



المعهد المصري للدراسات  
EGYPTIAN INSTITUTE FOR STUDIES

studies

26 MARCH  
2019

# Transitional Justice in Egypt Scopes of Application

Asmaa Khairy



[WWW.EIPSS-EG.ORG](http://WWW.EIPSS-EG.ORG)

[f Eipss.EG](https://www.facebook.com/Eipss.EG) [t Eis\\_EG](https://twitter.com/Eis_EG)

TURKEY- ISTANBUL

Bahçelievler, Yenibosna Mh 29 Ekim Cad. No: 7 A2 Blok 3. Plaza D: 64  
Tel/Fax: +90 212 227 2262 E-Mail: [info@eis-eg.org](mailto:info@eis-eg.org)

## Transitional Justice in Egypt: Scopes of Application

Asmaa Khairy

### Introduction

For about two years, a civil-military conflict has been going on in Egypt. It started with the army ousting the civilian elected president Dr. Mohamed Morsi. The conflict resulted in a death toll over 3500 persons, and around 41,000 political prisoners or prospected to be detained (wiki thawra, 2014). Despite the fact that many would prioritize working on the de-escalation of the conflict, in this paper, I overlooked de-escalation to work on transitional justice in any possible process of reconciliation.

The ongoing political discourse of the conflict in Egypt pictures the conflict as a zero-sum conflict that can't end without one party losing. Despite the discourse, there are manners to deescalate the conflict if there was any political will that would get us to a win-win situation; but the discourse keeps proving that it's not a prospected option. For this reason, I decided to work on a more fundamental area that would not be affected much with the current political arena and shall have more relative benefit, which is "Transitional Justice".

More on discourses, despite the fact that the political arena discourse has no prospection of de-escalation; "Reconciliation" as a concept appears frequently in the discourse mostly negatively. The social response (responses to news online/ social media dialogues/ social media responses to official statements and personals) to this appearance, however, is always negative from both sides' supports. The response is usually framed in a way "We can't reconcile with them after what they did to us". The term "What they did to us" varies depending on which side is talking.

March 26, 2019

I took my decision based on the red flags the social responses raise. If the political will is present at any time the political section of the conflict shall be resolved, yet, the social gap could not easily be resolved. This paper is studying transitional justice as a manner of reconciliation to bridge back society and sustain any resolution to the ongoing conflict.

### Research Question

How would Human Rights and Media actors affect a process of transitional justice post the ongoing conflict in Egypt since July 2013?

### Background and significance

Human Rights violations in Egypt along with the conflict between the military and Islamic civilian political powers (i.e. Muslim Brotherhood) are not new. They have been going on since 1954 but never this mass, and never this brutal and never as polarized. The conflict I am focusing on this time is the post-July 2013 conflict when the army ousted the first civilian elected president Dr. Mohamed Morsi (Representative of Freedom and Justice party, known to be political wing of Muslim Brotherhood in Egypt post-Jan 25<sup>th</sup>. 2011 Revolution.).

This conflict was different in terms of the size of atrocities civilians were subjected to in terms of mass human rights violations. With over 3500 civilian people on the death toll, the state security and military death toll over 300 this conflict could rise to or be considered as a “Civil War” according to (Coiler, 2007). Not only that, the detainees from the other side is over 30,000 people with approximately a thousand on death row. The gap the society is facing is extremely large especially with the July 24<sup>th</sup>, 2013 speech where General Abdul Fattah Al-Sisi has asked the public for an authorization to face “possible terrorism”. This authorization, which took place on Friday, July 26<sup>th</sup>.

2013, was considered Al-Sisi's supporters' agreement to the mass killing that followed on the following day, and on August 14<sup>th</sup>. 2013, known as "Rabaa Massacre".

Polarization – the above resulted in

Relevance to actors: To whom it may concern? Reconcilers, policy makers, media journalists and workers, in addition to human rights actors.

### Literature Review

To begin with, (Khairy, 2014) was a base point to my research. I am following the final recommendation of the paper to discuss reconciliation in a more comprehensive manner. However, the paper itself has provided me with a steady vision of the process of conflict de-escalation.

Despite the fact that the suggested timeline has mostly passed, it is still possible to achieve the actions proposed and the results targeted. The paper provides a proposal for achieving political space and steps to de-escalate the conflict beyond the main political figures to ensure a stable ground that could be built upon. The paper also provides a rough allocation of powers in the conflict and the important factors to reach a resolution. These factors are mainly the one I am using as a framework for my field research. These factors are: will of actors, credibility of actors, media role, and human rights role.

Moving on, I used Human Rights Watch reports on Rabaa massacre and the condition of human rights in Egypt 2014 to have a neutral view and understanding of the violations, in addition to a credible documented one.

First, the 2014 report was extremely important and fundamental. It discussed thoroughly not only the violations in 2014, but also the violation starting 2011 and its accumulations and the response of key local and international actors to each case. This

March 26, 2019

provides a timeline of comprehensive understanding to the interactions of different actors in Egypt and of the atrocities the people have been subjected to that shall be a key element in their decision on the credibility of essential actors.

This understanding was very helpful for me while designing my surveys and preparing my interview. Moreover, the “All according to plan” report on Rabaa massacre was focused on a turning point of the current conflict. The massacre witnessed the death of 1100+ personal in Rabaa sit in only and more than 2200 across the country – of both civilians and militant personal with an average ratio of 10:1 respectively. The report discussed the massacre and its following events in depth.

However, the report directed me to understanding that the range of violence is an important factor in terms of any possible de-escalation and reconciliation. I then used this factor as an element of my survey to measure the average violence range per person and how it affects their views of reconciliation.

Shifting away from the focused Egyptian case, (Ramsbotham and others, 2005) on contemporary conflict resolution was essential to me in terms of theory. I used the chapters on conflict resolution to understand the theoretical path needed to be followed. The source also provided me with a summary of understanding how other conflicts have been resolved and what’s to be learnt. It also provided me with post-conflict resolution issues that had to be dealt with.

I have used all the mentioned elements of the source in both my surveys and interviews. I am also using them in my paper as analyzing factors of the data and results. This source to my paper could be the guideline of the stages, actions needed and understanding the results or complications possible.

March 26, 2019

Finally, I used the International Centre of Transitional Justice (ICTJ) website to understand the theory and practices of transitional justice. ICTJ provided a handbook, a brief explanation and case studies (i.e.: South Africa) on transitional justice. I used these to conduct a comprehensive understanding for myself of transitional justice. I have used them in my surveys and interview to provide the definition of transitional justice to the survey takers and the interviewed person.

I have also used them in designing the third part of the mass survey and the focused survey that was sent to journalists and human rights activists and lawyers. I am further using it in my paper as a reference to the proposed actions of transitional justice, tailoring it to the conflict studied.

To conclude, the above review was for the secondary sources used to design my paper's framework and my research tools. Primary sources conducted are a mass survey that received 1181 response, a focused survey directed only to journalists and human rights activists and lawyers that received 40 responses, and an interview with Dr. Gamal Hishmat – President of the Egyptian Parliament in Exile that I am expecting to receive its answers by June 5th 2015 as a maximum. The paper findings, discussion and recommendations are to be based on the primary sources analysis in lighted and framed by the secondary sources.

After primary revision, this review is to be updated with the main four factors the paper is to study in order to provide a more solid theoretical framework for the research.

## Operationalization

Connect media and human rights actors with transitional justice process; how would the dependent variable affect the independent one?

## Methodology

The research approach adopted for this research is both quantitative and qualitative approach. The main discussion of this research is based on 2 surveys and an Interview, in addition to a theoretical framework for analysis. The first survey targeted society in Egypt. The target sample was 1000 personal, the results received were 1181, 118% of the target. This survey was published online, conducted via Google forms and posted as embed on a “word press” blog to be able to monitor the traffic and the geographic exposure. The introduction to the survey included a brief definition of both reconciliation and transitional justice. It provided the relevance and importance of the research, as a whole, and the targeted sample for the survey. The survey consisted of 16 multiple-choice questions and a space for a free comment.

As per the questions, the first set of questions measured the age, view of violations, transitional justice and conflict deescalating and resolving, in addition to the violence range the person is subjected to. Measuring the violence range had a shortcoming in one of the questions, as I have provided answers that included physical violence or detainment or both but didn't provide a space for other sorts of violence.

However, people surveyed overcome that by using the free space at the end of the survey to mention that they have been subjected to other sorts of violence such as expelled from university or work, exiled from the country, oral violence or being haunted inside the country and psychological violence.

The second set of questions was aimed at measuring the credibility of different actors in terms of application of the transitional. I, however, have decided not to ask any questions regarding the credibility of the regime ruling the state, as it's the one

March 26, 2019

committing the violations; so, the question regarding the view of the violations would provide an indicator somehow if needed in analysis.

Finally, the third set of questions was measuring the level of acceptance of post-conflict-de-escalation process of reforms and memorandum as part of transitional justice, in addition to the role of transitional justice for development. This set of questions was only four questions. It could have been more, which might be counted as a shortcoming, however, a main factor for ensuring the public response to a survey is for it to be brief and short; so that's my explanation as per the limitation of this set. To conclude the first survey, many shortcomings have been faced due to several factors, firstly, it was an online survey, which couldn't possibly manage to get to all members of the society; only those with access to the internet.

Secondly, some of the supporters of the current regime have shared the survey saying: "It's an intelligence report of the Muslim Brotherhood, don't do it", which might indicate that the responses won't be representative of both sides of the conflict. Thirdly, I avoided sending the survey to any officials of both sides of the conflict, the regime side would have gotten me in trouble; thus, I eliminated both. The survey was distributed via college students and professors in Egypt from both sides, in addition to many journalists from both sides as well and then it started circulating randomly. These are mostly everything regarding the shortcomings of this survey.

The second survey was more focused, the sample size was 40, from human rights activists and lawyers and journalists. It was also conducted using Google forms, however, it wasn't posted anywhere else and it was directly sent to the people surveyed. There was no target sample for this survey, however, it was sent to over 20 journalists, only 13 managed to respond, it was sent to about 30 lawyers and human



March 26, 2019

rights activists, 27 replied. An introduction was provided having the same information as the one before in addition to a description of the survey.

The first survey was filled up anonymously. However, in this survey, there were optional questions for providing name and contact info. The surveyed were asked to provide their age and specify whether they worked in the field of media or human rights. The last answer in the first section directed them to a specified survey for each. The first set of questions for each had to evaluate their access to information and their own feeling of safety and movement. It was provided as a scale from one to ten for each variable where zero showed the lack of the variable while ten showed it's complete fulfillment.

The next set of questions assessed the general feeling towards reconciliation from their interaction with society. It has also measured the ability and willingness to contribute to the producers and reforms of transitional justice.

The last set of questions were open questions, the first one is to comment with reasons on why is the credibility level of either media or human rights is low, and the second one is to provide possible ways of gaining back credibility for either. The survey ended with a final space for a free comment.

This survey in terms of question structure is more mature than the other one. However, I still believe that the sample is not large enough, and there is no manner of measuring the relative representation of it as we don't know the actual population of either field. Even more, I have chosen to ignore the affiliation of the surveyed, yet however, from the names submitted, there is a better representation of different affiliations than the first survey.

March 26, 2019

The final tool is an interview with Dr. Gamal Hishmat, president of the Egyptian Parliament in Exile. The interview had three main dimensions: current political views of the opposition, towards the ongoing conflict, their views of reconciliation, transitional justice and post-process procedures. And finally, their comment on low credibility level and their options to raise it. The main shortcoming of this tool so far is that I have received no response until now from Dr. Gamal Hishmat, except for a promise to respond by Sunday, June 7<sup>th</sup>. 2015.

## Findings

Moving on, going back to our questions: how can human rights violations affect the process of reconciliation and what are the scopes of application of transitional justice? Looking at the surveys run, 95% of the surveyed strongly believe Egypt witnessed mass human rights violations, 3.6% present agrees, 1.5% is either neutral or disagrees. 67.2% of the surveyed were between 21 years old and 35. 18.1% were between 15 and 21, while 11.7% were between 35 and 45 years old. Only 2.7% of the surveyed were between 45 and 60, while 0.3% were either below 15 or above 60 years old.

Before moving to the range of violence, I would quickly look into the results of the willingness of the society for reconciliation and conflict de-escalation in case transitional justice was agreed, and then their views of the time frame needed to de-escalate the conflict. The agreement to de-escalating the conflict is distributed upon the 5 levels of agreement presented.

A total of 56% of the surveyed either strongly agree or agree to de-escalating the conflict, however, 15.9% stand neutral, while around 28% present equally disagree and strongly disagree to de-escalating the conflict. However, when it comes to timings, 34% believe it shall take 1-5 years to de-escalate the conflict, 28.6% believe it shall take

March 26, 2019

from 6-10 year, 6.2% believe it shall take between 11-15 years, 8.6% believe it shall take over 15 years to deescalate the conflict, while 22.6% believe the conflict can't be de-escalated or resolved.

Moving to the range of violence the surveyed have been subjected to. Only 13% have none of the people they know or their family members killed in the dispersal of protests or sit-ins. And on the other hand, only 3.8% of the survey have none of the people they know, or their family members detained. However, 63.9% stated they haven't themselves been subjected to either physical violence or detainment. As explained before this statement was a shortcoming, as many of the 63.9% have stated in the free comment space that they have been subjected to other sorts of violence or human rights violations.

When going more in-depth regarding violence range. These are percentages of people surveyed who know someone or their family member have died during dispersal of a protest or a sit it. 59.9% know between 1-10 killed, 12% know between 11-20, 4.9% between 21 and 30, 1.3% between 31-40, 0.6 between 41-50, while 8.3% know over 50 persons killed. Moving on, these are the percentages of people who know someone or their family member have been detained for their political affiliation or beliefs. 33.8% know between 1-10 persons, 18% know between 11-20, 10.8% know between 21-30, 6% know between 31-40, 2.3% know between 41-50, while 25.3% of the surveyed know more than 50 persons detained for their political affiliation or beliefs.

Moving on to a different variable, which are the credibility levels of different actors in society when applying transitional justice. The first statement was: I trust the current opposition to implement justice if the conflict is resolved. A total of 24.8% either

agrees or strongly agrees. A total of 52.5% either disagrees or strongly disagrees. While 22.7% stand neutral.

As for human rights activists and lawyers, a total of 29.1% either agree or strongly agree to the statement stating that they trust them to document the violations for future trials. A total of 44.7% either disagrees or strongly disagrees, while 26.2% stand neutral. While the level of agreement to the statement saying: "I trust media to expose any violations or attempt to ignore transitional justice" came in the following manner. A total of 15% agrees or strongly agrees. A total of 62.2% either disagrees or strongly disagrees, while only 13.1% stood neutral.

Moving on to the credibility of Local and international judicial systems and their ability to regain justice for those subjected to violations. The credibility of the local system was as follows, 0.6% agreed or strongly agreed to the statement saying they trust the local judiciary system to regain justice, 2.6% were neutral, 9.9% disagreed with the statement, 86.9% of the surveyed strongly disagreed with the statement. On the other hand, 12.9% either strongly agreed or agreed to the statement saying they trusted the international judiciary system, 26.2% were neutral, a total of 60.9% equally disagreed and strongly disagreed to the statement.

Finally, future procedures and reforms statement have gained above 70% level of agreement within the survey. The most significant level of agreement was to the necessity of reforming both the security and judicial systems in Egypt. 72.8% strongly agreed, 23.9% agreed, while 3.2% were between neutral, and disagreement.

As for the second survey, due to it's length, the detailed results shall be provided in the index of this paper. I will, however, provide a brief overview of the results here. As per media, over 40% of the surveyed feel unsafe at all and assess their movement as

extremely hard, the other 60% varied on the scale and the highest for the safety scale was 6, the highest for the freedom and ease of movement was 4.

As per access of information, it varied from zero to 6 the highest on the scale, as moderately easy while there were two peaks at 1 and 5, with 23% each. Moving on, from the interaction with the society 46% of the journalists disagree that it's easy to have reconciliation, 15% agree, 15% stand neutral, while another 15% strongly disagree and 7% strongly agree. There is an equal agreement and disagreement however on the possibility of exposing any intentions to disregard transitional justice in any possible reconciliation process.

76.9% of the journalists surveyed see the space provided as not enough for them to be able to expose or document human rights violations. However, over 92% of the surveyed believe media has an essential role in the implementation of transitional justice and 84.6% believe that they have an essential role in the reconciliation process as a whole.

The surveyed stated the top 4 reasons for the low credibility of the media as the state-driven media (92.3%), Lack of freedom (53.8%), lack of information (38.5%), and lack of financial support (30.8%).

When asked to provide ways of raising the credibility of the media, surveyed suggested avoiding state or business run media, activate citizen journalism, creating a journalism pact, enhancing media laws and ethics in Egypt and training journalists in addition to eliminating all journalists who took part in enhancing the conflict.

Moving to human rights lawyers and activists, there were two peaks on the safety scale the highest was at zero with (37%) and the other was at 5 with (22.2%) the rest of the answers were among zero and 5. The ease of access to information had one

peak with (22.2%) of the surveyed at 3, the rest of the answers varied between 0 and 7. Finally, the highest peak for the ease of movement was at number 3 as well with (22.2%) and the answers varied between 0 and 7.

41% of the surveyed believe that it's hard to have to reconciliation while, 33.3% believe it's easy and 25.9% stand neutral. 66.6% of the surveyed believe that human rights activists and lawyers have enough information to put violators to trial, while 22.2% don't. 66% of them believe they can strongly contribute to transitional justice, while 70.3 % believe they can strongly contribute to reforming judicial system, and 62.9% believe they can contribute to reforming security system.

51.9% of the surveyed see lack of freedom as a reason of low credibility of human rights lawyers and activists, 48.1% see lack of publicity as a reason, other reasons suggested were the lack of coordination, and the lack of added value to the society in addition to rumors and the absence of the values of human rights in the society itself. Finally, almost all the surveyed provided their opinion on how to raise the human rights sector's credibility. The most significant is to provide unaffiliated media publicity, provide a safe area for them to mingle with the society and work more freely, decentralize, training, raising awareness, unite efforts and founding protecting laws for those working in the field in addition to agreeing on human rights ethics.

## Discussion

The results displayed so far present indicators on how wide spread the violations of human rights are and its correlation with other variables. They present an indicator of how the society views different actors and how would it be willing to see them work. In addition to that, it provides an indicator of the self-assessment of abilities and views of some actors. These indicators provide us with a general understanding of the scope

March 26, 2019

of transitional justice applications. Furthermore, it provides policy-makers with an overview of the societal trends and provides them with a general understanding of their current capacity of working and areas they should be working on.

Human rights violations in Egypt are massively spread. The surveyed sample agreed by 98.6% to the statement, human rights organization's reports such as Human Rights Watch (HRW), Amnesty International, and the Arabian Organization for Human Rights in the UK (AOHR); also agreed to the statement. The most significant of the agreement of the surveyed sample is that 97% of the surveyed sample are considered youth. The age group, between 18-40, according to UN demographic reports of Egypt represents around 45% of the population. 97% of the sample was between 15 and 45 years old. Thus, the results mean that human rights violations are widely spread within a fundamental age group within the Egyptian society.

It also implies that the absence of justice to those subjected to violations is a flashing warning of a dark future of continuous conflict. Only 13% of the surveyed sample doesn't know anyone who has been killed in dispersal of a protest or a sit-in, and only 3.8% doesn't know anyone who was detained for political affiliations and beliefs. However, at this stage slightly above 50% of the sample would agree to reconciliation if transitional justice procedures were applied.

This should be a serious indicator for the actors to start working on either judicial or non-judicial actions that would promote their credibility and ensure more support for reconciliation. The most suitable actors to function at this stage are human rights activists and lawyers. Tangible judicial procedures against the state either within the local or international judicial systems would provide the society with more trust in the

March 26, 2019

possibility of application of transitional justice, and more societal support to the process of reconciliation as a whole.

Elaborating on the credibility levels, from the surveyed sample the most credible actors within the expected transitional justice process; are human rights activists. They have the highest level of agreement to statements stating trusting them for a certain role in the process, with almost 30%.

They also have the highest level of neutrality of 26.2%, which is a good indicator that there is an opportunity to gain more trust and raise the credibility level. The main contribution of theirs would be judicial procedures at the current and upcoming stage and later on contribute to the reform of both judicial and security systems. If their credibility was guaranteed by at least 70%, there is a great chance to ensure a sustainable reconciliation after fair judicial producers and implementation of transitional justice; because the society will trust them that the reformed systems won't abuse human rights again.

Moving on, the second highest with credibility levels is the opposition and with 24.8% level of agreement of trusting them to implement transitional justice. The relatively low level of trust and yet high level of distrust with 52% is understood for fairly many reasons. The current main opposition within the conflict ruled for one year where human rights violations haven't stopped and no transitional justice was applied. Up till now, the opposition hasn't admitted these violations, given that they were applied by the same security and judicial system. However, to regain and enhance credibility, the opposition must admit the abuses within June 30<sup>th</sup>. 2012, till July 3<sup>rd</sup>. 2013.

They also must admit not having transitional justice and admit it was a wrong policy, and at the same time show real political movement towards justice for those subjected



March 26, 2019

to violations nowadays; especially at the international level from exile. The next up are media and international judicial system. Raising the credibility, relatively low, of media shall be discussed from the media survey.

However, it's extremely important to highlight that the massive role media plays in directing the society should be well recognized and utilized to promote human rights values and transitional justice non-judicial producers and maintain a sustainable reconciliation process. As per the international judicial system, nothing could be done by the actor itself to raise its credibility for the society, however, the action proposed is building strong cases by human rights lawyers and presenting them to the international judicial system. Only then will the system prove its effectiveness towards regaining justice, thus the local level of its credibility will rise. Finally, it's safe to say that the Egyptian judicial system has no credibility at all according to the sample; thus the proposed action is reform.

Furthermore, self-assessment provided by Human Rights lawyers and activists in addition to journalists, and the one, that is to be provided by a lead figure of the opposition, is extremely important. Self-assessment provided by human rights lawyers and activists propose different actions in order to enhance effectiveness. Although some measures, such as safety guarantee, are hard to implement; other measures as decentralization and training could be implemented relatively easily. The setting and preparation of such measures would need constructive work and unity of course, yet, it should be easy to have as most of the workers in the field have a common humane baseline. It's very well advised to follow up with constructive research on to facilitate these baselines and initiatives to achieve set goals and enhance effectiveness and therefore credibility of human rights activists and lawyers.

March 26, 2019

Self-assessment of media, safe to say opposition or non-affiliated groups media is rather scary. It indicates a relative will to contribute and act for human rights values, transitional justice and reconciliation; however, it shows the inability to do so. The assessment shows that the role of these sorts of media is not to be effective without stopping state-driven media and providing de-politicized financial support. And in that regard, a lot of research and actions should be taken. In the meanwhile, it's proposed to take the training of new journalists into action; as it would later save time and effort and would ensure that future actions could be taken with some level of success guarantee.

### **Conclusion and Recommendations**

Concluding, Transitional Justice is not hard to apply to the Egyptian conflict when deescalated. This is based on the shown will of society, human rights field and media. The credibility of actors is, however, possible to change either higher or lower depends on the ability of actors to show and promote effectiveness. Human Rights field and journalists showed understanding of their role, proposed actions and showed what kind of support they needed for better functioning.

It is advised to continue research on other scopes of application of transitional justice in Egypt and co-relate them with the ones studied in this research paper. It's also recommended to study possible ways of countering state driven media and providing effective international protection to journalists within conflicts. Furthermore, with more international relevance, more research should be done on how human rights field workers and journalists would work within modern conflicts, especially violent civil wars.