the formation of a fact-finding committee, but they also included some crimes that go as far back as 2011. The demands recurred,⁴⁴ which explains the increasing harsh regime measures against



However, it accused the MB of arming the sit-in and that some armed protesters initiated started the shootout by firing at police forces. The Committee claimed that the police alone, without support from the armed forces, dispersed the protesters. See in Arabic: www.almazryalyoum.com/news/details/1176502

Human Rights Watch issued a detailed report a year after the Rab'aa Massacre.⁴⁵ This deeply angered the regime which had since discredited HRW reports while banning the organization's activities in Egypt, and then in 2017 it blocked access to HRW website in Egypt.

The government sought to bring rights groups under full control after July 2013, so that all reports by domestic organizations could become consistent with official position, and to avoid information on grave human rights violations reaching European embassies or international rights groups. The regime worked to expand the remit of military tribunals.⁴⁶ Legal harassment of domestic rights organizations continued. In March 2016, investigations into foreign funding to rights NGOs restarted with the claim that new information surfaced about certain NGOs and public figures receiving funding from abroad.

Fourteen human rights groups asserted that the aim was to punish civil society organizations, especially as the investigating judges worked to freeze the assets of several human rights defenders and organizations, dissolving NGOs, and travel bans for many individuals.⁴⁷ Rights groups kept monitoring violations, including torture and enforced disappearance. But with the increasing caseload and the multiplicity of violations, thematic reports started to be issued, as organizations sought to largely document and publicize having lost almost all tools to change the reality or impact the state behaviour.

3. Potential points of agreement and losing opportunities

According to the theory of political opportunities, it should be noted that the hardest barriers to seizing opportunities is the prevailing political culture.⁴⁸ This



usually shows in the inability to deconstruct the opportunity to its many levels and components, with the inclination to perceive it as a zero-sum game. The temporal dimension of the opportunity become absent, with the impossibility of analyzing the components of the opportunity or to rightly perceive its various trajectories and their relative speeds. Some actors can make gains on the short run without necessarily losing medium and long-term opportunities. However, this does not happen because of hastiness and the absence of strategic thinking that can determine a collective interest of civil actors (secular and Islamist alike), given that the relationship between the two is rooted in competition rather than conflict.

The trajectory of recent events, given the long contentious relationship between the generation that established the Egyptian Organization for Human Rights on one hand and the Islamist movement, primarily the MB, on the other hand, shows that all actors took advantage of available political opportunities with a high degree of pragmatism, short sightfulness, and obsession with short-term gains despite the largely obvious long-term negative consequences. This was partly caused a conflict approach dominated rather than a rational approach to build on common grounds, share gains, or expand the possibilities of mutual benefits. They both ignored that the military became the only winner as it captured the state even when Morsi was still a president in Ittihadiya palace unable to enforce his decisions while being surrounded with agencies whose senior officials admitted after 2013 that they did not cooperate with him on purpose. (Why the MB insisted to stay in “power” in the presidential palace despite all this and what kind of psychological, cultural and political motivations that went along with this position, is an issue that deserves a separate paper). The available political opportunities at the time were not seen by almost everyone as opportunities that can be a subject of negotiations. All political actors failed to reach a lowest common denominator or clear rules for a political management of the volatile situation.⁴⁹

There is no doubt that the cleverest actor on the political scene for decades was the state, despite the regime change through the 25 January Uprising. The decisive factor has always been its reliance on the factors of speed and surprise, while using legal tools to undermine justice. The state engaged this existential conflict as if it were an actual war. It deployed tactics to disperse coalitions, co-opt political



actors, isolating individuals and disbanding the masses. This “speed management” by the state using the tools of the sovereign dominated the civil space all the time. It crafted society in its image. And instead of “the right to a State” as an essential right, the State apparatuses, through its sovereign, cultural, and media arms, preoccupied actors with many small battles that lasted for limited periods of time. As such, it pushed them to lose sight of the need to align on overarching objectives and non-negotiable rights in the long run. It pushed the masses away from the streets into closed spaces each and every time people occupied the streets. They were either taken to prison or meeting rooms for an exercise in co-optation.

In wars, manoeuvring spaces are decisive. Attack and defence are strategic skills. The battle ground of civil liberation wars is the city, where the authorities divide up connecting spaces using walls and fences, deploy soldiers throughout, arm policemen to the teeth, send elite troops to public squares to patrol, and ultimately ensure surveillance system are in place for real and virtual spaces.

As such, a primary question arises:

How is it possible to cross these gaps and get over that animosity for a better division of labour in the civil and political arenas? Actors in these arenas have become united under harsh state measures of dispersion, confiscations of money, brutalization behind bars, and unfair judicial verdicts? What are the issues that all such actors can cooperate on and pool together their expertise in documenting violations and ensuring accountability and justice, in the future?

It is of critical importance to understand that the *Nationalistic Imaginary* that became primarily obsessed with the state as a framework, or with governing as an end in itself, neglected the crucial factor of the nation-state, which is territory. There is no possible ‘common ground’ in the civil arena without a territory in the geographic sense. This does not only refer to public space, but also to territorial integrity and defending the People’s sovereignty over it. We thus move from the civic and political rights coding to a perspective that starts with the right to the street, to the city, and to the state.

The Tiran and Sanafir crisis was a unique opportunity to build a national



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Initiative was established in a collaboration between Takween Integrated Community Development and the *American University in Cairo (AUC)* with support from the Ford Foundation and the Norwegian Development Fund. The initiative has sought to document urban transformations and raise awareness about the right to public space in urban areas since 2009. Simultaneously, the Urban and Environmental Studies Lab/Initiative has been focused on developing downtown Cairo, then its focus was broadened to include local initiatives of urban development, and to create transdisciplinary spheres for studying urban development and related rights. Then came the “10 Tooba: Applied Research on the Built Environment”, which is a specialized group concerned with issues of urbanism, linking them with architectural and urban planning. This group has accumulated expertise on urbanism and participatory planning, and on rights and politics of urbanism, through projects in urban communities in Egypt. It was founded in 2013 by a group of architects and activists, who established the Built Environment Observatory. There was also some networking to establish the “Shadow Ministry of Housing”, to monitor policies and raise awareness about housing rights. It is notable that all of these efforts are dedicated to the rights land, housing, and space, and that they monitor transformations in various provinces. This is beside the prominence of the right to housing issues in the activities of EIPR, the Egyptian Commission for Rights and Freedoms, and other rights groups. Mada Masr and other web-based conventional and social media have dedicated substantial efforts to relevant monitoring and investigative reporting.

There is a rising tide of young rights actors from outside the established groups, after the 25 January Uprising, especially after July 2013. They came off street activism, and from new efforts to document violations and follow up on the cases of detainees and torture. So, beside the activists of “No to Military Trials”, the role of the Association of Freedom of Thought and Expression (AFTE) became prominent, and it attracted many young activists. The Arab Foundation for Civil and Political Rights Nidal was established in 2013, to be soon followed by the Egyptian Coordination of Rights and Freedoms in 2014, the Egyptian Commission for Rights and Freedoms, and Adala Center for Rights and Freedoms. Outside Egypt, Human Rights Monitor was established in London, in 2014, and it is mainly concerned with Egypt. The Geneva-based Adalah Committee was founded in 2015. It has a broad interest beyond monitoring violations measured according to



standards of free trials and fair laws. There are also many relevant Facebook pages against military trials, enforced disappearance, executions, and torture. The first platform among those is *No to Military Trials*,⁵⁵ then Break the Cuff⁵⁶ and others.

These transformations that took off with the 25 January Uprising, and right after, pushed a new agenda and new generations into rights spaces that became broader and closer to following everyday violations. It created a new generation, and a new pattern of rights groups more responsive to current threats and violations, with varying degrees of politicization and of how far they can confront the regime. This is a historic opportunity to rise above the conflicts between Islamists and rights groups; these conflicts are anchored in ideological differences as well as personal conflicts within the 1970s generation.⁵⁷

We have a prominent example for the possibility of cooperation among organizations, domestically and abroad, and the possibility of creating coalitions and coordinate efforts. The mobilization over the arrest of lawyer Ibrahim Higazi, who took part in establishing “Families of the Forcibly Disappeared” after the disappearance of his son during the Republican Guard events in July 2013. This international mobilization led ambassadors of the U.K., Germany, Italy, and the Netherlands in Cairo to issue a joint statement expressing grave concern over Higazi’s detention.

Higazi disappeared after his arrest at Cairo Airport, while he was departing to Geneva after getting invited by the UN Working Group on Enforced or Involuntary Disappearance. Higazi was one of the lawyers who cooperated with the family of Giulio Regeni, the Italian student who was tortured then killed in Cairo in February 2016. Higazi appeared, two days into his disappearance, at State Security Prosecution Office in Al-Tagamou, Cairo, faced with two charges of “establishing an association against the law” and “spreading false news”. He was detained for 15 days pending investigations, His detention has been regularly renewed since then. See in Arabic: <https://www.aljazeera.com/news/2017/02/24/egypt-detains-lawyer-higazi> [goo.gl/qgwuKp](https://www.aljazeera.com/news/2017/02/24/egypt-detains-lawyer-higazi) As expected, a deputy foreign minister for European Affairs summoned the ambassadors of three countries in Cairo, to deliver “a strong official objection” against the statement their countries signed, and as such showing the continuity



feeble way, rights violations by the state such as enforced disappearance.

The regime responded repeatedly with statements by members of parliament that the NCHR should be reconstituted to include younger members. As such it threatened to dismiss rights advocates that it had included in the NCHR after the army takeover in 2013 to give the Council some measure of credibility. The Council has been led by Mohamed Fa`eq, who has a long history of serving state agencies, but even though, there were rumours that he would be replaced by another regime stalwart, Mufid Shihab. See several media reports on these threats to the

NHRC to better toe the line: [www.albawabhnews.com/2726186](#) "مفيد شهاب" [www.elwatannews.com/news/details/2808786](#)

2017 [goo.gl/7xfzuc](#) "مفيد شهاب" [goo.gl/FfiuAM](#)

2017 [goo.gl/oVYtsv](#) "مفيد شهاب" [www.albawabhnews.com/2726186](#)

2017 [goo.gl/DUP4p5](#) "مفيد شهاب" [www.elwatannews.com/news/details/2808786](#)

The enforced disappearance report was resented by the regime to the extent that the law governing the NCHR was amended to bring it under the control of the Parliament and limit its mandate. As if all this was not enough, Tareq Mahmoud, a lawyer, started a lawsuit to dissolve the Council (the same lawyer had earlier sued to broaden the scale of military trials and also demanded that medals of honour awarded to former President Morsi be withdrawn, and that Egyptian Courts should consider Hamas a terrorist organization, etc.). Mahmoud argued that former President Adly Mansour issued a decree in August 2013 to reconstitute the NCHR stipulating that the current membership was to continue in place until a new



Parliament was elected. Mahmoud further argued in a petition to the State Council that since the parliament had been elected, there were legal grounds to dissolve the NCHR and to consider all reports issued by the Council since the parliament came into session on 14 January 2016, null and void. The panel of the first district of the Administrative Court in State Council decided to hold off looking Mahmoud's motion until it further studies the matter. See in Arabic: ["الهيئة العامة لحقوق الإنسان تطلب من المجلس الدستوري إلغاء جميع تقارير المجلس القومي لحقوق الإنسان التي صدرت بعد انتخاب البرلمان في 14 يناير 2016" 2017 \[http://www.alukah.net/2017/01/17/1377777\]\(#\) 7 \[http://www.alukah.net/googl/HpzvFG\]\(#\)](#)

If this scenario takes its course, it will simply mean that the reports issued by NCHR were procedurally void and cannot be used by international bodies. Consequently, the regime had used the NCHR to counter rights groups for years and may now try to use it to avoid any measure of accountability bearing in mind that many of these rights groups were either shut down or are under strict surveillance. Such moves are not strange to a regime that had committed many crimes against unarmed and innocent civilians and then puts judges on trial because they helped draft an anti-torture bill.⁵⁸ Such a regime would not shy away from creating more fragile entities to defend its policies.

Given that the right to life, in continuity and quality, has the highest priority in the struggle for human rights by various parties for all citizens, opposing the death penalty and preventing military trials for civilians, combatting torture, and ending enforced disappearance, can be the four pillars of cooperation among various groups and organizations, moving forward. A coalition can be built among differing parties around these four issues even if they have varying motivations to advocate on such issues depending on their ideology: secular advocates refuse the death penalty, for example, as a matter of principle while Islamists are against it now because the regime lacks the minimum level necessary for organizing fair trials --- it can be argued that upon a close look that this lack is common to the nation-state and its judicial system, in all states, though in varying degrees.⁵⁹ Collective pressure and coordination efforts invested in this cause, over months, led to the issuance of a statement in early 2018, by the UN High Commissioner for Human Rights, calling for a moratorium on executions in Egypt.⁶⁰ A group of organizations issued a statement condemning the death penalty. See in Arabic: ["المنظمة المصرية لحقوق الإنسان | منظمة العفو الدولية تدين مصر بـ 13 حالة من انتهاكات حقوق الإنسان" 2018 \[http://www.alukah.net/2018/01/18/1377777\]\(#\) 7 \[http://www.alukah.net/googl/HpzvFG\]\(#\)](#)



movement, in a broad and loose sense especially after its crisis with the regime, and rights groups on the other hand, following generational and structural transformations, would become more collaborative in the next stages of domestic and international struggle for rights, after the death of politics and political parties. Collaborative work could focus on enforced disappearance, torture, and the death penalty. It might also include the right of return for the displaced people of Sinai, and accountability for crimes against civilians in the name of counterterrorism, in particular the military operation of the Armed Forces since February 2018. The preservation of life, in terms of survival with minimum living standards, could be among the priorities of cooperation to bridge the perception and framework gaps between the parties in the medium and long term. These priorities will furnish the common ground to hold efforts together and could create a larger base for the rights paradigm while giving Islamists the opportunity to apply an Islamic approach to human rights, a direction that they theorized about for too long. As such, a professional tract could open up for the Islamists allowing them a more credible and active role in human rights on the national arena.



Endnotes

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The Arab Reform Initiative is the leading independent Arab think tank working with expert partners in the Middle East and North Africa and beyond to articulate a home-grown agenda for democratic change. It conducts research and policy analysis and provides a platform for inspirational voices based on the principles of diversity, impartiality and social justice.

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