

# Transparency International Observation Mission Egypt Constitutional Referendum

## Preliminary Report Released on 16 January 2014

### INTRODUCTION

Transparency International (TI), the global anti-corruption organisation, deployed a mission to observe Egypt's constitutional referendum taking place on 14 and 15 January 2014. The Interim Authority of Egypt had invited Transparency International to conduct this mission to assess the voting process and offer recommendations for improvement. Eight members of the TI observer delegation coming from eight different countries around the world spent 10 days in Egypt to comprehensively assess and observe the voting process. The delegation comprised expert leaders of TI chapters in their respective countries with experience monitoring numerous elections in different parts of the world. The executive director of Transparency International Cambodia headed the mission. He has ten years of experience observing elections in South-East Asia. He recently oversaw over 900 election observers in the latest Cambodian elections in 2013. The TI observer delegation complies with the Declaration of Principles for International Election Observation and the Code of Conduct for International Election Observers as well as the local Code of Conduct for Monitors.

During the mission, the TI delegation reviewed Egypt's relevant legal frameworks and resolutions including the Law on the Exercise of Political Rights, Rules and Regulation for Voting, the Constitutional Declaration for the transition period and other relevant documents. The delegation met relevant stakeholders including officials at the highest level of the Interim Authorities, different political parties, civil society organizations and domestic observers, youth movements, media, and other international organizations accredited to observe the referendum. During the voting in the referendum, delegation members deployed to cover 15 governorates.

### PRELIMINARY ASSESSMENT

Voting on the referendum comes after months of unrest in Egypt. Towards the end of June 2013, large numbers of Egyptians expressed their dissatisfaction with the rule of Dr. Mohammed Morsi, Egypt's first elected president following the January 2011 popular revolution, in demonstrations. On 3 July, the military then removed Morsi from office and detained him. Morsi, who hails from the Muslim Brotherhood, won by a slight margin in a 2012 election. In July 2013, the military installed an Interim Authority, which issued a roadmap for transition back to democratic rule, starting with revisions to the 2012 constitution voted on. The interim authorities also took several measures that limited freedom of expression, association and assembly. The space for civil society to represent the voice of the people also shrunk considerably. For example, the Administrative Judicial Court in August ruled to suspend broadcasting at several media outlets associated with the opposition. The court's reasoning included threats to the social peace, disseminating false news and harming public security. In December, the interim president declared the Muslim Brotherhood a terrorist organization.

During the period leading up to the referendum, those opposed to the constitutional amendments and urging a "no" vote or a boycott of the referendum faced repression by state authorities. Peaceful advocacy for Egyptians to abstain from voting in the referendum are legitimate.

Of further concern in the period prior to the referendum are in particular violent attacks by security forces against protesters, violent attacks on security forces that appear politically motivated, the detention of scores of persons affiliated with the Muslim Brotherhood, the politically motivated prosecution of these persons as well as non-Muslim Brotherhood critics of the government, and the new law on assembly restricting this right. The administration of the referendum appears to have excluded domestic groups affiliated with the Muslim Brotherhood from monitoring the freedom and fairness of the referendum, while approving other groups that have voiced support for military's ouster of President Morsi.

The political context in the run-up to the referendum impaired conditions to hold a free and fair referendum when compared with international standards. The administration of the vote on polling day requires technical improvements.

Based on the numerous meetings and discussions with different stakeholders from various parts of Egyptian society, the TI delegation noted a remarkably welcome and open attitude by the vast majority of Egyptians in their quest for peace, progress and stability. This was the case even if they disagreed with some articles in the constitution or how the voting on the referendum was being administered.

## PRELIMINARY FINDINGS AND RECOMMENDATIONS

TI notes that:

Finding 1: Civil society groups and political parties interviewed pointed out that the government clearly campaigned for support of the constitutional amendments, while other groups and parties that campaigned against the constitution either did not receive support or faced restrictions from the authorities, including repression, arrest and imprisonment.

*Recommendation: The roles and mandate of the government need better definitions and limitations under the law in order to create a level playing field and secure impartiality to enable a free and fairly contested voting process. The Higher Election Committee should take up cases in which government officials used their position and public resources to campaign for support of the constitutional amendments.*

Finding 2: Media coverage in state and private media was largely one-sided. Public officials openly took position for a "yes" vote in the referendum during our meetings.

*Recommendation: The government and relevant stakeholders including the media should develop regulations to grant and secure access to media (state and private) for all views, parties and stakeholders, enhancing citizens' ability to make a more informed decision.*

Finding 3: Politically motivated violence, intimidation and repression from state and non- state actors limited and conditioned citizen's political and electoral participation.

*Recommendation: The government, in cooperation with civil society, should develop a more peaceful and democratic space to promote views and debate. Building consensus is crucial for the country and its future.*

Finding 4: The regulations on political campaign financing are weak and generally unknown for this referendum.

*Recommendation: Develop a law on campaign finance that ensures increased transparency (disclosure) on public and private financing of politics in general, and electoral processes in particular. This would secure the health and benefits of democracy for the future elections.*

Finding 5: For this referendum, political party-affiliated poll watchers were not allowed access to monitor polling. Some sub-committee members applied unnecessary restrictions and heavy scrutiny to some TI observers. The authorities denied accreditation to many observers from domestic civil society organizations.

*Recommendation: Greater access to all stages and instances of the counting process to parties, media and civil society would build more confidence in the accuracy of the results and the respect for the popular will. In particular, creating conditions for independent counts would greatly enhance the trust in the electoral system.*

Finding 6: Political parties and civil society organizations voiced a concern about inaction or selective investigation of alleged electoral violations.

*Recommendation: Complaints mechanisms and procedures, as well as investigation and prosecution of electoral crimes (as well as citizens' education regarding these items) need more transparency and diligence, starting with cases in which electoral administrators are allegedly involved.*

Finding 7: All stakeholders and even some public officials acknowledged that there was limited time and civic education made available to most citizens to learn and debate the constitutional draft subject to their ratification in this referendum. This was the case despite many of its most relevant aspects had been on the public political agenda for many years.

*Recommendation: It is necessary to provide enough time and instruments to secure informed voting in the future. This is a means of increasing the legitimacy and responsiveness of those elected and fosters democratic growth.*

Finding 8: While the authorities have done an impressive job in installing and maintaining database of the voters for the first time, the integrity of the voter list or registry raises concerns among many actors.

*Recommendation: Greater transparency and independent audits, (with wide access to its results) would build trust in this fundamental instrument and in itself enhance the quality of future electoral events.*

Finding 9: While all actors interviewed noted that decisions such as enabling citizens under certain circumstances to vote at places other than their place of registry was well intended, it raised concerns of possible double voting.

*Recommendation: Such procedures require timely and adequate planning and implementation in order to limit their serious down side potential, including confusion, mistrust and abstention.*

Finding 10: The range of 1,500 to 2,000 voters per polling station seems too high and results in measures such as the two-day balloting process. This in turn generated concerns about the control and custody overnight of the ballot boxes and electoral materials.

*Recommendation: Lowering the number of voters per polling station while increasing number of the polling stations and sub-committees could be considered, along with other measures suggested here to reduce lines and reduce voting to one day.*

Finding 11: Civil society organizations and political parties pointed out the indelible ink applied in the referendum was easily removable, raising concerns about its ability to ensure the principle of one person one vote.

*Recommendation: One of the crucial and visible ways to secure such a principle, particularly on processes with multiple election days that allow for non-domiciliary voting, is the need to upgrade the quality of existing ink.*

Finding 12: The newly established electoral management body (High Election Committee) appears to have received reasonable levels of trust in part because a judge oversees each sub-committee and polling station. However, some judges lack adequate skills and experience to undertake their role and responsibilities at the polling station properly. Based on the TI observations there was a lack of consistency in decision making and the arrangement of materials at the polling stations. This left the decision to the discretion to the judges.

*Recommendation: As the country moves to its planned establishment of an Electoral Management Body of a more permanent, independent and professional nature, the capabilities and technical support of its officials should be upgraded for future voting.*

Finding 13: The role of assistants at the polling stations and other electoral administrators raised suspicions among some parties and citizens because many hailed from the civil service.

*Recommendation: Ensure an access to proper training of the officials and a strict enforcement of a code of conduct to improve trust in the short term and increase professionalization in the long run.*