

History in the making

Constitutional processes in Tunisia and Egypt

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Introduction

On 17th of December 2010, the street vendor of fruits and vegetables, Mohammed Bouazizi set himself on fire in protest against the officials who had confiscated his wares and had treated him disrespectfully. The death of Bouazizi the next day was the event that sparked the revolt of the people of Tunisia against the regime of president Zine el-Abidine Ben Ali. This revolt soon spread to the rest of the Arabic world. That spring of 2011 became known as the Arab Spring. That spring, people were full of dreams and they hoped for a better future. When summer came, reality kicked in and people were disappointed with the results of their protests and sacrifices. In the West, many say that revolution has failed but after decades of dictatorship and repressive regimes, it is impossible to create a modern democracy within six months¹. While the ‘Arab Spring’ may be over, the Arab revolutions go on.

The goal of this essay is to come to a better understanding of the Arab revolutions. Comparing two cases of Arab revolution to a specific element may bring us closer to understanding them. To do this, this essay exclusively focusses on the cases of Tunisia and Egypt, mainly because of the immensity of the region and the major differences between the Arab countries in revolt. Tunisia was the first country to start their revolution, Egypt followed very quickly. Other countries such as Libya, Syria and Yemen have developed in a different way, revolutions in both Libya and Syria have developed into civil wars, with international intervention in Libya.

So the cases of Tunisia and Egypt are compare to a “tertium comparationis”. This “tertium comparationis” is the third part of the comparison: the first, Tunisia, and second, Egypt, are compared to a third element. The constitutional process will be the third element of comparison in this essay. The creation of a constitution is an important factor in every revolution: constitutions can be seen as the formalization of the political reconstruction. The American, French and Russian revolutions all brought about a Constituent Assembly that was charged with the writing of a new constitution in order to begin a new political era. The revolutions in Tunisia and Egypt follow that same tradition. But in this democratic process, there are ‘no hard rules and there is much to be learned’².

In the Arab revolutions, a lot of focus has been put on the role of Islam, new political actors and regional security issues. But rather ‘a focus on constitutions and constitution-making reveals important political interests, actors and outcomes’³. Tunisia and Egypt have both been attempting to create a constitution through some kind of broadly legitimised

¹ P. Stienen, *Het Andere Arabische geluid: een nieuwe toekomst voor het Midden-Oosten?* (Amsterdam 2012) 9-15.

² N.J. Brown, *Constitutional Rebirth: Tunisia and Egypt Reconstruct Themselves* (study prepared for the United Nations Development Program, New York 2011) 7.

³ A.F. Lang, ‘From revolutions to constitutions: the case of Egypt’, *International Affairs* 89 (2013) 345.

constitutional assembly. They have been attempting to become a modern, democratic state. How have they been doing this? What sort of problems arise from attempting this?

The first chapter of this essay will be a general background to the revolutions in Tunisia and Egypt so far. In order to make a comparison between Tunisia and Egypt's constitutional processes, we first need to look at the general background of their revolutions and understand the different political, social and economical factors in the process.

The second chapter will contain the constitutional process of Tunisia and Egypt and will try to compare these two processes. Examining their differences and similarities by looking at important aspects of the constitutional process: How have they been attempting to create a constitution? Did they form a Constituent Assembly? Have they organized elections and/or a referendum, and what were the results?

The third and final chapter will look at the problems that this constitutional process creates. What sort of problems arise from attempting to create a constitution? And how do these problems differ in the two cases? These problems will likely include political, social and economical factors.

At the end of this essay, hopefully there will be a better understanding of the aftermath of the Arab Spring in Tunisia and Egypt. The two countries are, among many others in the Arab world, trying to reconstruct themselves. The road to democracy is very long and difficult, but the writing of a constitution is one step on that long road.

The American and French revolution can be seen as very fundamental and important moments in history. The constitutions that have come out of those revolutions have shaped the way countries are today. Tunisia and Egypt are now writing their own constitutions and they are writing history.

Chapter 1 – Revolution in Tunisia and Egypt

The Arab Spring officially began on the 18th of December 2010; the death of Mohammed Bouazizi sparked the revolt in Tunisia. The first few weeks and months of the Arab Spring can be seen as the “innocent period”, revolutions were successful in Tunisia and Egypt. But soon, new conflicts began in Bahrain, Syria, Yemen and Libya. After six months, revolutions took a downwards spiral into violence, chaos and civil war⁴.

This chapter will look at the revolutions in Tunisia and Egypt. The general background of their revolutions will help us understand the different political, social, cultural and economical factors.

Tunisia

After almost a month of protesting, the government of president Zine El Abidine Ben Ali was overthrown on the 14th of January 2011. The ruling political party, RCD (Rassemblement Constitutionnel Démocratique), was disbanded and president Ben Ali himself fled into exile to Saudi Arabia. A state of emergency was declared and Fouad Mebazaa became acting president. A temporary government was installed, including members of the opposition and of Ben Ali's party RCD. This led to ongoing protests, on the street and in the government: Tunisians wanted a new government without any members from the RCD. The government was reshuffled, the RCD members were removed and on March 9th 2011 the party was dissolved. Elections for the Constituent Assembly were held on 23th of October 2011.

There were long-term causes for the wave of social and political upheaval. Tunisia seemed like a relatively healthy and modern country. It enjoyed the Arab world's best educational system, the largest middle 'class' or social group and had a strongly organized labor movement. But behind this façade, that Ben Ali wanted to create for the Western rulers and tourists, there was poverty, repression and no prospects. There was a high level of unemployment, food inflation, government corruption and political repression as well as lack of freedom of speech.

Economy

While people, mainly in the rural areas, were starving and had no hope for a better future, the Ben Ali family and the ruling elites were reaping the benefits of corruption. The website WikiLeaks revealed in 2006 that more than half of Tunisia's commercial elites were

⁴ J. Lambrecht, *De Arabische Revolutie: Van het offer van Bouazizi tot de val van Kadhafi* (Leuven 2011) 11.

personally related to Ben Ali through his three adult children, seven siblings and second wife's ten brothers and sisters: this network became known as "the Family"⁵

Tunisian protesters wanted Tunisia to become a democracy for the sake of jobs and they critiques the government in relation to the economy. From series of UN Development Reports of 2002 until 2009 economic problems are apparent: underemployment, no deployment of economic growth and this lead to inequality and resentment among the people⁶.

Tunisian Army

The Tunisian army played a limited, more than in other Arab countries, political and economic role. There were no massive human rights violations and Tunisia's army has a good relationship with the United States' military. During the massive demonstrations, an army general Rashid Ammar refused to shoot at protesters. By doing this, he delivered a fatal blow to the regime.

Society and culture

Before the outburst of revolution in Tunisia, social tensions were rising. There had always been a big gap between Tunisian society, which was relatively modern and sophisticated, and the state with its propaganda and repression.

During the revolution, it was apparent that there were two separate protests going on: one in the rural areas led by a 'working-class' group and the other one in the cities led by a 'middle-class' group. The protests started in the poor rural areas and spread to the cities. This spreading happened easily because of the well-organized labour unions. The labour party had long been repressed in Tunisia and now had its chance to be an integral part of the protests.

The prospects for Tunisia are relatively positive. The leaders that are emerging are moderates, they have skills and look like they want democracy and modernization. This suggests that Tunisia has an optimistic chance of success.

⁵ L. Anderson, 'Demystifying the Arab Spring: Parsing the Differences Between Tunisia, Egypt, and Libya', *Foreign Affairs* (2011) 1-6.

⁶ P. Aarts ed., *From Resilience to Revolt: Making Sense of the Arab Spring* (Amsterdam 2012) 21-30.

Egypt

Egypt was the second country to revolt after Tunisia. The revolution began on the 25th of January 2011 and in 18 days, president Hosni Mubarak resigned.

The revolution started online: on Facebook and several blogs, people were criticizing the regime and revealing their criminal and corrupt methods. After the beginning of the revolts in Tunisia, the Egyptians on Facebook had a clear message: Tunisia is the answer. They drew a clear parallel to the self-immolation of Bouazizi in Tunisia and the Egyptian Khaled Said who was beaten to death by the police in the city of Alexandria in 2010. The Egyptian people themselves, as well as the elites, never expected there to be a revolution: Egyptians had always very patient and law-abiding. But when Ben Ali fled Tunisia, there was hope and the atmosphere on the blogs and social media turned very political: people started talking about revolution, not just demonstrations. The 25th of January 2011 was chosen for demonstrations and the Friday that same week would be “Friday of Anger”⁷.

In those massive demonstrations in Cairo, Suez, Alexandria and other big cities, the police was, for the first time in history, fewer in numbers. Protesters have agreed on the social media that the demonstrations would be peaceful and without any political party or religious influences. But as the days go by, the presence of the army increases and Mubarak supporters go onto the streets: there is violence and deaths. But after 18 days of protesting, Mubarak resigns on the “Friday of Departure” on the 11th of February 2011⁸.

Power was turned over to the Supreme Council of the Armed Forces (SCAF): the military would now rule until elections could be organized. The old cabinet with the ministers would continue to take care of government until the election of a new ministers. Still, protests continued; people protested against the members of the Old Regime still being in government and they accused the SCAF of taking over power, launching a coup. But elections were held and on 24th of June 2012, Mohammed Morsi became president.

In the case of Egypt, we can also identify long-term causes for the revolution. Just like in Tunisia, causes were high unemployment, food price inflation and low minimum wages. Young people, who make up 65% of the population, had no opportunities, there was no work for them because of the economic crisis and corruption. In theory it was very cheap to get, for example, a driving license, but in practice it was very expensive because of corruption and off-the-book payments. Furthermore, police brutality was also a cause for people to go onto the streets: many examples of killings, mutilations and torturing by Egyptians police forces.

⁷ H. Abdel-Samad, *Oorlog en Vrede: De Arabische Lente en de toekomst van het Westen* (Amsterdam 2011) 22-29.

⁸ Abdel-Samad, *Oorlog en Vrede*, 30-60.

The day Mubarak resigned, people were euphoric and they went onto the streets to celebrate. Young men shouted: “Now we can work, now we can marry”. This shows that, in the Mubarak regime, people were deprived of two very fundamental things in life: work and love.

Economy and the Egyptian Army

Egypt has a population of 83,6 million people: it has huge amounts of unemployed and young people with a good education. The national economy may have grown in the last years, but the normal Egyptians could not reap the benefits of that growth. Elites that had connections to the regime could get positions in industries like tourism, real estate and finance. This favoritism and monopoly under Mubarak helped grow the dissatisfaction of the Egyptian people. The other way around, important and rich businessmen could rise to political positions and influence the government⁹.

The army is a very important factor in Egypt: people respect the army. But it also reached very far. The army owns around 45% of all the land in Egypt and have a very dominant position in the economy. They may in fact slow down privatization, economic reform and growth.

Society and culture

Social media, and particularly Facebook, can be seen as the biggest heretic in the Arab world. People now had access to all kinds of information and could exchange their ideas and knowledge. Facebook had “broken the monopoly of the regime on information”. Egypt has the largest amount of Facebook users in the Arab region: about a quarter of the total Facebook users is Egyptian. It had also added more users in 2012 than any other country: 1.6 million new users between January and June 2012¹⁰.

This intensive use of social media is possible because there are a lot of young people in Egypt. They are the new “middle-class”: this generation is educated and technologically savvy. They compare themselves to the elites in Egypt and young people in the West. They want what those elites and Westerners have: freedom, equality and a job. In Egypt there is no chance for them to have a better life than their parents because of the financial crisis and they are not allowed to climb the social ladder. This leads to a lot of frustration and anger¹¹.

⁹ Aarts ed., *From Resilience to Revolt*, 21-30.

¹⁰ Abdel-Samad, *Oorlog en Vrede*, 22-29.

¹¹ Abdel-Samad, *Oorlog en Vrede*, 61-78.

On 20 June 2012, former president Mubarak was sentenced to life in prison for ordering the killing of protesters. The political party of the Muslim Brotherhood has come to power after the elections in 2012. On 22 November 2012, president Mohamed Morsi instated a decree that would give him more power. After this a new wave of protests began¹².

¹² P. Stienen, *Het Andere Arabische geluid: een nieuwe toekomst voor het Midden-Oosten?* (Amsterdam 2012) 9-15.

Chapter 2 – The constitutional process

The writing of a new constitution seems a logic next step to build a new country after revolution. The constitutional process is very political; stakes are high for all parties. When they write a constitution, ‘societies make fundamental decisions about how they are to governed: there is enormous symbolic, emotional, legal and practical importance. Members of that society cannot be expected to ‘leave their preferences, values and ideas aside when they are arguing and bargaining about what to put into the document’¹³.

In the cases of Tunisia and Egypt we should look at the emerging constitutions as a compromise between conflicting political interests, not as a purely legal document. The constitutions of Tunisia and Egypt will not be ‘an ideal document that will protect human rights’, it should be seen as a political project in which negotiated results of different interests and ideals come together¹⁴.

Tunisia and Egypt share some similarities in their situation after the wave of revolts and the resignation of their dictator. The basic political structures of the ‘old’ state has basically stayed in place. Soon political life was coming to life: many new, and previously repressed, political parties arose and joined the debates. In this political scene there is very sharp competition but there is also a cooperative approach. Both in Egypt and Tunisia we see that there is competition and heavy debating between Islamist and non-Islamist political groups. Still, both in Tunisia and Egypt, there are no clear structures yet for all those political groups to explain and press their programs: these structures may become more clear when a constitution is written. An important issue that both countries face is; whether to first hold elections or first write a constitution. Further issues are: the level of inclusiveness of the public, the creation of an effective administration, there are security issues in both countries and lastly, there is the issue of transitional justice¹⁵.

¹³ Brown, *Constitutional Rebirth*, 5-7.

¹⁴ Lang, ‘From revolutions to constitutions: the case of Egypt’, 345-363.

¹⁵ Brown, *Constitutional Rebirth*, 5-7.

Constitutional process: Tunisia and Egypt

The centerpiece in the transition in both countries is the writing of a constitution. This constitutional process differs in the two states¹⁶.

An interim government rules Tunisia since Ben Ali fled the country. A body called the “Supreme Organization to Realize the Goals of the Revolution, Political Reform and Democratic Transition” (SORGR) has emerged, they are to guide the transition process. This body has designed a transition process that begins with the elections of a Constituent Assembly. On the 23 October, 2011 the National Constituent Assembly was elected, they were charged with the drafting of a new constitution. This Assembly is a temporary parliament and it consists of 217 lawmakers. A majority of its members is part of the moderate Islamist Ennahda Movement, the winner of the elections by almost thirty-eight percent of the votes. The old constitution theoretically remains in force, but through series of decrees it has been formed into a new, transitional order¹⁷.

In Egypt, the transitional process is much messier. After the resignation of Mubarak, the Supreme Council of Armed Forces (SCAF) took over power. They instituted a Provisional Constitution on 30 March 2011. The SCAF are the overseer of the constitutional process and they gave the parliament the order to choose a constitution-drafting board. That parliament, elected in December 2011, consisted 75 percent of Islamists and they selected members. But there was a lot of dispute about those members and the parliament itself. Shortly before the presidential elections in June 2012 and the parliament was disbanded; they were able to quickly select a Constituent Assembly of 100 persons. That Constituent Assembly consisted, like that of Tunisia, of a majority of Islamists¹⁸.

Society

A first major difference that should be highlighted is that Tunisia is a much smaller country than Egypt. It has around 10 million inhabitants, while Egypt has almost 84 million. Tunisia’s population can, furthermore, be seen as more homogenous and their ‘educated class’ is bigger and more cohesive. In Egypt, the level of development is much lower: people are illiterate and poverty is common, especially outside the big cities.

¹⁶ Brown, *Constitutional Rebirth*, 5-7.

¹⁷ Brown, *Constitutional Rebirth*, 13-20.

¹⁸ The Economist, ‘Egypt and Tunisia. New constitutions take shape. Revolutionaries argue over how they will rule and what rights to give citizens’ (versie 27 oktober 2012), <http://www.economist.com/news/middle-east-and-africa/21565268-revolutionaries-argue-over-how-they-will-rule-and-what-rights-give-citizens-new> (mei 2013).

Religion and state

On the aspect of religion and state: in Tunisia religion does not play a major role in politics and society, while in the Egyptian state religion plays a bigger role. Tunisia has a strong secular tradition and radicals have relatively little influence. But Egypt struggles with clashes between secular and Salafi groups that fight over issues like *sharia*. In Egypt those two groups both hold about one quarter of the Parliamentary seats.

The secular tradition of Tunisia shows in their drafting of a constitution: in their document *sharia* and words like blasphemy are not mentioned, only the preamble mentions the question of religious values¹⁹.

In May 2011, the Tunisians passed a law, based on a similar one in France, that 'required all political parties to ensure that at least half of each party's candidates were female'. Around 5000 women were candidates for the Constituent Assembly and the Ennahda Movement, the biggest winner, ran with the largest number of female candidates²⁰.

In both countries, Islamist parties have won the elections: the Ennahda Movement in Tunisia and the Muslim Brotherhood in Egypt. But the two parties differ in their politics towards the constitution. The Ennahda Movement is a moderate Islamist party, they are said to be flexible and are ready to incorporate secular demands. After many protests from feminists and journalists, the writers of the constitution agreed to rewrite a part of the constitution that could limit press freedom and sexual equality²¹.

On the other hand, the Muslim Brotherhood is a very powerful party in Egypt and the opposition is the suspicion that they use the constitution to consolidate their own power, instead of making it a document which supports human rights and takes into account all the parties wishes²².

Constituent Assembly

The first major difference between Tunisia's and Egypt's Constituent Assembly is the size: Tunisia is with 217 members much larger than Egypt's assembly with 100 members. Another apparent difference is that the Constituent Assembly of Tunisia is not only charged with the writing of a constitution, it is also a Parliament and has to govern the country while it is drafting the fundamental document. The Egyptian Constituent Assembly is only charged with the writing of the constitution and is therefore less in the public focus, it can work more quietly and efficiently. The bigger public focus on the Tunisian Constituent Assembly make

¹⁹ Brown, *Constitutional Rebirth*, 13-20.

²⁰ M.L. Haas en D.W. Lesch, *The Arab Spring: change and resistance in the Middle East* (Boulder 2013) 24-26.

²¹ The Economist, 'Egypt and Tunisia' (mei 2013).

²² The Economist, 'Egypt and Tunisia' (mei 2013).

bargaining between political groups more difficult. Mistrust and major divisions between political groups can also lead to 'vague phrasing' in the document itself.

Tunisia's Constituent Assembly is chosen by its people, they rely on a proportional representation system. This system is inclusive and means that all parties have the same amount of representation: but this also means that they will work very hard to get what they want. In contrast, the Egyptian Constituent Assembly does not rely on a proportional representation and is less inclusive: but the constitution may therefore be a more coherent whole²³.

Final drafts

Tunisia's first draft of the constitution was submitted for debate in the Assembly in October 2012 and it was passed with a majority of 109 out of 217 votes. The constitution became law when each of the members voted in favour for each article. It was scheduled to be ratified in February 2013. But due to many debates and protests, a third draft of the constitution was presented by the Assembly on April 25, 2013. This draft is scheduled to be approved in July 2013 but tensions are rising within the Assembly. The social problems from Ben Ali's regime have not been resolved: unemployment is around seventeen percent but in real life this could be a lot more.

On 26th of December 2012, the Egyptian constitution was signed into law by president Morsi. On 30 November, it was approved by the Constituent Assembly and then passed in a referendum with 65 percent support, but the voter turnout was only 33 percent. In Egypt there is also much debate about the religion-state relationship in the constitution.

Tunisia and Egypt have both engaged in a fairly rapid transitional process: they both have chosen to organized elections early on in the process. It may also be seen as a relatively peaceful process, taking into account the protests and occasional violence²⁴.

Even though Tunisia and Egypt differ on a lot of levels, in both countries the drafting of a constitution led to a major storm of controversy and protests. From the secular side, the lawmakers are accused of putting religious aspects before civic freedom. On the other side, the Islamists, mostly Salafis, critique the drafts because the role of religion and *sharia* is not emphasized enough²⁵. The next chapter will look more at the problems that arise from the constitutional process.

²³ Brown, *Constitutional Rebirth*, 13-20.

²⁴ Brown, *Constitutional Rebirth*, 5-7.

²⁵ The Economist, 'Egypt and Tunisia' (mei 2013).

After every revolution, there is a period of chaos, violence and instability on economic and societal level. The transition process that is now happening in Tunisia and Egypt is difficult, the old regimes are still very much embedded in every aspect of the state and the everyday lives of people.

In order to compare the constitutional processes in Tunisia and Egypt, this chapter will look at the problems that arise in those countries during the constitutional process. Problems arising for the constitutional process in Tunisia and Egypt are mostly social, religious and political problems, while the economic situation in both countries also counts. Most of all, the relationship between religion and state is a highly debated subject between political parties and social groups in both countries.

Economic problems

The Tunisian and Egyptian people are becoming increasingly disappointed about the results of the revolution. On the level of economy, nothing has really changed. The tensions and violence in both countries have led to a decrease in tourism and international trade. People that may have had jobs before the revolution, working in the tourism business, may be unemployed now because there are much less tourists coming. People want the state to create a healthier economy that provides jobs and trade. The ongoing debates and struggles with the writing of the constitutions leaves people with the view that the government is not doing anything practical for them. The social problems that existed during the regimes of Mubarak and Ben Ali have not been dealt with properly. In Tunisia, the official unemployment rate is 17 percent, but in fact it may be a lot more. In both countries, mostly Egypt, this all leads to ongoing protests²⁶.

Politics and religion

Egyptian people were relatively united until the fall of Mubarak on the 11th of February 2011. Their common view was that the dictator was bad and that he had to go. After that day, it became much more difficult to find a common ground²⁷.

In Egypt, the political party of the Muslim Brotherhood hold power. Opposition parties, Salafi and secular parties, fear that the Brotherhood 'is seeking to use the constitution to consolidate its control'. A problem in the constitutional process is that the Brotherhoods

²⁶ S. de Vries, *Onder mijn zolen: verhalen van de Arabische opstand* (Utrecht 2011) 149-249.

²⁷ Abdel-Samad, *Oorlog en Vrede*, 191-230.

dominance in the political sphere makes for a constitution that ‘preserves much of the administrative structure, assigns presidents majestic powers and safeguards the military’²⁸.

Other issues in the constitutional process of Egypt are religious freedom and the relationship between the state and religion. Firstly, Egypt’s new constitution states that Islam is the religion of the state and favors the Sunni Islam above other forms of Islam. Other states also have official religions but they may not be used to deny rights of individuals or discriminate against people who have other religious beliefs. Many more articles in the constitution point to religion and there is always a fear that the constitution may be used to discriminate other religious groups and people who follow no religion. In Article 60 for example, it says that religious scholars ‘are to be consulted in matters pertaining to Islamic law’. This may lead to the interference of religious scholars in the state’s legislation²⁹.

Other articles in the constitution make bold statements about the freedom of religion and about insulting religious symbols or prophets. In all these articles there are major flaws that leave space open for people to interpret them differently. The relationship between religion and state is very difficult to define in the constitutional process but Egypt’s government seems to take a specific position towards religious freedom and individual rights. This position leads to discontent among other religious groups, like the Coptic Christians, and also non-religious people that fear for their position in society and the Egyptian state³⁰.

In Tunisia, the relationship between religion and state is also a highly debated issue. Debates between secularists and Islamists about the how Islamist the constitution should be, has led to the drafting of a third revised version. It is still controversial and a source for demonstrations.

The Ennahda Movement has been in power in Tunisia and is for a major part in charge of drafting the constitution through their representation in the Constituent Assembly. The Movement is a moderate Islamist party but Tunisians, especially women, still fear that the movement will limit their freedoms via the constitution. Tensions are rising in the Constituent Assembly, parties are being driven further apart by their different views on many important aspects³¹.

²⁸ The Economist, ‘Egypt and Tunisia’ (mei 2013).

²⁹ K. Lantos Swett, ‘Egypt’s New Constitution: Challenges for Religious Freedom and Related Rights’, *Georgetown Journal of International Affairs* (2013).

³⁰ The Economist, ‘Egypt and Tunisia’ (mei 2013).

³¹ U. Schaeffer, ‘Tunisia’s long, difficult path to a new constitution’ (versie 25 mei 2013), <http://dw.de/p/18dj1> (mei 2013).

The army and the old regime

The major influence of the military in Egypt is another important source of issues in the constitutional process. In Egypt the army is much more influential, on a political as well as economic level, than in Tunisia. In both countries, the remnants of the old regime still have major interests and those could threaten the constitutional process and the transition to a democracy.

After the fall of Mubarak, the military, the Supreme Council of Armed Forces, took over power and became the 'guardian of the state throughout 2011 and 2012'. But they have been more committed to getting what they want, instead of helping the transition of Egypt towards a democracy. The military is very fearful of democratic transition because in a democratic Egypt, their position and amount of privileges will change. On a political level, they fear that their autonomy from civilian officials and other state institutions will diminish. The army now has the power to make policy and to decide on promotions and budget. Those privileges will most likely disappear in a democratic state. Furthermore, the army has enormous economic interests. They own a lot of land and at least 35 major companies. The economic activity that the army controls through all the land and those companies, accounts for almost 12 to 18 percent of the GDP of Egypt. At the moment, their companies are not required to be reviewed or controlled in any way by a state institution: so the army is basically economically independent. Another issue for the army is the military aid and assistance from the United States, which was around \$1.3 billion in 2011. In a democratic Egypt, people could become critical about the relationship between the army and the U.S., especially regarding the Camp David Accords and the peace with Israel. If policy towards the U.S. and the Accords were to change, the army would lose a source of aid and regional influence³².

Overall, the army is taking steps to slow the process of democratic transition down. For example, they issued several constitutional amendments in June 2012. In those amendments the SCAF would gain more legislative power, the president's power was limited and the SCAF role in the drafting of a new constitution was increased. Some critics called this move by the SCAF a 'de facto coup that aimed to frustrate the will of the people and prevent a transition to democracy'. The power of the military is huge and their interests must be addressed in the constitution if that constitution is to endure. This is thus a major problem that arises from the constitutional process in Egypt because the army's interests are slowing the democratic transition down³³.

Another group that is slowing democratic transition down, are the supporters of the old regime. They fear the loss of their privileges but also being brought to justice. In both

³² Haas en Lesch, *The Arab Spring*, 54-59.

³³ Haas en Lesch, *The Arab Spring*, 34-59.

Tunisia and Egypt, people of the old regime are still at their place in important institutions such as the police, justice, media, banks and other important high offices. They try to slow the process of democratization down by creating chaos and food shortages, which leads to the rising of prices and more then more chaos. People who have not participated in the revolution have an increasingly negative view of the revolution because they cannot reap the benefits of the major change³⁴.

Countries have to decide a tactic regarding the old regime. They can either purge the entire state apparatus of the old regime, but by doing this, the entire state is also paralyzed. The second option is ‘to leave the old regime at their posts, this slows the pace of change but may allow for gradual reform without severe disruptions to state, economy and society’. It seems like Egypt has chosen the second option, most of the structures and people from the old regime are still in place. Tunisia can be seen to have chosen the first option: they have chosen to instate laws that will ban members of the old regime from politics³⁵.

This chapter has looked at several issues the constitutional process has brought about. We can see that Tunisia and Egypt have some issues that are different but mostly they have similar problems: the relationship between religion and state is major theme in both cases.

³⁴ Abdel-Samad, *Oorlog en Vrede*, 191-230.

³⁵ Haas en Lesch, *The Arab Spring*, 54-59.

Conclusion

Egypt and Tunisia are trying to reconstruct themselves. One of the steps on the long road to democracy is the writing of a constitution. The constitutional process is difficult and leads to many problems.

After the fall of Mubarak and Ben Ali people had high hopes for the future. But they have become disappointed. The feeling of the decades of dictatorship is still present, it is deeply buried in every part of state and people's lives. The economy is failing, tourism is not going well and justice is not happening in the way people would want or it is not happening at all. Protests are ongoing and, especially in Egypt, are getting more violent³⁶.

The goal of this essay was to come to a better understanding of the Arab revolutions, focussing on the cases of Tunisia and Egypt. This essay compared Tunisia and Egypt to each other in relation to their constitutional process. The writing of a constitution is a major part of every revolution because they are the formalization of the political reconstruction.

After looking at the background of the revolutions in Tunisia and Egypt in the first chapter, the second chapter contained an overview of the constitutional process in the two countries. We have seen that both Tunisia and Egypt have formed a Constituent Assembly, an institution that is in charge of writing the constitution. The way the Constituent Assembly was chosen, how it functions and how it has produced a written document, differs in the two countries.

The last chapter examined the issues that the constitutional process brought about. The economic, political and religious problems were looked at, as well as issues regarding the constitutional process, the army and the old regime. We can conclude that Tunisia and Egypt have different processes and, mostly, similar problems. Their processes differ, for example, on the aspect of the Constituent Assembly: Tunisia's Constituent Assembly has 217 members, it trying to be as inclusive as possible and also governs the country while they are writing the constitution. Egypt's Constituent Assembly has 100 members, is less inclusive and its only focus is on drafting the constitution. Problems that arise from these processes: deep divisions between political parties lead to many debates and bargaining. Secular groups and Islamist groups fight for what they want to achieve and debate fiercely. In these debates, the relationship between religion and state can be seen as major issue in both Tunisia and Egypt³⁷.

³⁶ J. Eikelboom, *Arabische Lente: een ooggetuigenverslag* (Amsterdam 2011) 185-189.

³⁷ Brown, *Constitutional Rebirth*, 13-20.

The writing of a constitution is a very important step towards democracy. In Tunisia and Egypt, it will take a long time before a full, clean democratic state is finished. The processes are very much alive and everyday there are new developments. The media followed the revolutions in the Arab countries very closely from their beginning. Even though the media has stopped covering the events so very closely, people still go on the streets of Cairo everyday to protest and these protests are getting more violent everyday.

The disappointment in the outcomes of the revolution is huge among the people of Tunisia and Egypt but they still hold hope. They look at Europe's history and see that those democratic states have taken a very long time to become what they are today. They look at their own people with pride and are hopeful because they 'have achieved so much in a few months'³⁸.

Hopefully, this essay brings us closer to understanding the revolutions in Tunisia and Egypt. While the situations in the two countries is changing by the day, this essay provides us with a background and an analysis of the constitutional processes, of which we can hopefully learn and create a better future. The writing of constitutions in Tunisia and Egypt is history in the making and is very interesting and instructive to look at.

³⁸ de Vries, *Onder mijn zolen*, 149-249.

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