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The Struggle over the Egyptian Public Sphere

by Azzurra Meringolo

ABSTRACT

The popular uprising against the regime of Hosni Mubarak in January 2011 opened the public sphere to various groups and movements. Following the military intervention in July 2013, the struggle against the Muslim Brotherhood has allowed the government to take a number of measures aiming at regaining state control over the public sphere. To achieve this aim, the regime has issued a number of laws and decisions targeting different actors. To fully describe the on-going campaign to restrict Egypt's public space, this paper focus on three main actors involved in the struggle: civil society, universities, and religious organisations. Altogether, it shows the new legal framework that grants the courts and security services power to restrict civil society's activity.

Egypt | Domestic policy | Democracy | NGOs | Youth | Islam



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Introduction

The popular uprising against the regime of Hosni Mubarak in January 2011 opened the public sphere to various groups and movements. While the transitional period under the rule of the Supreme Council of Military Forces (SCAF) and then former president Mohammad Morsi witnessed an attempt to regain state control over the public sphere, these often failed because of the weakness of state institutions, which were unable to enforce their rules, while popular groups and movements were able to mobilise support around their activities. However, following the military intervention in July 2013, the balance of power shifted. On the one hand, state institutions regained a large part of their credibility after siding with the protesters in June 2013 to remove Morsi. On the other, the struggle against the Muslim Brotherhood has allowed the government to take a number of measures aiming at regaining state control over the public sphere. To achieve this aim, the regime has issued a number of laws and decisions targeting different actors.

The direct control of the public space consists in the physical exclusion of citizens from it. According to Amr Hamzawy, actually Egypt is also reviving¹ another strategy of control, less direct but not less intrusive: indirect repression.² To fully describe the on-going campaign to restrict Egypt's public space, this paper will focus on three main actors involved in the struggle: civil society, universities, and religious organisations. Altogether, the paper will show the new legal framework that grants the courts and security services power to restrict civil society's activity.

¹ From the '50s until today (with limited, sporadic exceptions) Egypt has been nothing if not an arena for the development and testing of such strategies of indirect control that are now re-emerging.

² According to Hamzawy, indirect repression is based on several strategies. See Amr Hamzawy, "Indirect Repression: When Reason is Eliminated", in *EgyptSource*, 16 September 2014, <http://www.atlanticcouncil.org/blogs/egyptsource/indirect-repression-when-reason-is-eliminated>.

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1. From Mubarak's fall to Al-Sisi: the crackdown on civil society

During the Mubarak period, the grip on civil society was governed by three legal rules that regulated public assembly: the Illegal Assembly Law of 1914, Law 10 of 1914, and Public Assembly Act No. 14 of 1923. The police under Mubarak used these rules in order to ban public protests.³ After the revolution, president Morsi was the first who tried to issue a law to restrict the right to protest. His proposal never moved beyond a draft, but it was similar to a law passed in 2013, which is analysed in section 2 below. This law did not regulate students' activity. In fact, at least for a short time after the revolution, young activists found in their campuses a place where they could meet to express their opinions and organise their activities, both cultural and political. Despite some problems during student elections, the civic forces have frequently been able to speak out, even ousting the Muslim Brotherhood from some of its historic strongholds. However, this success was limited to a short time.⁴

NGOs did not pass through any post-revolution easy phase. Their activity was governed by Law 84 of 2002 on associations. Under Mubarak, the authorities used it to arbitrarily prevent human rights groups and other organisations, critical of government policies, from registering and from receiving grants from foreign governments and foundations.⁵ But in the aftermath of the revolution, amending this law was one of the main priorities of the various human rights groups. Reform projects had already been proposed both by the Mubarak regime in 2010, and by those who governed after him: SCAF in 2012, Morsi in 2013. With the convening of the newly elected parliament in January 2012, the human rights committee in the People's Assembly started to debate various drafts of the law regulating association. The drafts submitted included a joint draft by Egyptian non-governmental organisations aimed at implementing protection for freedom of association, and a draft by the Social Affairs Ministry that would have violated the basic right of freedom of association, reflecting the views of the security agency establishment. The Freedom and Justice Party⁶ submitted a draft in April 2012, but the most relevant document was the draft association law that Morsi put before the legislature on 29 May 2013. If passed, it would have allowed the government

³ For a broader vision on Arab and Egyptian protest movements, see Amr Hamzawy and Marina Ottaway, "Protest Movements and Political Change in the Arab World", in *Carnegie Policy Outlook*, 28 January 2011, <http://carnegieendowment.org/publications/?fa=42394>.

⁴ Azzurra Meringolo, "Stop-and-go: Egyptian Civic Opposition Moves Slowly Forward", in *Insight Egypt*, No. 1 (May 2013), <http://www.iai.it/content.asp?langid=2&contentid=945>.

⁵ In February 2010, Egypt had its first Universal Periodic Review before the United Nations Human Rights Council. The Mubarak government at the time accepted four recommendations to reform Law 84/2002, including a recommendation to "[r]evis[e] the procedures governing registration of civil society organizations to ensure transparent, non-discriminatory, expeditious and affordable procedures that conform to international human rights standards." See UNHRC, *Draft report of the Working Group on the Universal Periodic Review - Egypt* (A/HRC/WG.6/7/L.16), 10 March 2010, <http://undocs.org/A/HRC/WG.6/7/L.16>.

⁶ The party of the Muslim Brotherhood.

and its security agencies to arbitrarily restrict the funding and operation of groups advocating for freedom and independence giving the government excessive powers over civil society groups. It would have granted the government absolute discretion to object to the internal decisions and activities of groups and to block their decisions if they disapproved. Groups would have been required to submit an annual financial report as well as copies of all internal decisions and a report on annual activities to the authorities. In addition, the draft required groups to notify the government in advance every time they wished to raise money through TV campaigns, charity events, or mail campaigns. The provisions on foreign funding were also extraordinarily restrictive.⁷

In the religious sphere, the Ministry for Religious Affairs has been trying to seize administrative control over the mosques since at least 1960. At that time, the regime used Law 157. To fully apply the law, Mubarak announced a surveillance plan during the 1990s. However, the plan remained only on paper because of a lack of the funds and human resources needed to implement it. After the 2011 revolution, the State was controlling less than half of the mosques. For this reason, when the Muslim Brotherhood came into power, they tried to widen government influence over the religious sphere, using the pulpits even to delegitimise their enemies. Instead of following the path traced by their predecessors, the generals who came back to power in July 2013 planned a concrete offensive that would control at least the country's most important mosques.

2. Narrowing the space for civil society

One of the targets for the new operation of control is civil society, whose future will be influenced by two new laws:

- the Law on the Right to Public Meetings, Processions and Peaceful Demonstrations, passed by former *ad interim* president Adly Mansour on 24 November 2013,⁸ also known as the Protest Law;
- the Association Law, known as the Non-Governmental Organisations Law.⁹ The last draft was presented on 26 June 2014.¹⁰

Even if during the 2011 revolution Egyptians regained the right to demonstrate, the new 2013 Protest Law seems to aim at reversing this tendency. In fact, the Protest

⁷ For the Morsi reform project, see Human Rights Watch, *Egypt: New Draft Law an Assault on Independent Groups*, 30 May 2013, <http://www.hrw.org/en/node/115964>. For a general overview of the reform projects, see International Center for Not-For-Profit Law, *NGO Law Monitor: Egypt*, last updated 25 November 2014, <http://www.icnl.org/research/monitor/egypt.html>.

⁸ *Presidential Decree for Law No. 107 of 2013 (anti-protest law)*, 24 November 2013, http://www.constitutionnet.org/files/protest_law_issued_nov_24.pdf.

⁹ For a broader vision on Egyptian civil society see Maha M. Abdelrahman, *Civil Society Exposed. The Politics of NGOs in Egypt*, London, Tauris, 2004.

¹⁰ Cairo Institute for Human Rights Studies, *Proposed Government Law Makes NGOs Subordinate to Security and Ministry Control*, 9 July 2014, <http://www.cihrs.org/?p=8902>.

Law requires the organisers of protests to notify the police at least three days prior to the event (Art. 8), in default of which there is a fine from 10,000 to 30,000 Egyptian pounds (14,000-42,000 dollars) (Art. 21). Further, it allows the Ministry to ban protests if it receives information indicating that the assembly constitutes a "presence of threats to security or peace" (Art. 10). The vague language allows the Ministry a wide discretion to ban protests. While the law allows organisers to appeal this decision before a court (Art. 10), it does not set forth a timeframe for hearing the appeal. Furthermore, while the Protest Law stipulates that security forces should first warn the protesters before using water cannons, tear gas and batons (Art. 11), at the same time it also allows security forces to gradually use force on participants undertaking acts of violence, sabotage, or destroying public and private properties (Art. 12). It allows also the use of bird-shot pellets during the dispersal and even live ammunition in cases of "self-defence" (Art. 13). Furthermore Art.16-21 of the law also provides a list of penalties (fines and imprisonments) for those who violate the law.¹¹

Since this norm has been implemented, the numbers of activists arrested¹² have skyrocketed.¹³ These events have spurred on dissidents - inside and outside the prisons - to start hunger strike campaigns¹⁴ protesting against a law that, by granting security officials discretion to ban any protest and allowing police officers to forcibly disperse any protest, will inevitably restrict peaceful political demonstrations. According to Joe Stork, Human Rights Watch Middle East deputy director,¹⁵ beyond the violation of international standards, the new law opens the door to a possible increase in the use of force on the part of the police, evidencing that the new Egyptian government wants to sharply restrict peaceful assemblies.

The same can be said about the draft law on NGOs (referred above). None of the previous proposals was as restrictive as the one that is currently being discussed. If approved, it would impose greater surveillance from the government, through the realisation of a coordinating board with veto power over NGOs' activities and finances. It would also provide more severe penalties for those who do not conform

¹¹ Fidh, *Egypt: New assembly law legitimizes police crackdown on peaceful protests*, 29 November 2013, <http://www.fidh.org/en/north-africa-middle-east/egypt/14316>.

¹² Among the arrested activists there is Alaa Abdel Fattah. A pioneering Egyptian blogger from a prominent family of writers and activists, Abdel Fattah has been jailed under four different rulers: Mubarak, SCAF, Morsi and Al-Sisi. In this case, he was initially sentenced to 15 years of hard labour for violating the protest law. On 14 September 2014, he was released on 700 dollars bail.

¹³ According to official statistics, the Egyptian authorities continue to hold at least 16,000 detainees in prisons and police stations since the ousting of former president Mohamed Morsi.

¹⁴ In September 2014, over 156 individuals have declared their participation in the hunger strike. More than half the participants are imprisoned and others are acting in solidarity through initiatives like Freedom to the Brave, "Gibna Akhera" (We're at the Last Straw), and the #Fast4Freedom International Day of Solidarity. Prominent detainees on hunger strike include the well-known blogger Ahmed Douma, who is serving a three year prison sentence for defying protest law, Mohamed Soltan, a dual US-Egyptian national whose health has sharply deteriorated and Sanaa Seif, Alaa Abdel Fattah's sister. See May El-Sadany, "Hunger-Striking: A Legal Approach", in *Tahrir Center for Middle East Policy Commentaries*, 16 September 2014, <http://timep.org/?p=9112>.

¹⁵ Presidential Decree for Law No. 107 of 2013, cit.

to the norms.

Under Article 4 of the draft Law, all non-governmental organisations must apply for re-registration as associations, but the government has the authority to reject the registrations. This means that all human rights organisations currently registered as civil companies or law firms, rather than associations¹⁶ have to undertake a new registration process.¹⁷ This could also discourage international NGOs to work in the country. International NGO staff describes the new registration process as complicated and full of obstacles. Furthermore, the draft calls for the creation of a Coordinating Committee with broad authority to regulate the activities of civic associations by controlling their funding (either authorising or rejecting) and granting or denying permits to international organisations to operate in Egypt. The committee is comprised of eight governmental bodies, including a representative from both the Interior Ministry and from the general intelligence.¹⁸ This would make all activities of association, including board decisions, subject to government veto. Perversely, this could impose on those who deal with human rights advocacy an obligation to ask for permission from the very ones who have breached these rights.¹⁹ In addition, this law could become a guillotine to grants. As NGOs would see their activities and opportunities to finance themselves, especially from abroad, as more limited. Currently, associations have to seek governmental approval prior to raising funds domestically. As a result, domestic donors have become reluctant to fund human rights organisations, making foreign funding crucial for the continued operation of NGOs. Outside donations have also been limited, by obliging the association to receive prior approval from the committee, or else face potential dissolution.²⁰

The draft law, defined by 29 international organisations dealing with human rights as a blatant violation of the Constitution and Egypt's international commitments,²¹ is expected to be introduced in the country's next Parliament, when elected.²² In

¹⁶ These organisations registered as companies or firms because law 84 of 2002, which currently governs associations, allows the government to deny a group's registration on vague grounds, such as that its work might "threaten national unity."

¹⁷ This process has already started. On 18 July 2014, the Ministry of Social Solidarity published a statement in *Al-Ahram*, informing "all entities that practice civil work without permits to rapidly regularise their status [...] within 45 days to avoid any legal accountability according to the relevant laws and regulation." In a paid advertisement published in *Al-Ahram* on 8 September, the Ministry extended the deadline for NGOs to register to mid-November.

¹⁸ Egyptian Initiative for Personal Rights, *Proposed Government Law Makes NGOs Subordinate to Security and Ministry Control*, 9 July 2014, <http://eipr.org/en/pressrelease/2014/07/09/2154>.

¹⁹ Human Rights Watch, *Egypt: Draft Law Threatens Independent Organizations*, 14 July 2014, <http://www.hrw.org/news/2014/07/14/egypt-draft-law-threatens-independent-organizations>.

²⁰ Chalaine Chang, "Egypt, swallowing civil society", in *openDemocracy*, 19 August 2014, <https://www.opendemocracy.net/node/85315>.

²¹ Aya Nader and Menna Zaki, "29 NGOs protest new civil society draft law", in *Daily News Egypt*, 9 July 2014, <http://shar.es/1oHRnd>. For the full text of the NGOs' memo see Cairo Institute for Human Rights Studies, *Memo to Dr. Ibrahim Mahlab, Prime Minister*, 24 July 2014, <http://www.cihrs.org/wp-content/uploads/2014/07/Memo-to-Dr.-Ibrahim-Mahlab.pdf>.

²² According to the road map, parliamentary elections should have been held before the end of

the absence of a legislative power, it could also be promulgated through decree by the president. In both cases, it will face the criticism of those who point out that it is at odds with the Constitution²³ ratified in January 2014 and with international obligations.²⁴

While fighting against the approval of this draft, social workers and NGOs had to tackle another thorn in their side. On 23 September 2014, President Abdel Fattah Al-Sisi issued a presidential decree to amend Article 78 of the penal code to include harsher punishment on those receiving foreign funding. Within the context of the counterterrorism policy pursued by Egypt since the outbreak of July 2013, this amendment has been justified as being in line with the UN Security Council resolution 2170.²⁵ Issued on 15 August 2014, this resolution was enacted to strengthen international cooperation to fight against terrorism after the escalated danger from the self-declared "Islamic state" or IS. The September decree prohibits not only the reception of support from any foreign country or people working for its benefit, but also legal citizens and local and foreign organisations, whether they are affiliated with a foreign government or not. The amendment provided for a harsher punishment to include "life imprisonment and a fine of not less than 500,000 pounds" (70,000 dollars).²⁶ According to Gamal Eid, the executive director of the Arabic Network for Human Rights Information, the amendment "would serve as a sword hanging over those opposing the authorities. The state could fabricate any accusations against anyone under the pretext of receiving foreign funding."²⁷ The fear of being accused of collaborating with foreign bodies could influence people working in the field of human rights to resign.

Thus, this amendment, together with the laws explained above, appears as another instrument to silence dissenting voices. All the new norms, passed by presidential decree, show the extent to which the new regime uses law to narrow the space for civil society and restrict Egypt's public space.

2014, but were postponed to March-May 2015.

²³ Article 75 of the new Constitution give all citizens the right to form non-governmental associations and foundations on a democratic basis.

²⁴ Egypt is obliged to respect and ensure the right to freedom of associations, set out in Art. 22 of the International Covenant on Civil and Political Rights and Art. 10 of the African Charter on Human and Peoples' Rights.

²⁵ UN Security Council, *Resolution 2170(2014)*, 15 August 2014, [http://undocs.org/S/RES/2170\(2014\)](http://undocs.org/S/RES/2170(2014)). This resolution stresses the provisions of Resolution 2161 on imposing sanctions on individuals, groups and organisations associated with IS and Jabhat al-Nusra. See UN Security Council, *Resolution 2161(2014)*, 17 June 2014, [http://undocs.org/S/RES/2161\(2014\)](http://undocs.org/S/RES/2161(2014)).

²⁶ For accused public employees, persons assigned with a public service, persons with a parliamentary capacity or persons who committed crimes during wartime or for purposes of terrorism, the death penalty was added. The new provisions are more severe; previous law provided a fine of not less than 1,000 pounds (140 dollars) and rigorous imprisonment.

²⁷ Enas Hamed, "Egyptian activists fear new penalties for foreign funding", in *Al-Monitor*, 10 October 2014, <http://almon.co/28h1>.

3. The regime and the student movement

Following Morsi's ouster, university campuses saw a wave of demonstrations in which at least 14 students lost their lives confronting the police,²⁸ in what the Association of Freedom of Thought and Expression has described as the worst crackdown on academic freedom in the last 70 years.²⁹ As a result, the State has made a great effort to take control of all campus activities. If security has been the first concern behind this operation, the new regulations have also appeared as an effort to target staff and students belonging to the Muslim Brotherhood, whose confrontation with security forces has recently elevated security concerns on campuses.

Overturning a 2011 decision,³⁰ last June Al-Sisi issued a presidential decree that allows him to directly appoint university and faculty deans. The academic year was also postponed until October 11, and, in the meanwhile, both the Cabinet and the deans – who can now dismiss faculty members for “crimes that disturb the educational process” – have taken several decisions to control activities on campus. Cairo University, the country's preeminent secular higher education institution, has banned all political activities. To prevent protests inside student dormitories, the University decided to ban all demonstrations for the following academic year. The Cabinet agreed on a draft bill to organise the affairs of Al-Azhar University, another place that witnessed demonstrations, above all with an Islamist mould. The draft bill permits the suspension of the university staff found guilty of fomenting/bringing violence, participating in campus protests, belonging to extremist organisations, or facilitating the entrance of weapons on campus.³¹ Several other universities have implemented similar measures and a group of deans agreed that civilian university guards would be provided with batons and shields to defend themselves in violent situations. Ain Shams and Beni Suef universities have also decided to suspend any student who offends or incites violence against president Al-Sisi. In addition, a private security company, Falcon Group,³² has been hired to provide security for Al-Azhar and 15 other state universities. According to the latest presidential decree,³³ faculty and staff may be isolated if they are found to incite, participate or assist in violence that occurs on campus or any university facilities. The decree also states that faculty and staff may be isolated for participation in partisan activities, even if it is not clear what constitutes partisan activities or how

²⁸ “Egypt's campuses brace for new semester, Islamists vow ‘intense’ protests”, in *Ahram Online*, 10 October 2014, <http://english.ahram.org.eg/News/112762.aspx>.

²⁹ See Sayyid Marsot and Afaf Lutfi, “Protest Movements and Religious Undercurrents in Egypt: Past and Present”, in *Center for Contemporary Arab Studies Occasional Papers*, 1984.

³⁰ Following a 2011 change made by Egyptian post-revolutionary military rulers, university faculty had elected their own leadership.

³¹ “Draft bill to regulate political activity at Azhar University”, in *Mada Masr*, 18 September 2014, <http://www.madamasr.com/news/draft-bill-regulate-political-activity-azhar-university>.

³² This firm was in charge of safeguarding Al-Sisi presidential campaign in 2014.

³³ Enacted on 15 January 2014.

they may disrupt the educational process.

Despite all these security measures, protests have taken place inside many public universities.³⁴ According to the Students Freedom Observatory,³⁵ on the first day security forces arrested at least 71 students in 15 governorates. The Observatory said many students were seized from their homes in pre-dawn raids that involved uniformed police, plain-clothes officers and heavily-armed special forces units. General suspicion of "the so called patriotic students, recruited by the State for spying on [...] the troublemaking students"³⁶ once again reappeared on social media. According to reports released by the Association for Freedom of Thought and Expression, at least 195 university students were arrested across Egypt in the first week of the new semester.³⁷

4. The control of the religious sphere

Over the past months, the Egyptian government has tightened its grip on mosques and unlicensed imams as part of a general crackdown on the Muslim Brotherhood. Despite constant, vehement emphasis on having ousted Morsi to keep religion out of politics, the "new" authorities have increased authoritarian control over religious discourse. Public religious activities are seen as a key method of outreach for the Muslim Brotherhood. Under the leadership of Mohamed Mokhtar Gomaa, head of the Ministry of Religious Endowments, a number of measures have been enacted to end the religious sphere's political activities and its autonomy from the State.³⁸

According to Georges Fahmi, the drive to control religious institutions began in March 2014 when the Ministry issued Decision Number 64 to bring all mosques and oratories in Egypt under its control. The Decision was an enforcement of the above-mentioned Law Number 157, which had never been formally implemented. In addition, in order to organise sermons and religious studies in Egypt's mosques, in June Mansour promulgated Law Number 51. This prohibited the delivery of sermons that did not have official authorisation. The only authorised preachers are now graduates of Al-Azhar and those trained by institutes affiliated with the Ministry. According to the same law, only the Minister of Religious Endowments and the grand sheikh of Al-Azhar can grant preaching permits.³⁹ Non-authorised preachers can now be punished by three months to a year in prison in addition to

³⁴ See Reem Khorshid, "The Falcons on campus", in *Mada Masr*, 13 October 2014, <http://www.madamasr.com/opinion/politics/falcons-campus>.

³⁵ An activist group formed this year to track worsening restrictions on campus political activities.

³⁶ "Welcome to spy academy!", in *Egyptian Chronicles*, 12 October 2014, <http://egyptianchronicles.blogspot.com/2014/10/welcome-to-spy-academy.html>.

³⁷ Committee to Protect Journalists, *Egypt convicts another journalist, bans TV channels*, 25 June 2014, <http://cpj.org/x/5bc4>.

³⁸ Georges Fahmi, "The Egyptian State and the Religious Sphere", in *Carnegie Articles*, 18 September 2014, <http://carnegieendowment.org/publications/?fa=56619>.

³⁹ Personal interview with Georges Fahmi, December 2014.

a significant fine. The State's move to control all central mosques angered some worshippers, who objected to the arbitrary replacement of their favourite preachers. At the same time, a hotline was created for citizens to report any violations of the state "instructions" or the use of preaching at mosques for political purposes.⁴⁰ As a result, the ministry banned more than 12 000 preachers from preaching in mosques, because they were not educated in Al-Azhar.

Another controversial point is the one related to the mosque boards. These were created in the early '80s to manage and fund some large mosques that the ministry found difficult to administrate. The Ministry itself appointed the boards and had the power both to dissolve them and revoke membership. The board had financial power, but could never interfere with the Ministry exclusive right to administer religious and preaching activities. When the Brotherhood took power, they issued a decree to give the boards more power. Board members also became elective. Nevertheless, this decree was removed by the new military-backed government that took power in July 2013, which dissolved all the boards appointed by the Brotherhood. As happened in the past, traditional Azharite elite and young, anti-Brotherhood imams are once again appointed as members of these boards.

A further important move was the one to control and standardise the content of Friday sermons. In June 2014, the Ministry published the preaching code of ethics. It is now the Minister's responsibility to set both the topic and the theme of sermons before prayer.⁴¹ The Ministry is also the exclusive supervisor of the mosques that must subordinate themselves to its control in accordance with moderate Sunni Islam as embodied by Azharite intellectual orthodoxy.⁴² For the State, then, Muslims are a religiously uniform, united people whose religious life is managed by a government ministry; religious diversity among Muslims is therefore an intolerable fissure in this unity.⁴³

So far, the steps taken by the "new" authorities have succeeded in extending their control over Egyptian mosques and preachers. Part of the success is due to the appointment of Gomaa, a minister who understands the obstacles that prevented the State from controlling the religious sphere in the past. This success is also the result of overcoming the lack of financial and human resources. Gomaa has increased the number of paid imams from 21,000 to 38,000. Considering the closure of small mosques, the Ministry is now able to cover all of Egypt's large mosques, numbering 80,000, during Friday prayers.⁴⁴

⁴⁰ Amr Ezzat, *To Whom do Minbars belong today?* (in Arabic), Cairo, Egyptian Initiative for Personal Rights, August 2014, <http://eipr.org/en/pressrelease/2014/08/31/2192>.

⁴¹ Personal interview with Georges Fahmi, December 2014.

⁴² The state does not permit the existence of Shiite mosques or mosques dedicated to another confession or any current of political Islam.

⁴³ Amr Ezzat, "Searching for the Church of Islam", in *The Immanent Frame (TIF) blog*, 9 April 2014, <http://blogs.ssrc.org/tif/2014/04/09/searching-for-the-church-of-islam>.

⁴⁴ Personal interview with Georges Fahmy, December 2014.

5. Future challenges

What led to the consolidation of Al-Sisi's authoritarian regime and what were the conditions that favoured consolidation of the new system of repression? A first explanation can be found in the weak opposition represented by the actors seeking to achieve a reformed Egyptian state and the lack of agreement among the actors on which laws to address. Objectors, in fact, have not succeeded in subverting the government's decisions as regards, for instance, the Protest Law of November 2013. Secondly, people's fear of a collapse of the State that would have been followed by a civil war played an important role in creating the space and conditions for Islamists' repression and Al-Sisi's rise to power through what was a *de facto* coup d'état. In fact, following the events of 2013, the Army acquired power and political influence thanks to a constitutional vacuum, as there was no Parliament for over a year. This vacuum was most certainly a crucial factor for the military coup to succeed, as, according to Art. 156 of the Constitution, without a legislative body and in situations of emergency the president is able to issue new laws by decree.

Finally, Egypt's authoritarian tradition was already deeply rooted in the state institutions' practices, but Al-Sisi's legislative agenda seems to aim at facilitating and strengthening such practices, providing official bodies with larger discretion in the interpretation of laws, and basically making the appeal to a state of emergency or extraordinary measures unnecessary.

After July 2013, state institutions regained a large part of their credibility. At the same time, however, the struggle against the Muslim Brotherhood has allowed them to take a number of measures aiming at regaining State control over the public sphere. This creates dangerous obstacles to the creation of a vital civil society. The narrowing of the space for civil society activities, the new (or old) control operations on students and activists, and the prevention of protests inside and outside university campuses are all obstacles to the creation of an inclusive political environment. Even if history never repeats itself in the same way, Egypt's recent past clearly shows the risks of such a scenario. For example, the success story of state control on the religious sphere could have adverse effects. As happened under former president Gamal Abdel Nasser, people could lose confidence in the official religious establishment. This, in turn, could lead to the emergence of a parallel – and dangerous – religious sphere.⁴⁵

In conclusion, having experienced the pitfalls of a purely majoritarian understanding of democracy that is not accompanied by respect for basic rights, restoring legitimacy and creating long-term stability in Egypt will not be easy. It will depend on the ability to craft a pluralistic and inclusive political system, capable of imposing its will on the Military and on other components of Egypt's omnipresent "deep State". A vibrant civil society is an essential ingredient for the creation of

⁴⁵ Georges Fahmi, "The Egyptian State and the Religious Sphere", cit.

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this effective and stable democracy. The lack of these prerequisite for civil society's development is an alarming signal, the evident obstacles to its creation are even more worrying. If Egyptian long-term stability depends on its sustainability, "new" authorities should be careful not to repeat past mistakes. Without a vibrant civil society that works as an antibody to the collapse of democratic dynamics, there is no guarantee for the establishment of a long-term stable and democratic environment.

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References

Maha M. Abdelrahman, *Civil Society Exposed. The Politics of NGOs in Egypt*, London, Tauris, 2004

Cairo Institute for Human Rights Studies, *Memo to Dr. Ibrahim Mahlab, Prime Minister*, 24 July 2014, <http://www.cihrs.org/wp-content/uploads/2014/07/Memo-to-Dr.-Ibrahim-Mahlab.pdf>

Cairo Institute for Human Rights Studies, *Proposed Government Law Makes NGOs Subordinate to Security and Ministry Control*, 9 July 2014, <http://www.cihrs.org/?p=8902>

Chalaine Chang, "Egypt, swallowing civil society", in *openDemocracy*, 19 August 2014, <https://www.opendemocracy.net/node/85315>

Committee to Protect Journalists, *Egypt convicts another journalist, bans TV channels*, 25 June 2014, <http://cpj.org/x/5bc4>

Egypt, *Presidential Decree for Law No. 107 of 2013 (anti-protest law)*, 24 November 2013, http://www.constitutionnet.org/files/protest_law_issued_nov_24.pdf

Egyptian Initiative for Personal Rights, *Proposed Government Law Makes NGOs Subordinate to Security and Ministry Control*, 9 July 2014, <http://eipr.org/en/pressrelease/2014/07/09/2154>

May El-Sadany, "Hunger-Striking: A Legal Approach", in *Tahrir Center for Middle East Policy Commentaries*, 16 September 2014, <http://timep.org/?p=9112>

Amr Ezzat, "Searching for the Church of Islam", in *The Immanent Frame (TIF) blog*, 9 April 2014, <http://blogs.ssrc.org/tif/2014/04/09/searching-for-the-church-of-islam>

Amr Ezzat, *To Whom do Minbars belong today?* (in Arabic), Cairo, Egyptian Initiative for Personal Rights, August 2014, <http://eipr.org/en/pressrelease/2014/08/31/2192>

Georges Fahmi, "The Egyptian State and the Religious Sphere", in *Carnegie Articles*, 18 September 2014, <http://carnegieendowment.org/publications/?fa=56619>

Fidh, *Egypt: New assembly law legitimizes police crackdown on peaceful protests*, 29 November 2013, <http://www.fidh.org/en/north-africa-middle-east/egypt/14316>

Enas Hamed, "Egyptian activists fear new penalties for foreign funding", in *Al-Monitor*, 10 October 2014, <http://almon.co/28h1>

Amr Hamzawy, "Indirect Repression: When Reason is Eliminated", in *EgyptSource*, 16 September 2014, <http://www.atlanticcouncil.org/blogs/egyptsource/indirect-repression-when-reason-is-eliminated>

Amr Hamzawy and Marina Ottaway, "Protest Movements and Political Change in the Arab World", in *Carnegie Policy Outlook*, 28 January 2011, <http://carnegieendowment.org/publications/?fa=42394>

Human Rights Watch, *Egypt: Draft Law Threatens Independent Organizations*, 14 July 2014, <http://www.hrw.org/news/2014/07/14/egypt-draft-law-threatens-independent-organizations>

Human Rights Watch, *Egypt: New Draft Law an Assault on Independent Groups*, 30 May 2013, <http://www.hrw.org/en/node/115964>

Reem Khorshid, "The Falcons on campus", in *Mada Masr*, 13 October 2014, <http://www.madamasr.com/opinion/politics/falcons-campus>

Sayyid Marsot and Afaf Lutfi, "Protest Movements and Religious Undercurrents in Egypt: Past and Present", in *Center for Contemporary Arab Studies Occasional Papers*, 1984

Azzurra Meringolo, "Stop-and-go: Egyptian Civic Opposition Moves Slowly Forward", in *Insight Egypt*, No. 1 (May 2013), <http://www.iai.it/content.asp?langid=2&contentid=945>

Aya Nader and Menna Zaki, "29 NGOs protest new civil society draft law", in *Daily News Egypt*, 9 July 2014, <http://shar.es/1oHRnd>

UN Human Rights Council, *Draft report of the Working Group on the Universal Periodic Review - Egypt* (A/HRC/WG.6/7/L.16), 10 March 2010, <http://undocs.org/A/HRC/WG.6/7/L.16>

UN Security Council, *Resolution 2161(2014)*, 17 June 2014, [http://undocs.org/S/RES/2161\(2014\)](http://undocs.org/S/RES/2161(2014))

UN Security Council, *Resolution 2170(2014)*, 15 August 2014, [http://undocs.org/S/RES/2170\(2014\)](http://undocs.org/S/RES/2170(2014))

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