

NOREF Expert Analysis

The expectation gap: delivering justice and accountability in post-Mubarak Egypt

Judy Barsalou and Barry Knight

Executive summary

Even the most optimistic observers agree that Egypt's transition has yet to produce tangible improvements in the things that matter most to Egyptians: a better economy, improved personal security and accountable government that respects citizens' basic human rights. Those now in power should not ignore solid evidence that its citizens revere the rule of law as well as desire democracy. Indeed, they should fear the yawning gap between the present state of affairs, in which the duly elected government remains largely unaccountable and ineffective, and widespread aspirations for a different order.

Why should Egypt's new civilian leaders tread cautiously, even though they enjoy greater

legitimacy than the Mubarak regime? Of course, there is the recent memory of massive demonstrations that led to the removal of Hosni Mubarak in February 2011, proving that even the famously patient Egyptians will endure only so much suffering. Moreover, over the last decade, various surveys conducted by the Pew Research Center, the World Values Survey and the Arab Barometer have demonstrated substantial support for democracy in Egypt, as well as in the broader Arab region. A stake has been conclusively nailed into the heart of the notion that Arabs are "exceptional" and do not aspire to democracy.

Judy Barsalou is a visiting scholar at the American University in Cairo, where she is conducting research on Egyptian views about justice and accountability in post-Mubarak Egypt. Her past research has focused on the role of memorials in social reconstruction and transitional justice, the challenges of teaching history in societies emerging from violent conflict, and trauma and transitional justice, among other issues. She has served as the Representative of the Ford Foundation for the Middle East and North Africa, based in Cairo, and as a vice president of the United States Institute of Peace. She holds a PhD in Comparative Politics from Columbia University.

Barry Knight is a social scientist and statistician. Currently, he works as adviser to the Webb Memorial Trust, the Charles Stewart Mott Foundation, the Global Fund for Community Foundations, the Greater New Orleans Foundation and the Arab Reform Initiative. He is co-chair of the Working Group on Philanthropy for Social Justice and Peace, which is developing a global learning community of practitioners across the globe. He is the author or editor of 14 books on poverty, civil society, community development and democracy.

Relatively fair elections that don't result in any real changes in how the government actually operates are unlikely to satisfy Egyptians for long. A recent study involving a broad cross-section of 169 Egyptians demonstrates this and provides a roadmap for improving justice and accountability in the country. Asked to pick from a list of 11 options, respondents identified security sector reform as priority number one, followed by measures to bolster judicial independence. As one respondent said: "if you don't have political connections, you're vulnerable. Everyone has a horrible sense of insecurity and could be picked up by the police at any time. Parents are afraid of getting a phone call that a child has been arrested."

Establishing a truth commission was lower on the list: seventh in the rank order. Partly this reflects unfamiliarity with transitional justice processes in other countries. However, if you asked that question today, Egyptians might value a truth commission more highly. Since the survey ended in March 2012, many have been deeply disappointed by the "not guilty" verdicts, based on lack of evidence, of high-level officials accused of coordinating violence against demonstrators.

Respondents affirmed their embrace of human rights values by endorsing the right of alleged wrongdoers to defend themselves through trials. They also believe that *all* wrongdoers should be held accountable: not just the police and government officials who crafted policies, but also those who merely carried out orders as well as ordinary citizens who broke the law. Significantly, they place the highest priority on prosecution of human rights abusers, followed by trials that effectively remove wrongdoers from important positions and address corruption.

However, because of their strong support for accountability and the rule of law, Egyptians are on the horns of a dilemma: while the transition remains incomplete, how do you get wrongdoers to tell the truth? As the struggle for power between President Morsi and the old guard grinds on, citizens may increasingly see the point of offering low-level perpetrators the option of truth-telling in exchange for protection from prosecution. Post-apartheid South Africa made this Hobbesian choice after years of internal debate. Rwanda's

citizen-driven justice process, the community-level *gacaca* hearings, offered a similar compromise after the genocide when it became clear there were simply too many perpetrators to put in jail. The same is probably true in Egypt, where it is widely believed that most of its non-traffic policemen and intelligence officials have engaged in torture. An Egyptian truth commission that exposed these crimes to the light of day could help recast national narratives about what the country has been through and affirm its political and ethical values going forward.

Subjecting unaccountable police, intelligence and military services to meaningful civilian oversight and reform will require enormous political will and skill. President Morsi has effectively retired all but one of the generals who constituted the ruling Supreme Council of the Armed Forces (SCAF). Although that is a step in the right direction, other measures, applied not only to SCAF but to the broader security services, will also be needed, including criminal prosecutions, cashiering officers and overhauling training. One survey participant argued for placement of citizen ombudsmen in every police station as third party witnesses protecting both citizens and the police.

Interestingly, most Egyptians do not believe that efforts to hold police and other officials accountable will increase conflict or insecurity. Instead, many argued that the opposite is likely if impunity continues. In this connection, one respondent argued: "people take justice into their own hands because they lack confidence in the system. We have a history of not getting our rights through legal channels. Vigilantism is part of our culture."

Do the demographics of age, gender and class influence how Egyptians think about these issues? The study revealed several statistically significant differences that officials and activists would be wise to ponder. For starters, over the course of Egypt's 20-month transition, the government prosecuted a number of high officials, big businessmen and police officers. Young Egyptians (those less than 40 years old) and women are significantly more sceptical than older Egyptians and men about the public value of these trials. While pleased to see them under way, they have less faith that these trials have

exposed how the system operated under Hosni Mubarak, deterred future wrongdoing or satisfied the public's desire for justice.

Class status also influences thinking on some issues. For example, middle-class Egyptians are significantly more likely than their working-class counterparts to believe that alleged wrongdoers have the right to defend themselves through trials.

After months of insecurity and economic decline, who can blame some Egyptians for wishing a return to the "good old days" before the uprising?

Increasingly, it is obvious it will take many years – maybe even decades – for the quality of life to improve significantly in Egypt, especially for the 40% now living in poverty. In the meantime, officials who think they can get away with murder, arbitrary detention and ineffective governance policies that lack transparency had better think twice. Even if the country's institutions have not evolved significantly since the uprising, it is clear that Egyptians have sophisticated and nuanced views about justice and accountability. They will not be satisfied with business as usual.

