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THE STATUS OF HUMAN RIGHTS IN POST-ARAB SPRING

By

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Dedication

This thesis is dedicated to my parents “Ali & Faten Chaaban”

For their endless love, support, and encouragement.

Thank you Lord for always being there for me.

This thesis is only a beginning for my journey

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The Status of Human Rights in Post-Arab Spring

Maram Chaaban

ABSTRACT

This thesis examines the relationship between the global human rights regime and the post-Arab Spring constitutional transition, taking Egypt and Tunisia as a comparative case study. First, it assesses hypothetical claim of global human rights regime having played a critical role in catalyzing the equal rights movements in both countries. Second, it reviews post-revolution constitutional changes as well as global human rights development indicators in Tunisia and Egypt in order to determine the extent to which new global human rights principles have been imbedded in the new political foundations. The comparative analysis highlights significant impacts of globalization in inspiring Arab Spring human rights movements. Yet, comparative differences reveal that Tunisia has fared better than Egypt in the formulation and implementation of human rights principles during its transitional period. Egypt's economic challenges are among the major obstacles undermining the advancement of human rights agenda. Economic developments and social equity remain critical prerequisite for the integration of human rights and political reforms in the region.

Keywords: Arab Spring, Globalization, Human rights, Egypt, Tunisia, Constitution

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List of Abbreviations

ATFD	Association Tunisians “des Femmes Démocrates “
CEDAW	Elimination of All Forms of Discrimination Against Women
CPI	Corruption Perceptions Index
ECWR	Egyptian Center for Women’s Rights
FJP	Freedom and justice party
GDI	Gender Development Index
GNI	Gross national income
HAICA	Independent High Authority for Audiovisual Communication
HDI	Human Development Index
IHDI	Inequality-adjusted Human Development Index
PPP	Power Purchasing Parity
UDHR	Universal Declaration of Human Rights
UNDP	United Nations Development Programme

Chapter one

Introduction

Globalization has become a predominant term in this century. The concept of globalization can be infused in several aspects of today's world. Despite that, it is still a concept that cannot be completely defined and encompassed within a certain time frame, nor limited to a certain time. While it can be argued that globalization "cannot be expounded upon with certainty and be applicable to all people and in all situations" (Olagunju, 2013). Globalization does not just involve economic integration and the transfer of policies across borders, but also includes the transmission of knowledge and culture as well as power, locally and internationally. It is a global process, a concept, an evolution and "an establishment of the global market free from sociopolitical control" (Al-Rodham, 2006).

For the purposes of this study, it is argued that while globalization might be positive in terms of economic aspects, especially within a global context, while it is negative within individuals socio-economic and a state's political framework. This will be further emphasized by exploring the role of globalization during the Arab Spring movements. This is important since the 20th century has witnessed the formation of a comprehensive system of establishments, social movements and conventions that sponsored the rights of individuals.

In 2000, the world leaders formally acknowledged the link between human rights, and development and governance with the adoption of the 2000 Millennium declaration. Human rights are accordingly essential to achieve the Millennium Development Goals. Democratic countries have the necessary infrastructure and tools ensured to ascertain that their citizens are able to maximize their potential.

Some argue that democracy and globalization are closely associated where unrestricted international transactions lead to increased political accountability and transparency. The protests that engulfed the Middle East during the Arab Spring were not fuelled by

ideology, but were driven by socio-economic objections and political domination. The Tunisian uprising began from poverty-stricken rural areas organized through labor movements that targeted social hierarchies. Similarly, the Egyptian unrest centered on the demands for political reform and was fuelled by the frustrated urban youth. So, not only the relationship between globalization and democratic transition is examined, but also there is a focus on its role during the Arab spring. Also, human rights movements that played a significant role in the revolution are highlighted.

Therefore, the thesis attempts to examine several questions: (1) Has globalization played a role in shaping the political transitions in Egypt and Tunisia? (2) How can Human Rights movements be assessed in the post-Arab spring states based on certain indicators? (3) Are constitutional changes and amendments sufficient measures of state compliances?

The significance of these questions is to expand our understanding of the Human Rights movements and its impact on Arab democratic reforms. In order to ensure a proper investigation of these questions, this thesis employs case studies of countries undergoing transitions in the Arab region with a specific focus on the constitutional reforms being implemented in both Egypt and Tunisia. After examining the general Human Rights provisions, this thesis undertakes a comparative analysis demonstrating the various aspects of compliance with the Human Rights movements and mechanisms. The comparative analysis reveals the extent to which globalization either helps or undermines Human Rights in both states.

The assessment relies on a large number of indicators including media, constitution, civil society and liberties, military and corruption (Roskin, 2011). These indicators are related to socio-economic factors and political structure. Furthermore, acquiring a better understanding of the relationship between the roles that globalization plays and democratic transition is expected. Concluding with whether or not globalization plays such an important role within these aspects.

The research that is used focuses on identifying the role that globalization plays in democratic transition and the advancement with a direct link to human rights

movements. To understand that role, it is important to value each of the variables. In addition, the understanding is applied within the framework of Arab democratic transitions by focusing on the Arab uprisings that took place in the Middle East during 2011.

Like a snowball rolling down a steep mountain, globalization seems to be causing momentum. Understanding globalization is a function of how the world is defined and understood. For such a reason, a study addressing globalization should include a critical examination of what the term represents. Over the past twenty years, many scholars have taken interest in the notion of globalization and pursued that globalization could provide a framework for understanding social changes occurring (Scholte, 2002). Scholars do not debate whether globalization will continue but at which pace. Through the various factors that can dictate the future direction of globalization, there is the one important object, the governments, which should not be overlooked (International Monetary Fund, 2008). They still have the power to erect significant obstacles to globalization, which range from imposing tariffs to immigration restrictions and more importantly, the political structures and governments behind them. Based on what took place during the Arab Spring, democratic power and human rights are the critical foundations for a sustainable, developing and lasting peace within a country's development.

Before 2011, the start of the revolution, the situation is considered harsh on several levels such as the political and economic. Undoubtedly the complexity of the Arab states, and the powerful forcible tools of the authoritarian regimes, with their established fear campaigns are the main factors obstructing democratic transformations for many years. Such variables have provided these regimes with a sturdy foundation on which to entrench themselves (Salamey & Pearson, 2012).

“Factors responsible for the erosion of Middle Eastern authoritarianism and the growing abilities of the civil rights and civil society movement to break the erected barriers of fear can be attributed to changing local and global nurturing environments” (Salamey & Pearson, 2012). Locally, it can be observed that civil society groups such as

independent professional associations, service organizations, watch-dog groups, were hardly present in the Middle East before the 1990s. By the turn of the 21st century, however, civil society groups started to expand their operations in ways never before seen throughout the region, largely inspired by global experiences (Salamey & Pearson, 2012). The rise of these groups with the clear understanding and awareness of the authoritarian actions are considered critical factors in creating forces against fear and breaking later the wall of silence (Salamey & Pearson, 2012).

Education expanded widely by the beginning of the 21st century. This has led to emerge young educated youth. “The fact that access to higher education had become widely accessible represented an overwhelming incentive for change”. Education is considered a foundation for democracy. “The largest percentages of Arab populations are under 30; 15–19 year-olds make up one third of the region’s population, and they are far more educated than their parents” (Salamey & Pearson, 2012).

However, “this newly emerging educated generation was confronted with a harsh economic environment amid widespread governmental corruption, inefficient bureaucracies and a shortage of fulfilling occupations. Numerous ruling elites with unbounded control over state wealth have subjugated the national economies into nepotistic practices with programs hardly sustaining themselves, let alone providing for the public at large” (Salamey & Pearson, 2012).

Moreover, the impact of the communications revolution and the foundation of social media have played a crucial role in the “new and free cyber-based intellectual forums”. These forums has later became a destination for youngsters who are opened to the world through the internet. Around 79% is the increase in the number of Facebook users in the Arabic region in 2010. “The prevalence of bloggers, Twitter feeds and Facebook pages among Middle Eastern youths helped open the discussion about traditionally forbidden topics such as sex, gender rights, political freedom, human rights and religion, among others. These newly formed phenomena and intellectual discussions challenged the watchful eye of the state and religious authorities, effectively dismantling the state’s traditional monopoly on information” (Salamey & Pearson, 2012).

Despite the fact that the main causes of the uprisings in Egypt and Tunisia were due to the people's political and socio-economic frustrations, it is important to understand the differences between the two. There are many similarities between Egypt and Tunisia stories. The most essential being the acquisition of power following the uprising where, in Tunisia, the Islamist Ennahda acquired power and similarly with the Muslim Brotherhood in Egypt. However, the courses for the two nations have digressed following initial control by the Islamist movements. The main differentiating factor has been the role played the military. In Egypt, the military has taken an active role in the political scene dating back to 1952. However, in Tunisia the military has avoided playing such an active role and have been a driver for democratic reforms. The Tunisian military has been consistent in its support for the usage of the important worldwide measures for majority democratic states.

However, the Egyptian military has looked to inoculate itself in the new constitution from any type of oversight from Egyptian society by handling an arrangement with the Muslim Brotherhood (Cairo Institute for Human Rights Studies, 2012).

The second critical factor is "secularism" which has dropped into the Tunisian ideology before its freedom and under Habib Burguiba rule, Tunisia's first president, and which is reflected absolutely in the Tunisian society to a more noticeable scale than in Egypt. Moreover, civil society associations in Tunisia have more noteworthy political vitality and capacity to affect political elites than those in Egypt (Cairo Institute for Human Rights Studies, 2012).

It is likewise vital to highlight the importance of the Tunisian General Union of Workers. This union has the ability to take an active position in the Tunisian political landscape while advocating Human Rights for citizens. The strength of the union comes from its ability to combine a diverse selection of the Tunisian fabric including laborers, educators, and different experts in provincial Committees. The Union has played an essential political, civil, and union role in various critical times of the Tunisian history since the nation's independence, especially in the period preceding the revolution and the subsequent period of transition (Cairo Institute for Human Rights Studies, 2012).

Such a union does not exist in the Egyptian landscape whereby a large number of activists have been subjected to subjective confine and examine (Cairo Institute for Human Rights Studies, 2012).

The complexities of both countries deserve more depth in the study and analysis. Nevertheless, the underlying theme remains the same, where in both cases the people needed to voice their problems, take it to the streets and force change.

Democratic transition, which typically revolves around a monumental change within a nation-state, is triggered by a set of moments. These moments are normally the result of long-term struggles in civil society that end up transforming and changing the political landscape. Regardless, it does not mean that the changes automatically create a consolidated democracy (Foweraker, 2004). It also focuses on the critical step in the country's history of democracy, when it passes a starting point towards "competitive elections with mass suffrage for the main political offices" (Munck, 2001) in the country. Democracy, being one of the most used terms in the political vocabulary, is central due to the fact that it is a part of every fundamental part of a human being's life within a society (Bassiouni, 1998).

When societies are aided in protecting the rights of their citizens, future conflict can be prevented, economic growth can be nurtured and human dignity can be advanced. These are typically the points that make up a democratic state. Despite the fact that no state is fully democratic, there are various levels it can reach. In both Egypt and Tunisia, they have been able to witness the struggle towards transitioning the government into a democratic one, strengthening their democratic institutions or creating new ones, capitalizing on the critical moments to expand freedom and opportunity. These objectives, while not completely achieved, have also aimed at promoting inclusive development, where women and minority groups can also benefit from the growth, opportunity and expansion of rights that they fought for.

Human rights and development are inextricably linked, with the objective of improving human wellbeing and freedom in addition to protecting and flourishing the inherent dignity and equality of people. For this reason, this study aims to delve deeper into the

human right indexes and variables of the two main countries during the Arab spring, Egypt and Tunisia. Furthermore, this study attempts to compare the situation before and after the uprisings. The important consideration are given to the human rights movements that the citizens are demanding to be implemented for which they participated in changing the form and structure of the government.

In addition to the role of globalization, a vital focus is on the politics behind the uprisings, especially with the overall agreed statement that globalization and politics are interrelated. This also allows a small understanding into why some of the Arab countries that were part of the uprisings, such as Yemen, Bahrain and Saudi Arabia, have remained under the same political structure, whereas Syria was engulfed into civil war. The general objective would be examining if globalization played any role in instigating the uprisings and the revolution for democracy, or whether it was simply driven by lack of human rights and unhappiness across the general public.

The aim of this study is to examine the relationship between the human rights movements and constitutional changes in Egypt and Tunisia as a comparative case study. The Arab Spring is originally conceived as a part of a democratic movement for change. The change is aided by new means of communications such as the internet and other social media, a result of globalization. The human rights movements has played an essential role in increasing awareness for Human Rights in the Arab Spring states triggering the unstoppable movement towards freedom of expression and the right for improved living standards. The success of these movements have led to major legislative reforms in order to converge with Human Rights standards. So, the study focuses on tracking these changes and comparing them with the recent practices in order to assess whether there are human rights implications or not and at what level.

As previously mentioned, this thesis studies the relationship between Human rights movements and globalization in the context of Arab spring countries; mainly Egypt and Tunisia. Based on that, this study is divided in to several chapters as follows:

1. Chapter 1: General Introduction the topic under study.

2. Chapter 2: Presents the literature of several studies explaining the relationship between human rights and globalization in both positive and negative effects.
3. Chapter 3: Explains the methodology the report depends on in reaching the results in the coming chapter.
4. Chapter 4: Compares and analyzes the related indicators between Egypt and Tunisia such as: Multidimensional Poverty Index, Internet users (per 100 people), Inequality-adjusted Human Development Index, Human Development Index trends 1980–2013, Gender Inequality Index, Gender Development Index and Human Development Index and its components. This should lead to which country has more advanced levels of human rights. Furthermore, it demonstrates the recent human rights situation in both Egypt and Tunisia based on the human rights watch reports and other international organizations. This chapter only focuses on 3 aspects of human rights which are: Women human rights, success of democratization and freedom of expression. Moreover, it demonstrates the comparison between the Egyptian constitutional changes against the Tunisian.
5. Chapter 5: Concludes the results reached in chapter 4 and makes recommendations for further research.

Chapter Two

Literature Review

This chapter covers the previous researches and literatures that focused on the relationship between human rights and globalization.

2.1 The Meaning of Globalization and Human Rights

Globalization is a multidimensional phenomenon, with "numerous complex and interrelated processes that have a dynamism of their own" (United Nations, 2000). Because of the further developments in technology, communications and media, globalization contains rapid trans-boundary exchanges (United Nations, 2001) that occur at all levels of governance (Johnston, 1997) and among non-state actors, forming a more interdependent world (Shelton, 2002). Globalization forms and the means it uses to expand have changed (Shelton, 2002). In general globalization today is mostly accompanied by economic interdependence, deregulation, and control of marketplace that includes the shifting of responsibilities from state to non-state actors (Reinicke, 1998). Specifically, economic globalization is accompanied by a noticeable increase in the influence of international financial markets and trans-national institutions, such as corporations, in determining national policies and priorities (Alston, 1998). Moreover, forces such as information and communications technologies dominate the global system, and the trade in goods, services and financial instruments are more widespread than any time before (McGinnis, 1996).

Hallak (1999) explains in his report that the globalization phenomenon "is a result of worldwide integration of economic and financial sectors". He argues that there are factors that helped in making this possible. One of which is the technological progress, specifically in the information and communication areas at rapid rates. Another reason is the geo-political factors such as the emergence of economic alliances of countries such as the formation of the European Union. He also states that the predominant ideology of regulation stems from economic and finance trades, which enhanced the

movement of humans and reinforced the penetration of globalization. Also, Hallak (1999) argues that nations aim to maximize their return on capital therefore aiming to optimize production via accessing new channels of production therefore leading to increased globalization. Furthermore, Hallak (1999) argues that the ascent of learning economies, the augmentation of sources of information and communication, the transition towards a work environment that promotes adaptability and portability, the expanding utilization of new innovations and the “progression of social exclusion” as a matter of unemployment ends up outside social combination are the principle ramifications of the globalization phenomena.

Further advances have been made following 50 years from the selection of the Declaration of Human Rights, like the two conventions in 1966 that give increased lawful assurances such as civil, political, economic and cultural rights. Since the declaration has been implemented, more attention has been paid to the rights of women and children (Hallak, 1999). Even though 142 countries have signed the 1966 Convention on Economic, Social and Cultural Rights, 144 countries signed the 1966 Convention on Civil and Political Rights and 191 countries signed the 1989 International Convention on the Rights of the Child, a number of countries have not yet adopted the three aforementioned conventions (Hallak, 1999). He attributes the reason behind not signing the conventions to ideological opinions since some societies see in these conventions a western oriented basis that make these conventions non-universal. Another reason is the contradictions created by scientific and technological progress resulting from environmental, genetic and communication concerns. For example, there is a contradiction between the right and freedom of using the Internet and that of expression and the right to protect privacy. Another example could be the contradiction between promoting intellectual creativity by protecting copyrights and the human right to downloading books and copyrighted property.

What could be noticed is that with the rapid expansion of globalization, governments no longer supreme power as companies, news and media agencies are sharing these powers with them (Hallak, 1999). The admiration for human rights is the only power and responsibility that is still in the hands of governments such as the right to quality

education for all citizens. This is guaranteed by substantial quantities of settlements and distinctive lawful worldwide instruments concluded in written form between states and governed by international laws (Hallak, 1999).

On one hand, Evans (1999) claims that control, corruption and human rights abuse arise when “commercial combination in skill and deal generates motivations for governments” to unfairly treat people, especially those of low income. On the other hand, Apodaca (2001), Mitchell & McCormick (1988), Poe & Tate (1994), and Rosenau (2003) claim that economic growth and activity lead to economic wealth, establishing regulations and laws compile with the new economic conditions and thus, lead to more admiration of human rights practices. Gelleny & McCoy (2001), and Mitchell & McCormick, (1988) argue that expanded worldwide integration prompts a more elevated amount of political dependability and in this manner. Moreover, Richards, Gelleny, & Sacko (2001) states that globalization helps in the formation of a middle-class that gains the influence to demand for its rights and freedom.

Rosenau (2003) states that although globalization may spread rapidly in the world, it might ruin the battle for human rights. Hafner-Burton (2005) doubts that economic integration has an essential influence on suppression, but discoveries state that in exporting countries the possibility of suppression increases with the high levels of the globalization spread.

Human rights misapplications should decline with the level of economic globalization within a country. The more the economies are involved in economic globalization, the more the willingness to respect human rights (Dreher, 2006). Several researches and academic opinions, in addition to empirical evidence suggest trade or economic globalization to influence conflict between countries and reduce its impact, due to “the possible loss of trade reduces the willingness to fight” (Morrow, 1999). In other words, if countries become involved in a certain war or conflict, the possibility of obtaining new foreign direct investment declines (Li, 2006).

2.2 The Factors of Human Rights

Poe & Tate's (1994) model is the best model to explain the governments' detail for human rights. There are certain areas in which a government's choice to respect human rights is unwavering, which are: the degree of democracy, the degree of economic growth, population size growth, predominance of a military and/or leftist regime, and involvement with international and/or civil war.

Poe & Tate's (1994) model states that human rights control is used as an instrument by governments to explain the acts of clashes. For example, when a government is threatened, it reacts by limiting human rights through the actions of custody, torture or killings: "Since in consensuses, progressions comprise the trading of festivities and struggles can be solved in a more passive style compared to dictatorships" (Henderson, 1991; Poe & Tate, 1994). "In consensuses, cruel regimes can be expelled from power via elections. Besides, the distinguishing independences in equalities tolerate citizens to broadcast and complain rude movements. Generally, fairness is probable to recover governments' detail for human rights" (Dreher, Gassebner, & Siemers, 2010).

An autocratic country frequently witnesses cruel actions, since military governments and hierarchy crack conflicts. Therefore, in most cases, military regimes depend on offensive actions and a blatant disrespect of human rights as a means of control (Dreher, Gassebner, & Siemers, 2010). Similarly, the leftist regimes are built on the Marxist-Leninist philosophy that presses the importance of dictatorship leading to less attention to human rights (Dreher, Gassebner, & Siemers, 2010).

2.3 The Effect of Globalization on Human Rights Practices

The economic facet of globalization can be witnessed in various aspects such as the new advances in technology, strengthening geopolitical interests and with post innovation, and collapsing the "cultural into the economic and the economic into the cultural" (Jameson, 2000). This appears to accentuate that economic globalization is the significant force through which the whole globalization methodology is determined. Notwithstanding, it could be conceivably wondered: When and where all the beginnings

of this development are established in? Hypothetically, this procedure is not new, as the expanding mix through exchange and speculation has been a highlight of the worldwide economy since the Second World War. At that point, the fall of the Berlin Wall in 1989 and the ensuing breakdown of Soviet socialism prompted the quick incorporation of what was known as the “transition economies” of the former Soviet Union into an apparently triumphant model of market-driven economic change. This advancement has checked critical patterns inside globalization, one of which was a shift in power far from the states, driven progressively by worldwide economic patterns that dissolved governments’ capacity to deal with their economies (Ahmad, 2011).

Summarizing, the major threats of economic globalization are illustrated by Ahmad (2011) and are divided into three aspects. First, the essential impact of economic globalization is the compounding of gaps between the rich and poor. Insights demonstrate that this gap is broadening in numerous nations and poverty is expanding by numbers and by profundity (United Nations, 2002). Several studies doubt that the transnational corporate ventures have had influence in making both strands of this "globalization of poverty" (United Nations Development Programme, 1992). Specifically in light of their grip of the free market established economic hypotheses, which supports such a large amount of corporate action. The shortcomings of international rules, awful strategies and feeble governance in developing countries and corporate practices which organize transient profit over long-term human advancement are undermining the ability of poor nations and disadvantaged individuals to benefit from international trade (Ahmad, 2011). Much of the time, economic liberalization has been accompanied by more prominent disparity whereby individuals are left in absolute neediness. The Human Development Report of 1997 uncovered that poor nations and deprived individuals have found their interests dismissed as a consequence of globalization (Ahmad, 2011).

Second, economic globalization has resulted in the violation of the internationally proclaimed human rights underlined by the Universal Declaration of Human Rights (UDHR). The rights most likely to be violated by the transitional companies include non-discrimination, women rights, life, liberty and physical integrity of the individual,

civic freedoms, employees' rights, child labor, slavery, forced and bonded labor, right to food, health, education and housing and lastly, the environmental rights (International Council on Human Rights Policy, 2002). In contrast, transitional companies, while seeking to maximize profit, have been rebuilding their operations on a global scale. This has brought about huge unemployment and underemployment, the most exceedingly awful circumstances since the Great Depression of the 1930s. Additionally, in industrialized nations, unemployment has taken off to levels not seen for a long time and achieved variations in levels that have not been recorded since over a century ago. The crashes of the economies of the Asian Tigers are examples of it. On account of this, more individuals are immigrating seeking employment and in many cases are compelled to work in brutal conditions for lower wages (Ahmad, 2011).

Third, there has been what could be termed regulating requirements on state power. These have come to fruition through the procedure of globalization, which to a substantial degree is a manifestation of Westernization (Pendleton, 1998). Also, a few individuals have termed this policy as "Americanization" or "McDonaldization" because of the huge support of transitional organizations from the United States of America. This approach commonly influences non-Western economies more than Western ones. Globalization in this way has made a circumstance where the significance of country state is getting to be superfluous. Furthermore, globalization in the last few decades was never a law-based decision by people. The procedure has been business-driven, by business systems and strategies, for business conclusions. Globalization has consistently hampered the vote-based system, as a consequence of spontaneous impacts, and on the ground basis that the regulation of work expenses and downsizing of the welfare state, has obliged the business minority to make steady control of the state and evacuate its ability to react to the requests of the lion's share. Additional extraordinary and imperative antidemocratic powers are the force of worldwide financial markets, which is a breaking point into political alternatives. "Financial market effects on exchange and interest rates can be extremely rapid and damaging to the economy" (Ahmad, 2011).

Chapter Three

Methodology

This chapter describes and explains the research methods used in this thesis. It represents research design, research variables and measures, research hypotheses, proposed sampling that includes the population, sample unit, sample size and data collection methods.

3.1 Research Design

This thesis presents a comparative country research that relies on comparative case studies of constitutional texts as well as other indicators.

Literature shows that are several methods used when comparing constitutional texts. There is the substantive comparison based on the fact that most contemporary studies depend on constitutional practices rather than the constitutional texts. Substantive comparative studies generate hypotheses about the structures of governance and their effects in different settings (Jackson & Tushnet, 2006). Therefore, the framers of new constitutions will be notified about different options instead of obliging them into copying the constitution of some reference state. The substantive comparison is characterized by being heterogeneous in nature, in which it is characterized by being weak for not allowing comprehensive structural statements (Tschentscher, 2011).

There is also the traditional method, which assists in avoiding the disadvantage of heterogeneous comparisons through evolving for constitutional comparison on a larger scale. For example, suppose an international research project about the judiciary tries to analyze the current differences and similarities of the constitutional framework, and the result is a list of questions drawn up where experts from the respective countries answer these questions on the basis of their constitutional law. After that country reports are generated including a combined presentation of constitutional texts and administrative or judicial decisions. Then, the comparison process begins where researchers join to

present their views in a conference and try to reach some ad-hoc-comparison. The methodological reasoning behind this complex two-step-procedure is ensure an objective presentation of each country's constitution by the experts from that country (Tschentscher, 2011).

An alternative method has been suggested for constitutional comparisons since in many cases it is time consuming to analyze the similarities and differences of the constitution in details. So, instead of presenting independent country reports, this method, the so-called dialectical method, directly looks at a specific issue from the partial viewpoint of a single constitution. This method depends on continuous modification of views on every level of understanding, which may cause confusion while interpreting other solutions to problems rises in the constitution. Nevertheless, critical questions asked, pinpointing presumptions and reorganizing point of views concerning the constitution lead to practical contrasts (Tschentscher, 2011).

The perceptions of comparison and contextualization, in all its methods, do not deal with the understanding of a provision based “on its wording, its systematic context, its purpose, nor its history”. Instead, it follows an extended understanding of the law through knowing the norms of this law or of other legal orders whether it is political, historical, economical, or conceptual (Örücü, 2004). The concepts of comparison and contextualization of the constitution requires a larger range of analysis, where the articles and laws of the constitution are positioned in the “broader context of its neighboring branches of academia” (Dann, 2005).

Here in the study, comparison, as a methodological approach, is conducted to compare the constitutions of Tunisia and Egypt. Comparison is considered not only valuable, but also vital. It is considered a method for properly selecting certain rules on the basis of prior evaluation, which in this case is human rights implications (Dann, 2005).

The focus on Egypt and Tunisia rises from the fact that their cases are similar to each other except in some aspects. These many similarities between Egypt and Tunisia are illustrated by the acquisition of power following the uprising where in Tunisia and Egypt, the initial control was in the hands of the Islamist movements. While the

differences are illustrated by the role played by the military. Another factor leads to the comparison between these two countries is that both have succeeded to overcome democratic elections without passing through military unrest similar to what is happening in the other Arab spring countries like Syria. And with the claim of the democratic change or transition, it is important to trace the change and the human rights movements through the constitution and other indicators such as corruption indices. These indicators demonstrate the effectiveness between the era of transition and authoritarian era.

3.2 Data Collection

Data has been collected from secondary sources, which are provided by the United Nations Development Programme (UNDP), World Bank, Transparency International, Reporters without Borders and International Commission of Jurists mainly for the years 2012, 2013 and 2014. Some of the other data, like Internet users, were collected for the years ranging from 2005 to 2013, and data also for Human Development Index Trend were collected for the years ranging from 1980 to 2013.

3.3 Sample

The study sample is divided between the data related to the constitution adjustments for the period during the Arab spring movements in Egypt and Tunisia, and the indicators reflecting human development and rights in Egypt and Tunisia for the same period.

3.4 Selected Indicators

To make the study solid and in context of testing whether Egypt and Tunisia intended to apply human rights in their new era of transition, the study illustrates some indicators that help in identifying the degree of human rights implementation in the context of globalization.

The study targets the Human Development Index (HDI) and its components for Egypt and Tunisia in years 2012 and 2013, “a composite index measuring average achievement in three basic dimensions of human development—a long and healthy life,

knowledge and a decent standard of living” (Malik, 2014). One of its components is Life expectancy at birth which states that “Number of years a newborn infant could expect to live if prevailing patterns of age-specific mortality rates at the time of birth stay the same throughout the infant’s life”. Another is the Mean years of schooling that provides the “Average number of years of education received by people ages 25 and older, converted from education attainment levels using official durations of each level”. Also, the Expected years of schooling states that the “Number of years of schooling that a child of school entrance age can expect to receive if prevailing patterns of age-specific enrolment rates persist throughout the child’s life”. Gross national income (GNI) per capita is a component of the HDI which states that the “Aggregate income of an economy generated by its production and its ownership of factors of production, less the incomes paid for the use of factors of production owned by the rest of the world, converted to international dollars using Power Purchasing Parity (PPP) rates, divided by midyear population”.

Another index used is the Gender Inequality Index. It is “a composite measure reflecting inequality in achievement between women and men in three dimensions: reproductive health, empowerment and the labor market” (Malik, 2014). It includes the Maternal mortality ratio that provides the “Number of deaths due to pregnancy-related causes per 100,000 live births”, the Adolescent birth rate that provides the “Number of births to women ages 15–19 per 1,000 women ages 15–19”, the Share of seats in national parliament that provides the “Proportion of seats held by women in a lower/ single house or /and an upper house/ senate expressed as percentage of total seats”, the Population with at least some secondary education that provides the “Percentage of the population ages 25 and older who have reached (but not necessarily completed) a secondary level of education”, and the Labor force participation rate that provides the “Proportion of a country’s working-age population (ages 15 and older) that engages in the labor market, either by working or actively looking for work, expressed as a percentage of the working-age population”.

The third indicator is the Gender Development Index (GDI), or also referred to as female to male ratio. It is defined as “Ratio of female to male Human Development

Index (HDI) value” (Malik, 2014). The index includes HDI value, Life expectancy at birth, Mean years of schooling, Expected years of schooling and Estimated GNI per capita.

A fourth indicator is also used. This indicator is called the Inequality-adjusted HDI (IHDI), which is defined as the “HDI value adjusted for inequalities in the three basic dimensions of human development”. This index includes the Overall loss which is the “Percentage difference between the IHDI and the HDI”, the Difference from HDI rank which is the “Difference in ranks on the IHDI and the HDI, calculated only for countries for which the IHDI is calculated”, the Coefficient of human inequality which is the “Average inequality in three basic dimensions of human development”, the Inequality in life expectancy which refers to the “Inequality in distribution of expected length of life based on data from life tables estimated using the Atkinson inequality index”, the Inequality-adjusted life expectancy index which is the “The HDI life expectancy index adjusted for inequality in distribution of expected length of life”, the Inequality in education which means the “Inequality in distribution of years of schooling based on data from household surveys estimated using the Atkinson inequality index”, the Inequality-adjusted education index which means “The HDI education index adjusted for inequality in distribution of years of schooling”, the Inequality-adjusted income index which is “The HDI income index adjusted for inequality in income distribution”, and the Inequality in income that refers to the “Inequality in income distribution based on data from household surveys estimated using the Atkinson inequality index” and includes the Gini coefficient which is the “Measure of the deviation of the distribution of income among individuals or households within a country from a perfectly equal distribution. A value of 0 represents absolute equality, a value of 100 absolute inequality” (Malik, 2014).

The fifth Indicator is the Multidimensional Poverty Index, which is the “Percentage of the population that is multidimensional poor adjusted by the intensity of the deprivations”. It includes the Multidimensional poverty headcount that is defined as the “Percentage of the population with a weighted deprivation score of at least 33% and it is also expressed in thousands of the population in the survey year”, the Intensity of

deprivation of multidimensional poverty which is the “Average percentage of deprivation experienced by people in multidimensional poverty”, the Population near multidimensional poverty which is the “Percentage of the population at risk of suffering multiple deprivations—that is, those with a deprivation score of 20–33%”, the Population in severe poverty which refers to the “Percentage of the population in severe multidimensional poverty—that is, those with a deprivation score of 50% or more”, and the Contribution of deprivation to overall poverty which means the “Percentage of the Multidimensional Poverty Index attributed to deprivations in each dimension” (Malik, 2014).

Other indicators were considered that target the freedom of expression and media, the status of Internet users, and the level of corruption. The Internet users (per 100 people) are defined as “Internet users are people with access to the worldwide network” (World Bank, 2013). The Corruption Perceptions Index (CPI) “ranks countries and territories based on how corrupt their public sector is perceived to be. A country or territory’s score indicates the perceived level of public sector corruption on a scale of 0 (highly corrupt) to 100 (very clean). A country or territory’s rank indicates its position relative to the other countries and territories in the index. Year 2014 index includes 175 countries and territories” (Transparency International, 2014). The World press freedom index 2014 is “the press freedom index that Reporters without Borders publishes every year measures the level of freedom of information in 180 countries. It reflects the degree of freedom that journalists, news organizations and netizens enjoy in each country, and the efforts made by the authorities to respect and ensure respect for this freedom. It is based partly on a questionnaire that is sent to our partner organizations (18 freedom of expression NGOs located in all five continents), to our network of 150 correspondents, and to journalists, researchers, jurists and human rights activists. The 180 countries ranked in this year’s index are those for which Reporters without Borders received completed questionnaires from various sources. Some countries were not included because of a lack of reliable, confirmed data. A score and a position are assigned to each country in the final ranking. They are complementary indicators that together assess the state of press freedom. In order to make the index more informative and make it easier to compare different years, scores will henceforth range from 0 to

100, with 0 being the best possible score and 100 the worst. The index does not look at human rights violations in general, just violations of freedom of information. The index should in no way be taken as an indication of the quality of the media in the countries concerned” (Reporters without Borders, 2014).

Chapter four

Human Rights in Egypt and Tunisia: Comparative Analysis

In this chapter, some of the Tunisian and Egyptian constitutions' articles related to human rights are being highlighted. Also, there are some indicators that measure human rights implementation in these countries are being illustrated and compared between each other and against other countries for some cases. It is important in this study to highlight the changes in the Tunisian and Egyptian constitutions during the Arab spring periods in order to show the effect of the movements on human rights.

4.1 Human Rights Practices in Egypt and Tunisia

Tunisia and Egypt are cases of homogeneity in the Arab Spring that are opposite to the system. This allows them a clear communal worldview that could be widely embraced by their inhabitants. This homogeneity facilitates the united growth of recruitment toward the insubstantial forces of Zin El Abidine Ben Ali and Hosni Mubarak. These circumstances permit the society to become what Antonio Gramsci called “a war of movement”. However, these countries are not aggregated to each other since they lack human or economic capital (Ishay, 2013).

These countries marked several differences between each other. On one hand in Tunisia, human capital is more urbanized than in Egypt, which was offering greater occasion for post-revolutionary economic growth, and better conditions associating the uprisings. On the other hand in Egypt, the armed forces was far more urbanized and organized, because the Egyptian hegemonic society is supported by the military to combat post-revolutionary challenges. However, the similar position led to many activists to rebel and to accelerate the breakdown of the dictatorial governments. The alliance segment brings several fears to the front, which leads to diverse tactics and to different consequences for radical alliance (Ishay, 2013).

These two countries are devoted to three significant aspects, which made them achieve a supportable democratic transition, such as constructing a political agreement, developing human and economic capital, and attaining the economy from confusion while endorsing progress. Primarily, they will need to construct a wide plan without leaving totally their reasonable core or separating between the Muslim majority and Copt minority (Ishay, 2013).

On November 27th, 2012, Mohammad Morsi issued a declaration that allowed him to have access to all powers, including the power to reject any judicial interference with the adoption of the draft constitution. Due to this event, Tahrir Square was occupied with protesters (Ishay, 2013).

Furthermore, the Muslim Brotherhood's failure in Tunisia and Egypt to meet the economic and social targets required in that period served as fuel to the uprisings. Frustration on this matter causes opposition to any achievements, and would generate a disaster for the ruling party (Ishay, 2013). For example, Tunisia has a population of almost 10 million, with 30% young unemployed. The Egyptian circumstances are far more troublesome, with one quarter of its 80 million people living in poverty, while youth unemployment is at 25% (Ishay, 2013).

Outside the direct financial difficulties, there exist a strong belief among the Muslim Brotherhood and Salafists that the free market capitalist approach applied by Ben Ali and Mubarak had expanded socio-economic injustice, and that the social pressures related with 'neo-liberal' economics had conveyed a guise for political concealment in both nations. Nonetheless, the Muslim Brotherhood should have struggled with the worldwide economic course that associates redistributive policies with insolvency and capital flow (Ishay, 2013).

Moreover, regional economies have ventured into backing the Islamist strand of the Arab uprisings in Egypt, as well as in Libya, Tunisia and Syria. This has motivated Islamists to proclaim that they can perform national economic and political affairs (Ishay, 2013).

Furthermore, questions emerged about the ability of the Muslim Brotherhood in Tunisia and Egypt to save their nations from the power of social disappointment during the transition period. Morsi and the military leaders appeared to conceive a sort of agreement. In Tunisia, the highly sensitive situation mimics the temporary way of post-revolutionary moments. Rashid Gannoushi, the leader of the “Ennahda” movement, states the following: “Tunisia is experiencing a transitional stage from an imperious framework to an equitable framework, and this is the thing that makes us fear a slide to chaos” (Ishay, 2013).

Moreover, it is worth repeating that the change from coalition to fairness is not anticipated. In the event that the post-revolutionary political stage is not decently coordinated in matter with human rights standards, the interference of majority rules system or the utilization of crisis approaches can be consistent. As such, the Muslim Brotherhood have taken after to a few parts of standard majority rules system, yet as long as their human rights motivation stays obligated to “Shariah” law, and is hence, out of scheme of the global human rights standards. The human rights discourse is accepted by intolerant powers that the acceptance of women and minorities rights under the post-revolutionary force of the Muslim Brotherhood stays unclear (Ishay, 2013).

The persistent participation of numerous women at the head of the Arab uprisings can be a principle pillar to unbalancing the political conditions towards approaching democracy and human rights. In such manner, August Bebel contended in the late 19th century that the characteristic of advancement came to by a country is limited by the actions of its women. In like manner, it appears that the Muslim Brotherhood is faking partnerships with the military forces and outer financial supporters (eg. The western world or Gulf contributors) keeping in mind the end goal to join its powers (Ishay, 2013).

Salamey (2015) states in his paper that the actions of the Freedom and Justice Party imply the return of the Mubarak era, regardless of constitutional reforms. Meanwhile, the new parliament is on hold waiting for the confirmation to work again in order to guarantee and stabilize power, stimulate reform measures, modernize laws, and guard

constitutional rights. However, the recent ruler is lacking the restoration of the parliament accompanied with anti-Muslim Brotherhood campaigns that are spreading fear (Salamey, 2015).

Salamey (2015) adds that “Egypt’s under-development and dependence on foreign assistance, as well its diverse economic modes of production (private, public and command), continue to favor political pluralism over the attainment of absolute power by a single party”. Moreover, knowing that the region’s instability, uncertainty, power constellations, and economic difficulties, Egypt seems to be doing fine in terms of the security agenda and populist politics (Salamey, 2015).

In Tunisia, Salamey (2015) states that the democratic phase that occurred after Ben Ali’s ruling had reached several of its targets. The leading target is the establishment of a multiparty tradition. Despite of the fact that international aid and support has increased, this has not boosted the nation’s economic situation since inflation and deficit is in continuous increase: “The creation of jobs, controlling inflation and deficit, attracting foreign direct investment and combating corruption and public inefficiency remain among the major challenges to political reform”. Tunisia’s transition faces several challenges that are characterized by maintaining the newly-found constitution and guaranteeing that all parties agree on its implications. Assuring freedom of expression, as guaranteed by the constitution and the government, is another challenge that determines the shape of the political reform (Salamey, 2015).

There are several lessons to be learned from the Arab Spring, as stated by Salamey (2015). One of which is the bad decision-making of governments concerning essential globalized economic activities, international trade and foreign investments within the domestic market. Corruption is also one of the main lessons that are accompanying the accomplishments of dictatorship, leading countries to bankruptcy. These leaders aimed at the institutionalization of corruption within the government agencies in order to cover their illegal actions and gain fortunes that ultimately led to extreme public anger against autocracies (Salamey, 2015).

The Arab Spring caused awareness between people as an opponent to corruption has been created now. Most Arab Spring states have formed multiparty politics that constituted forces toward more “constitutionalism, elections, greater openness and transparent institutionalism”, returning by this some hope to the ruling system. Unfortunately, Arab spring countries have failed during the past few years to accomplish “an effective and comprehensive transition towards liberal democracy” (Salamey, 2015).

Samaley (2015) ends his paper stating “lessons from Post-Arab Spring politics are indicative of the fact that neither the restoration of an autocratic regime nor its preservation is a comprehensive option”. Achieving democracy in these states involves serious economic, social, and political changes by which the foundation of nationalism within the context of a new global order is maintained (Salamey, 2015).

4.1.1 Women’s Rights in Egypt and Tunisia

For decades women in Egypt participated in the change process of their society starting from the formation of the Labor Union and protesting for free speech declaration, to participating in the Arab spring movements. Unfortunately, women have been removed from the reform process, knowing that they played an essential role in these movements. For example the constitutional committee, which is responsible for studying the structure of the constitution for the upcoming elections, includes only men. Women are not selected to committees, except for one woman out of a possible 34 that has been selected to the board (Atassi , 2011).

According to the Egyptian Center for Women’s Rights (ECWR), “The exclusion of women in Egypt turned into a systematic policy.” Women activists like Amal Abdel Hadi, who is the founder of Egypt’s New Woman Foundation, is recording their objections to United Nations’ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) principles. She petitions for women in equality and fairness among all demonstrative forms, so they can participate in several capacities (FIDH, 2011).

After a long struggle the activists have achieved some success by using CEDAW. The government issued a declaration allowing Egyptian women who are married to Palestinian men to pass their nationality to their children (Women's Learning Partnership, 2011a). According to Women's Learning Partnership (2011b), CEDAW is used by Egyptian women's rights and democratic protestors, forcing the government to recognize its obligations and take action on national changes (Women's Learning Partnership, 2011b).

Street harassment in Egypt is a well-known phenomenon that women from different backgrounds, conditions and social locations experience on almost a daily basis. Gender inequity and multiple exclusions of women from public spaces produce a masculinization of these spaces in urban locations. The sexual harassment of women and girls in public spaces continued without grave government efforts to break or prevent them. In January 2013, the Egyptian groups reported at least 19 cases of mob sexual attacks, including a woman who was raped under the threat of a bladed weapon and had her genitals cut. In June and July 2013, women's rights groups reported 186 sexual attacks on women in Cairo's Tahrir Square in one week. The government's replies have typically been to downplay the extent of the problem or to seek to address it through legislative reform alone. Moreover, there are other forms of violence against women, including child marriage and female genital mutilation continued to take place in some areas (Human Rights Watch, 2014).

On the other hand, Ben Ali's dictatorship defeated in January 2011 was an inspiration among the Arab spring region. Moreover, Tunisia ensured the women's presence in the new regime because it will be a model for women's consent. On April 11, 2011, the Tunisian temporary government passed a revolutionary law that established full parity and essential change of male and female applicants on all lists for the elections on October 23 (Goulding, 2011).

On August 16, after Minister of Women Lilia Laabidi submitted a draft announcement, Tunisia removed all precise doubts to CEDAW (Human Rights Watch, 2011). However, "Association Tunisienne des Femmes Démocrates" (ATFD), faced the

government announcing that it will not enforce CEDAW requirements following the first Article of the constitution that considers Islam as the state religion.

Women's rights activists declare that this warning challenges the legal implication of the deduction of reservations. Therefore, Tunisian women are now looking for alternatives to this declaration and the removal of all unfair rules in Tunisian law. As a result, the October 23 elections caused the win of "Ennahda" party, which is considered as a moderate Islamic party (Kelly & Breslin, 2010).

Tunisia has a good standing amongst the Arab countries concerning women's rights since the new constitution declares that the government promises to protect them and support their achievements. The government promises them to have equal chances between men and women in wide duties, and also in avoiding violence against women in all forms. However, the new draft structure did not complete any of the promises and equality between the sexes (Human Rights Watch, 2014).

4.1.2 The success of democratization

In 2010, the world has seen the passive revolution that happened in Egypt, which made the first voting in the Egyptian parliamentary on November 28th, 2010 and the second round in December 5th, 2010. The Islamic Muslim brotherhood lost all of its seats in the parliament and thousands of its members were arrested, which led them to have no access to the political system. Moreover, the voting faced a failure to achieve the 5% threshold by the major opposition parties whether individually has threatened their participation in the upcoming presidential elections in 2011. The modification of article 76 of the constitution, which allowed many presidential elections, but forced several rules on the party nominees which made a change in removing the 5% restriction (Kirkova & Milosevska, 2014).

The 2011 Egyptian presidential votes took the same Tunisian uprising 2011 – 2012 technique, such as going to the streets to object and policies violence, the state of emergency laws in desire the minimum wage, lack of housing food inflation, fraud, lack of freedom communication, and poor living circumstances. Despite all these, there were

also rumors that Mubarak's son had escaped from the country (Kirkova & Milosevska, 2014).

The Muslim Brotherhood gained from this tactical decision (Matesan, 2012) since their party Freedom and justice party (FJP) alone has won 213 of 498 parliamentary seats, and the entire coalition has won 228 of the seats. The Muslim Brotherhood parties believes in the perspective that says that Islam's Shari'ah is the comprehensive leadership across the political, economic, social and cultural scopes, and it is the primary objective to secure an Islamic culture and re-establish the Islamic caliphate (Kirkova & Milosevska, 2014).

The economic crisis that followed the Arab spring led to the division of the Egyptian society between the secularists and Islamists. Bigotry towards minorities, basically the Copts, reported constitutional change, and the running provincial and global approach by the elected President Morsi inspired discontent of the populace to develop mass dissents for new elections. In the time where the whole world felt that Egypt has great potential for achieving democracy and inspiring other Arab Spring movements, a coup has occurred when it has just accomplished to begin law-based restructurings. This time, the Egyptian clash lead by the armed forces and bolstered by the Western governments. Countries that are supposed to believe in and support democracy provided irrational interpretations to what has happened in Egypt, and the coup has been occurred for the sake of democracy and the human rights of the people. John Kerry, the U.S. Secretary of State, says that the army has been "restoring popular government" when it expelled Morsi since it is the will of "millions and a large number of individuals" (Kirkova & Milosevska, 2014).

Biljana Vankovska, an expert in the civil military relations and international security, says that what differentiate people demands from being democratic is the dominance of the law over the military forces power and intervention. So, military forces cannot be considered democratic in light of the fact that it disparages principle of power and suitable named political leaders. Actually when military power expelled absolutist power, their demonstration cannot be assumed as free and substantial, yet potentially as passing dynamic. Some might argue that in specific circumstances a coup could occur and it is considered democratic and legal, but only there is

serious damages in the economy that requires an intervention. The military forces after the takeover standardizes the social circumstances and prepares the situation for civil leaders to come and overtake the rule through democratic elections. Hypothetical investigations demonstrate that the core principle of the military is that it does not have democratic ability (Kirkova & Milosevska, 2014).

No society is brilliant to lead as long as there are political proposals for each outcomes and appropriations to be made by the ruler. So, Egypt has given safeguard to the protest against Mubarak, and later against Morsi, with the clarification that those activities are the main promising reaction to splendid states of supremacy. Nonetheless, theoretically just democratic controls over society accomplish these objectives. General Sissy proclaimed that the armed forces are not intending to intervene in the political life; it will only take a main part in restoring the nation to the course for democratization till the following governmental elections happen. All these events caused the mistrust of the people in both the armed forces and the Muslim Brotherhood parties dividing the society into secularists and Islamists within the poor economic circumstances (Kirkova & Milosevska, 2014).

While in Tunisia the scene is different. The moderate Islamists led by Ennahda party has taken over with a 37% of the votes in a democratic election. This gives democracy in Tunisia more chances to survive (Kirkova & Milosevska, 2014).

But the vote by Ennahda party for the Article 28 of the new constitution, which obviously sees women as “associate” to men, has lead protestors into the streets requesting extreme justice and equality between men and women in the constitution (Kirkova & Milosevska, 2014).

4.1.3 Freedom of Expression and Media

Egypt amended from being “Not Free to Partly Free” as the consequence of the successful new independent media channels, less self-censorship, and some releasing of editorial control over state media after Mubarak’s era walked down in February 2011 (Freedom House, 2012).

Mubarak's government faced an uprising from small, obsessive, and armed groups such as al-Gama'a al-Islamiyya. Moreover, it has been conducting an intense movement to defeat the government since 1992, but the government's security services hire to build uninformed custody, extensive pain, partial experimental events and implementations (Warr, 1997).

A free and independent news media is no more existing despite the conflict between the two sides. For example, the pro-Islamist press has been targeted because it showed extremism in its broadcasts. On the other hand, the government media is subject to control and stress from the ruler. The government had strict controls on all forms of oppositions, and had the right to sanction competing political parties. Its sympathy to opposition by the media has increased especially with the rise of militant Islam and the widespread of dissatisfaction because of the deteriorating economy, unemployment and other social problems (Warr, 1997).

The freedom of expression is being attacked from both sides. Journalists face the danger of Islamist-inspired trials in the courts and intense physical attacks by Islamist militants. Equally, the government ruled by Hosni Mubarak has been blamed of using extreme inspiration on the media (Warr, 1997).

In May 2013, in Tunisia, the system realized the decree law no. 116 concerning on audiovisual media materials and created an Independent High Authority for Audiovisual Communication (HAICA). The aim of this authority is to regulate broadcast media. Regardless of international freedom of expression standards, the branch director has assigned heads of state radio and television broadcasters in a way that contradicts with the independence of public service media (Human Rights Watch, 2014).

In 2013, legal authorities indicted many reporters, bloggers, artists, and academics for their freedom in practicing their activities of expression using “penal code provisions” and, thus, accusing them with “defamation, offenses against state agents, and harming public order” that lead to custody and prison. It seems that the implications of Ben Ali’s era is still effective since there are not any efforts made to eliminate the injustice

provisions. Also, courts do not temporarily intend to judge using international human rights law (Human Rights Watch, 2014).

On March 8, 2013, authorities convicted a blogger called Olfa Riahi because of her publishing some information online about abuses of public funds by former foreign minister Rafik Abdessalem. On August 30, a criminal court in Hammamet imposed prison terms on two Tunisian rappers, because of their insults to the police through songs they were performing (Human Rights Watch, 2014).

In September 9, 2013, Walid Zarrouk, a police union leader, was arrested based on an investigative judge order because his posted comments on Facebook that were criticizing the politicized prosecutions. On the same day and days later, prosecutors summoned several journalists and activists for expressing their opinions or criticizing the president and regime ruling (Human Rights Watch, 2014).

4.2 Tunisia's Constitution

Article 21 under the law title two, which is called Rights and Freedom of the Tunisian constitution, stresses on equality. This means, “All citizens, male and female, have equal rights and duties, and are equal before the law without any discrimination”. Also, it states that the “state guarantees freedoms and individual and collective rights to all citizens, and provides all citizens the conditions for a dignified life” (Comparative Constitutions Project, 2014a).

In the new constitution, Article 22, which targets the Right to life, states, “the right to life is sacred and cannot be prejudiced except in exceptional cases regulated by law”. Also, the new constitution secure human dignity through Article 23 that is about Human dignity and physical integrity which states that “the state protects human dignity and physical integrity, and prohibits mental and physical torture” (Comparative Constitutions Project, 2014a).

There is also a role for human freedom of expression through Article 24, which targets Right to privacy, that states that “the state protects the right to privacy and the

inviolability of the home, and the confidentiality of correspondence, communications, and personal information”, Article 31 that is about Freedom of opinion, expression, media and publication states that “the freedom of opinion, thought, expression, information and publication shall be guaranteed”, Article 32, which targets Access to information, states that “the state guarantees the right to information and the right of access to information and communication networks”, and Article 33, which targets the Academic freedom, freedom of scientific research, states that “academic freedoms and freedom of scientific research shall be guaranteed, and the state shall provide the necessary resources for the development of scientific and technological research” (Comparative Constitutions Project, 2014a).

Moreover, women’s rights are guaranteed through Article 46, which targets the Women’s rights, and states that “the state commits to protect women’s accrued rights and work to strengthen and develop those rights, the state guarantees the equality of opportunities between women and men to have access to all levels of responsibility in all domains, the state works to attain parity between women and men in elected Assemblies, and the state shall take all necessary measures in order to eradicate violence against women” (Comparative Constitutions Project, 2014a).

As a normal action, criticism against the new constitution is a natural process. So, there are some criticisms concerning articles of the constitution. For example, Article 16 states, “the right to life is sacred, and it cannot be infringed except in specific cases provided for by the law”. The text provided by this article is dubious in a way, which could not clearly identify the cases and conditions of legitimizing violations of the right to life. Permitting the parliament to define the cases and conditions of these cases with no guarantees may weaken the soul value of the right to life (International Commission Of Jurists, 2013).

Another criticism concerning the Article 25, which recognizes “the right to peaceful assembly and demonstration shall be guaranteed. This right shall be practiced according to the procedures provided for by law without prejudice to the very essence of this right”. Article 24 secures the freedom to establish associations and states. In addition,

Article 36 provides, “freedom of opinion, expression, information and creation is guaranteed and can only be limited by laws intended to protect the rights of others, their reputation, security and health” (International Commission Of Jurists, 2013).

All of these Articles increase the soundness of the text that expresses the rights to the freedom of opinion, expression, association and assembly, and perceive that there should be no disabling to the very soul of these rights. On the other hand, these articles ought to be changed to guarantee the confinements of the rights in full compliance with international standards (International Commission Of Jurists, 2013).

Moreover, the criticism extends to Articles related to non-discrimination and gender equality. For example, Article 5 states, “all citizens, men and women, have equal rights and duties and are equal before the law without any discrimination of any sort.” Article 5 eliminates from its text all who are not considered citizens, but are under the jurisdiction of Tunisian law and courts (International Commission Of Jurists, 2013).

Article 7, as well as Article 5, covers gender equality and states that “the State guarantees the protection of women’s rights and supports their advances”. Article 37 also states, “the State guarantees equal opportunity between men and women to assume responsibilities. The State guarantees the elimination of all forms of violence against women” (International Commission Of Jurists, 2013).

Articles 5, 7 and 37 should be reviewed and adjusted to address gender equality and to remove all forms of discrimination against women through effective measures and mechanisms (International Commission Of Jurists, 2013).

4.3 Egypt’s Constitution

The new constitution includes articles on human dignity, equality and respects such as Article 51, which targets Human dignity, states that the “Dignity is a right for every person that may not be infringed upon. The state shall respect, guarantee and protect it”, Article 52 that is about Torture provides that “all forms of torture are a crime with no statute of limitations”, and Article 53 that is about public rights and duties equality

states that “citizens are equal before the law, possess equal rights and public duties, and may not be discriminated against on the basis of religion, belief, sex, origin, race, color, language, disability, social class, political or geographical affiliation, or for any other reason. Discrimination and incitement to hate are crimes punishable by law. The state shall take all necessary measures to eliminate all forms of discrimination, and the law shall regulate the establishment of an independent commission for this purpose” (Comparative Constitutions Project, 2014b).

In addition, the new constitution guarantees the freedom of citizens and their freedom of speech and expression through Article 54 that is about Personal freedom, which states, “Personal freedom is a natural right which is safeguarded and cannot be infringed upon. Except in cases of in flagrante delicto, citizens may only be apprehended, searched, arrested, or have their freedoms restricted by a causal judicial warrant necessitated by an investigation. All those whose freedoms have been restricted shall be immediately informed of the causes therefore, notified of their rights in writing, be allowed to immediately contact their family and lawyer, and be brought before the investigating authority within twenty-four hours of their freedoms having been restricted”. Article 64 that is about Freedom of belief provides that “Freedom of belief is absolute. The freedom of practicing religious rituals and establishing places of worship for the followers of revealed religions is a right organized by law”. Also, Article 65 that is about Freedom of thought provides that “Freedom of thought and opinion is guaranteed. All individuals have the right to express their opinion through speech, writing, imagery, or any other means of expression and publication”. Moreover, Article 66 that is about the Freedom of research provides that “Freedom of scientific research is guaranteed. The state shall sponsor researchers and inventors and protect and work to apply their innovations”. Article 67: Artistic and literary creation states, “Freedom of artistic and literary creation is guaranteed. The state shall undertake to promote art and literature, sponsor creators and protect their creations, and provide the necessary means of encouragement to achieve this end. No lawsuits may be initiated or filed to suspend or confiscate any artistic, literary, or intellectual work, or against their creators except through the public prosecution. No punishments of custodial sanction may be imposed for crimes committed because of the public nature of the artistic, literary or intellectual

product. The law shall specify the penalties for crimes related to the incitement of violence, discrimination between citizens, or impugning the honor of individuals. In such cases, the court may force the sentenced to pay punitive compensation to the party aggrieved by the crime, in addition to the original compensations due to him for the damages it caused him. All the foregoing takes place in accordance with the law” (Comparative Constitutions Project, 2014b).

Furthermore, Article 68, which targets Access to information and official documents, provides that “Information, data, statistics and official documents are owned by the people. Disclosure thereof from various sources is a right guaranteed by the state to all citizens. The state shall provide and make them available to citizens with transparency. The law shall organize rules for obtaining such, rules of availability and confidentiality, rules for depositing and preserving such, and lodging complaints against refusals to grant access thereto. The law shall specify penalties for withholding information or deliberately providing false information. State institutions shall deposit official documents with the National Library and Archives once they are no longer in use. They shall also protect them, secure them from loss or damage, and restore and digitize them using all modern means and instruments, as per the law”. Article 69, which targets Intellectual property rights, states, “The state shall protect all types of intellectual property in all fields, and shall establish a specialized body to uphold the rights of Egyptians and their legal protection, as regulated by law” (Comparative Constitutions Project, 2014b).

The important article in the era of transition and is the consequence of globalization is Article 70: Freedom of the press, which provides that “Freedom of press and printing, along with paper, visual, audio and digital distribution is guaranteed. Egyptians -- whether natural or legal persons, public or private – have the right to own and issue newspapers and establish visual, audio and digital media outlets. Newspapers may be issued once notification is given as regulated by law. The law shall regulate ownership and establishment procedures for visual and radio broadcast stations in addition to online newspapers”. Also, Article 71, which targets Freedom of publication, is important since it guarantees the existence of media in Egypt. The article states that “it

is prohibited to censor, confiscate, suspend or shut down Egyptian newspapers and media outlets in any way. Exception may be made for limited censorship in time of war or general mobilization. No custodial sanction shall be imposed for crimes committed by way of publication or the public nature thereof. Punishments for crimes connected with incitement to violence or discrimination amongst citizens, or impugning the honor of individuals are specified by law”. Article 72, which targets Independence of press institutions, also provides that “the state shall ensure the independence of all press institutions and owned media outlets, in a way that ensures their neutrality and expressing all opinions, political and intellectual trends and social interests; and guarantees equality and equal opportunity in addressing public opinion” (Comparative Constitutions Project, 2014b).

In contrast to the Tunisian constitution, criticisms for some articles in the Egyptian constitution also exists. Article 38, as part of the section related to “Public Rights, Freedoms and Duties”, states that “Citizens are equal before the law. They have equal public rights and duties without discrimination between them based on sex, gender, origin, language, religion, belief, or any other reason”. The features of Article 38 are “open-ended” and not limited and this considers it positive. Nevertheless, some enhancements could be applied to enrich the provision to comply with international standards like the “right to equality should be guaranteed to all people, regardless of citizenship status”. This means the guarantee of equality in all rights without discrepancy of all its shapes. Also, there are some features are not included in the article which contains “national origin, race and color, property, birth, and political or other opinion”; in addition to “sexual orientation and gender identity”. Moreover, the right to equality and non-discrimination should not be obliged with the performance of duties (Article 19, 2013).

Even though that the right to freedom of expression is guaranteed to “every individual”, some characteristics are absent. One of which is the right to freedom of expression that implies not only the “dissemination” of information, but also includes the “right to seek, receive, and impart information”. The 3 characteristics should be clearly emphasized in Article 48. The second is that the right to freedom of expression guarantees the sharing

of information and ideas in all of its shapes, in other words, not being limited to just sharing of opinions. It contains “political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse”. It also holds expression that is characterized by offensiveness. The third characteristic is that the right to freedom of expression is valid regardless of boundaries. Politics should not play the role of a limitation toward the freedom to “seek, receive, or impart information”. Moreover, the right to freedom of expression should be assured through any means of media man can choose. Since Article 48 is “open-ended”, the “specified list of means would be strengthened if it included specific reference to electronic and Internet-based modes of communication, including mobile technologies”. Lastly, the title of Article 48 should be changed to reflect the provision of both the right to freedom of opinion and the right to freedom of expression (Article 19, 2013).

It is constructive that the constitution guarantees the right of access to information through Article 50: “Access to information, data, statistics and documents, its disclosure from their different sources and transparent circulation is a right guaranteed by the state to all citizens, on the condition that this does not violate the sanctity of private life or the rights of others, and that it does not conflict with national security”. The law organizes the laws related to filing and archiving public documents, and the means to access information. As mentioned here later, the right of access to information is a vital human right guaranteed by Article 19 (Article 19, 2013).

But the right of access to information should be assured to all citizens without exceptions. Therefore, and according to that the provision should be reliable and the protection provided for the right to freedom of expression should be guaranteed to “all individuals” by the means of Article 48 (Article 19, 2013).

The constitution should force public bodies to disclose their information to the public, and to “ensure easy, prompt, effective, affordable and practical access to such information” (Article 19, 2013).

Article 50 clearly states that the state is obliged to afford access to information. Nevertheless, the provision should enhance the article by stating that “the right applies to any information held by a public body and even for private bodies in some circumstances” (Article 19, 2013).

Since the right of access to information is limited, any limitations should meet the terms of Article 19(3). A noteworthy flaw of the constitutional adjustments is the “lack of consistency in the provision for limitations on rights” (Article 19, 2013).

There a point to be stressed on which is related to certain exceptions to the right of access to information. It should be set in a clear way explaining the type of harm to a protected interest that could be caused by the access to information, and this harm offsets the public interest in accessing information. So, the conditions of Article 50 must be narrowed to a sense where the provisions are clear and limited (Article 19, 2013).

The characteristics of the provisions of Articles 51 and 52, which are related to the freedom of the press and freedom of publication respectively, should be reserved like the “guarantee for freedom of the press, printing, publication and mass media”, “the ban on prohibiting, closing or confiscating media outlets without a court order”, and the “ban on monitoring what media outlets publish”. It is constructive that the constitution guarantees freedom of media. International and regional authorities and courts have regularly stressed the “pre-eminent role of the press in a State governed by the rule of law” (Article 19, 2013).

Nevertheless, there are numerous aspects of Articles 51 and 52 that do not comply with international standards on media freedom, and there should be extra amendments to guarantee freedom of media. Two essential aspects that should reinforce the guarantees for freedom of media must be included in the constitution. Firstly, protection provided those who broadcast and publish ideas and information. Secondly, the aspect that is related to guaranteeing the independence of public broadcasting services. This requires independence in terms of funding and in the material published (Article 19, 2013).

The condition that guarantees independence in its wide meaning to media is missing from Article 51 and Article 52. It is only mentioned in the form of an obligation instead of “a principle that the State must respect” (Article 19, 2013).

Article 30 expands the equality concept by prohibiting discrimination based on “sex, origin, language, religion, belief, opinion, social status, or disability”. In addition, draft Article 68 states: “The state is obliged to take all legislative and executive measures to entrench the principle of women’s equality with men in the areas of political, cultural, economic, and social life, as well as other areas without prejudice to the provisions of Islamic Sharia. The state shall provide maternal and child health services free of charge, and ensure women’s protection, social and economic welfare and health, and the right to inheritance and duties towards the family and her work in the community. The state provides specific protection and care to women with dependent children, divorced women, widows, and other women who are most in need” (Article 19, 2013).

In addition, the Chapter on “Rights, Freedoms, and Duties”, provides for various rights, many of which were not part of the 1971 Constitution. For example, draft Article 55 extends the rights of workers to include equal opportunity, just remuneration, safe working conditions, social insurance and health care. The chapter also provides for the right to education (Article 50), housing, clean water, and food (Article 60) and social insurance (Article 57). Freedom of thought and opinion (Article 39), the right to form unions (Article 47) and to hold public meetings (Article 45) is also present (International Commission of Jurists, 2012).

While most of the articles in the Chapter on “Rights, Freedoms, and Duties” extend the language of the 1971 Constitution in this regard, they still fall short of Egypt’s obligations under international law, including requirements relating to torture and other ill-treatment, equality before the law and freedom of thought, conscience and religion (International Commission of Jurists, 2012).

For example, while the Draft Constitution expands on the articles in the 1971 Constitution relating to equality before the law, it continues to exclude non-citizens, who are under the jurisdiction of Egyptian law and court rules, from such equality. In

addition, while the draft Constitution provides: “Freedom of belief is guaranteed. The State guarantees freedom of establishing worship facilities for the monotheistic religions as prescribed by the law,” this provision continues to discriminate against people who do not belong to the monotheistic religions, and thus falls short of Egypt’s obligations under international law relating to freedom of thought, conscience and religion. In particular, Article 18, to which Egypt is a party, states: “i) Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching... iii) Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others” (International Commission of Jurists, 2012).

The Draft Constitution also continues to subject equality and women’s rights to the test of compliance “with the provisions of Islamic Sharia”. This test is based on other Articles of the Draft Constitution, in particular Article 2, which refers to the Principles of Islamic law and maintains the phrasing of the 1971 Constitution: “Islam is the religion of the State and Arabic is the official language, and Principles of Islamic law (Shari’a) are the main source of legislation” (International Commission of Jurists, 2012).

4.4 Human rights indicators

There no direct indicators used to measure human rights implementations. Instead, there are indicators that points out the degree of implementing human rights aspects. Hereunder, and as explained in chapter 3, the indicators show the improvement or the fall back in terms of implementing human development and, thus, its effect on human rights.

The HDI index for the year 2013, as shown in Table 1, provides that Tunisia (90th place with score 0.721) is better off Egypt (110th place with score 0.682) concerning the HDI

ranking worldwide. It is also noticed that in 2012 and 2013, which are the years of transition in the Tunisia's and Egypt's political systems, Tunisia maintained its position in the 90th place while Egypt fell back 2 places to be in the 110th place. This indicates that Egypt failed to meet the human development index components within these two years. As also seen in Table 1, the life expectancy at birth for the year 2013 is higher in Tunisia's case (75.9 years) than Egypt's (71.2 years), and same goes to the other components of the HDI.

Table 1: Human Development Index (HDI) for Egypt and Tunisia in 2013

		Human Development Index (HDI)	Life expectancy at birth	Mean years of schooling	Expected years of schooling	Gross national income (GNI) per capita	HDI	Change in rank
		Value	(years)	(years)	(years)	(2011 PPP \$)	Value	
HDI rank		2013	2013	2012	2012	2013	2012	2012- 2013
90	Tunisia	0.721	75.9	6.5	14.6	10,440	0.719	0
110	Egypt	0.682	71.2	6.4	13.0	10,400	0.681	-2

Source: Malik, 2014

In Table 2, the Gender inequality index for the year 2013 shows that Tunisia is in 48th place (with score 0.265) compared to the rest of the world while Egypt is in the 130th place (with score 0.580). Tunisia is way better off than Egypt in this index as well. This means it has more concerns toward performing human rights than Egypt when related to gender inequality, and the proof can be seen through the percentage share of women in the seats of the parliament, where Tunisia has 26.7% women seats while Egypt only 2.8%. It is also noticed from Table 2 that both countries have low female labor force participation rate, even though Tunisia's rate is higher than Egypt's. The two countries should work on encouraging more women to participate in the labor market through effective policies and actions.

Table 2: Gender Inequality Index for Egypt and Tunisia in 2013

HDI rank	Country	Gender Inequality Index		Maternal mortality ratio	Adolescent birth rate	Share of seats in parliament	Population with at least some secondary education (% aged 25 and above)		Labor Force Participation rate (% aged 15 and above)	
		Value	Rank	(deaths per 100,000 live births)	(births per 1,000 women aged 15-19)	(% held by women)	Female	Male	Female	Male
		2013	2013	2010	2010/2015	2013	2005-2012	2005-2012	2012	2012
90	Tunisia	0.265	48	56	4.6	26.7	32.8	46.1	25.1	70.6
110	Egypt	0.580	130	66	43.0	2.8	43.4	59.3	23.6	74.6

Source: Malik, 2014

Table 3: Gender Development Index (GDI) for Egypt and Tunisia in 2013

		Gender-related development index				Life expectancy at birth		Mean years of schooling		Expected years of schooling		Estimated GNI per capita	
		Human development index value				(years)		(years)		(years)		(2011 PPP\$)	
HDI ranks	Country	Female to male ratio of HDI		GDI		Female	Male	Female	Male	Female	Male	Female	Male
		2013	rank	Female	Male								
								2002-	2000-	2000-	2000-		
				2013	2013	2013	2013	2012	2012	2012	2012	2013	2013
90	Tunisia	0.891	116	0.669	0.751	78.3	73.6	5.5	7.5	15.0	14.0	4,751	16,226
110	Egypt	0.855	125	0.617	0.722	73.6	68.8	5.3	7.5	12.7	13.3	4,225	16,522

Source: Malik, 2014

Since the equality between men and women is one of the main indications of applying human rights, it is important to study the development of gender in Tunisia and Egypt. The GDI in Table 3 shows again that Tunisia (rank 116th) surpasses Egypt (rank 125th) concerning the gender development where the female to male ratio of HDI in Tunisia shows a score of 0.891 and in Egypt shows a score of 0.855. Also, Table 2 provides the breakdown of the HDI between female and male. In 2013, Tunisia's HDI value of female is 0.669 and male is 0.751. While in Egypt, the HDI value of female is 0.617 and male is 0.722. Again in both countries, males dominate females in gender development and this is normal due to these countries masculine culture. Another evidence that highlights the dominance of the male is the estimated gross national income (\$ PPP) per capita for the year 2011, where males in Tunisia share \$16,226 and females only share \$4,751. In Egypt, males share \$16,522 and females share \$4,225.

Table 4: Inequality-adjusted Human Development Index for Egypt and Tunisia in 2013

HDI rank	Country	Inequality-adjusted HDI (IHDI)			Coefficient of human inequality		Inequality in life expectancy		Inequality-adjusted life expectancy index		Inequality-adjusted education index		Inequality-adjusted income index		Income inequality (Gini coefficient)	
		Value	Overall loss (%)	Difference from HDI rank	Value	%	Value	%	Value	%	Value	%	Value	%	Value	%
		2013	2013	2013	2013	2013	2013	2013	2013	2013	2013	2013	2013	2013	2013	2013
90	Tunisia	..	..	..	..	10.6	0.768	..	..	..	..	..	..	..	..	36.1
110	Egypt	0.518	24.0	-5	22.8	13.4	0.682	40.9	0.339	14.2	0.602	30.8				

Source: Malik, 2014

Table 4 provides a conservative indication of the HDI index when adjusted to Inequality. Unfortunately, there are no data available for Tunisia's rank in this index. While Egypt has fallen back 5 places from the HDI 2013 ranking when the inequality-adjusted HDI is introduced. Another indication from the table is the coefficient of human inequality where Egypt scores 22.8 in 2013. The only data available in Tunisia and Egypt together is for the inequality in life expectancy (Tunisia 10.6% and Egypt 13.4%) and income inequality (Gini Coefficient) (Tunisia 36.1 and Egypt 30.8).

In addition, it very important to highlight in this study the trend of the HDI since it demonstrates not only the years of the post Arab spring transition periods, but also all the human development trend throughout the past years. It is noticed from Figure 1 that the HDI is increasing dramatically during the years 1980 to 2000 for both countries. However, it was increasing slightly from year the 2000 till 2010 for both countries. Starting from 2010 till 2011, the index for both countries is almost stable and this what might cause the Arab spring movements in these countries. At the end of 2011 till 2013, it is noticed a very slight increase in the index in both countries as a trial to make the

situation better with the new political era. It is clear from the figure that Tunisia is always ahead of Egypt in the terms of human development.

Figure 1: Human Development Index Trends for Egypt and Tunisia, 1980-2013

Source: Malik, 2014

Poverty is also one of the main indications for human rights. Table 5 demonstrates that the revised specifications of the multidimensional poverty index for Tunisia (0.006 in year 2011/2012) is slightly lower than Egypt (0.036 in year 2008). Table 5 gives indications about population in multidimensional poverty where Tunisia's intensity of deprivation is 39.3% in year 2011/2012 and Egypt's is 40.3% in 2008. The percentage of population that is near multidimensional poverty is 3.2% in Tunisia in 2011/2012 and 8.6% in Egypt in 2008. On the other hand, the percentage of population that is facing severe poverty is 0.2% in Tunisia in 2011/2012 and 1.5% in Egypt in 2008.

Table 5: Multidimensional Poverty Index for Egypt and Tunisia

Multidimensional Poverty Index

		Revised specifications		Specifications (2010)		Population in multidimensional poverty		Population near multidimensional poverty	Population in severe poverty	Contribution of deprivation in dimension to overall poverty (%)		
		Index	Headcount	Index	Headcount	Headcount	Intensity of deprivation			Education	Health	Living standards
Year / Survey		Value	(%)	Value	%	('000)	(%)	(%)	(%)			
Egypt	2008 D	0.036	8.9	0.024	6.0	6740	40.3	8.6	1.5	41.8	45.6	12.6
Tunisia	2011/2012 M	0.006	1.5	0.004	1.2	161	39.3	3.2	0.2	33.7	48.2	18.1

Source: Malik, 2014

The main catalyst for the Arab spring movements is the wide spread of the Internet and the interaction of social media. This leads to investigate the power of the increase of Internet users during and after the Arab spring movements. Due to its large population compared to Tunisia, Egypt's Internet users increased dramatically over the years from year 2005, and especially during the years of transition between year 2011 and 2013. Tunisia follows the case of Egypt but at lower rates during the transition years (2011-2013). Both countries alone witnessed an increase higher than the Middle East and North Africa region countries altogether.

Figure 2: Internet Users (per 100 people) for Egypt and Tunisia, 2005-2013

Source: World Bank, 2013

Moreover, corruption is an indication for perceiving human rights through insuring democracy. The lower the corruption is, the higher is the degree of democracy, and better is the human living conditions. According to the corruption perceptions index ranking of year 2014 (see Table 6), Tunisia comes in the 79th place worldwide with a score of 40 heading above Egypt, which comes in the 94th place worldwide with a score of 37. The higher the score is, the less corrupted the country is. It is noticed from the table hereunder two things. First, Tunisia is again better off Egypt in this index. Second, Tunisia is almost maintaining its corruption position throughout the years 2012 to 2014 (score= 41 to 40 respectively) while Egypt improved from year 2012 to 2014 (score= 32 to 37 respectively).

Table 6: Corruption Perceptions Index Ranking for Arabic Countries 2014

World Wide Rank	Country	2014 Score	2013 Score	2012 Score
25	United Arab Emirates	70	69	68
26	Qatar	69	68	68
55	Bahrain	49	48	51
55	Jordan	49	45	48
55	Saudi Arabia	49	46	44
64	Oman	45	47	47
67	Kuwait	44	43	44
79	Tunisia	40	41	41
80	Morocco	39	37	37
94	Egypt	37	32	32
100	Algeria	36	36	34
136	Iran	27	25	28
136	Lebanon	27	28	30
159	Syria	20	17	26
161	Yemen	19	18	23
166	Libya	18	15	21
170	Iraq	16	16	18
173	Sudan	11	11	13

Source: Transparency International, 2014

Furthermore, media is one of the main indications of human rights implementations. So, what has really happened to the media in Tunisia and Egypt during the transition? And what is the ranking of the media freedom in both countries?

In Egypt, the story begins with the removal of Hosni Mubarak's in February 2011 that led to the "hopes of an improvement in respect for fundamental freedoms". These hopes did not last forever after the newly elected president Mohamed Morsi, who is also a leader at the Muslim Brotherhood, took the head of the government in 2012. He gained special powers by a decree adopted in November 2012 that lacked the freedom of expression. This led to the restriction of the state-owned media; thus, causing the "Islamization of media legislation". Morsi and his party, the Muslim Brotherhood, began declaring their control over the media. Also, there were a number of lawsuits and physical attacks against journalists who were against the political system. In other words, the media in Egypt went through "Brotherization" under Morsi's rule (Reporters without Borders, 2014).

But later, and even after Abdel Fattah Al-Sisi took over the country, the story was not that different. He worked on the “Sisification” of Egypt’s media. The new authorities have systematically targeted foreign and Egyptian media belonged to or owned by the Muslim Brotherhood and banned it. Also, they banned Al-Jazeera TV station, killed five journalists and captivated around 80 journalists in the year 2013. “This persecution violates provisions in the new constitution that was adopted by referendum in January 2014” (Reporters without Borders, 2014).

While in Tunisia, the case was not different. The first free elections which led to the victory of the Islamist party Ennahda’s have not accompanied with them freedom of media. The new government had controls on the state-owned media. The new government has been making and breaking careers at the head of the state media stations. The appointment of members of the Independent High Authority for Broadcasting Communication (HAICA) in May 3, 2013 raised the hopes for media freedom, which was dashed again when another wave of senior appointments were quickly unveiled in August of the same year. Correct that Ben Ali was removed, but his authoritarian methods continue to “short-circuit reform attempts and block state media independence” (Reporters without Borders, 2014).

According to the world press index ranking for year 2014, Table 7 shows that Egypt ranks in the 159th place worldwide with a score of 51.89 returning one place backward compared to year 2013. While Tunisia resides in the 133rd place worldwide with a score of 38.69, and heading 6 places forward compared to year 2013 position.

Table 7: World Press Freedom Index Ranking for Arabic Countries 2014

World Wide Rank 2014	Country	Score 2014	Difference 2014	Rank 2013	Score 2013	Rank 2012
60	Mauritania	26.53	(+ 8)	67	26.47	67
91	Kuwait	30.71	(- 13)	77	28.47	78
106	Lebanon	31.89	(- 4)	101	22.89	93
113	Qatar	34.32	(- 2)	110	16.75	114
118	United Arab Emirates	36.03	(- 3)	114	33.49	112
121	Algeria	36.26	(+ 5)	125	36.54	122
133	Tunisia	38.69	(+ 6)	138	39.93	134
134	Oman	38.83	(+ 8)	141	19.72	117
136	Morocco	39.72	(+ 1)	136	23.3	138
137	Libya	39.84	(- 5)	131	29.89	154
138	Palestine	40.11	(+ 9)	146	51.31	153
141	Jordan	40.42	(- 6)	134	25.17	128
153	Iraq	45.44	(- 2)	150	41.05	152
159	Egypt	51.89	(-)	158	48.66	166
163	Bahrain	58.26	(+ 3)	165	62.75	173
164	Saudi Arabia	58.3	(-)	163	56.88	158
167	Yemen	67.26	(+ 3)	169	69.22	171
169	Djibouti	70.34	(+ 1)	167	67.4	159
172	Sudan	71.88	(- 1)	170	70.06	170
176	Somalia	73.19	(-)	175	73.59	164
177	Syrian Arab Republic	77.04	(-)	176	78.53	176

Source: Reporters without Borders, 2014

Chapter Five

Conclusions and Recommendations

5.1 Conclusion

The overall conclusion links the role of globalization with the start and continuation of the Arab Spring and constitutional democratic reform. While globalization might not seem to be the one of the foremost reasons that could have triggered the Arab Spring and subsequent revolutions towards democracy, it examines the role that globalization, politics, democracy and human rights played as a driving force for reforms that provided the means and motivation that ultimately led to the Arab Spring.

This thesis attempts to examine several questions: (1) Has globalization played a role in shaping the political transitions in Egypt and Tunisia? (2) How can Human Rights movements be assessed in the post-Arab spring states based on certain indicators? (3) Are constitutional changes and amendments sufficient measures of state compliances?

Several literatures focused on the importance of globalization in shaping economies and affecting their policies and government actions. Globalization forms and the means it uses to expand have changed (Shelton, 2002). Thus today globalization is in general mostly accompanied by economic interdependence, deregulation and control of marketplace that includes the shifting of responsibilities from state to non-state actors (Reinicke, 1998). This means that through globalization tools such as the Internet, Arab Spring movements achieved their goals and succeeded in overturning the ruling system. These tools also help in sustaining human rights practices and ensuring awareness among people.

Moreover, other scholars mention that states use human rights control as an instrument to explain the acts of clashes. For instance, when a government is threatened, it replies by repressing human rights through imprisonment, torture or killings. Therefore, here

comes the role of media in general and the internet in specific to raise awareness of such acts and guide people to stand against such actions.

The aim of this study, which is a comparative country research that relies on comparative case studies of constitutional texts as well as other indicators, is to examine the relationship between the global human rights regime and constitutional changes in Arab Spring States, taking Egypt and Tunisia as comparative case studies. The Arab Spring has been originally conceived as part of a democratic movement for change. With the help of globalization means (e.g. Internet), the global human rights regime played an essential role in increasing awareness for Human Rights in the Arab Spring countries causing the movements toward freedom of expression and right to live in higher standards. Following this, the success of these movements and new regimes took power, Tunisia and Egypt have introduced major constitutional changes in effort to comply with Human Rights. So, the study focuses on tracking these changes and comparing them with the recent practices in order to prove whether or not there are human rights implications and at what level.

There is a correlation between economic development, globalization and human rights compliance. The advancement of human rights in the Middle East and North Africa region must be accompanied with significant economic development reform as a necessary condition for their attainment. It is expected in Egypt that with the new democratic regime transition not to implement all human right agreements to be signed, nor to have enough mechanisms to implement constitutional human rights requirements. While Tunisia is in a better position than Egypt in applying human rights treaties during its transitional period that is proved by the comparison between indicators and the constitutional amendments in both countries. It was shown that Egypt is confronted by economic challenges in the future which will be more difficult than Tunisia. Thus, this affects the economic development in both Egypt and Tunisia, and in return affects the globalization process and the human rights implications.

Tunisia and Egypt's new constitutions contain several articles that address human rights such right to life, right to privacy, right to freedom of expression and media and more.

This is considered a big step toward human rights implications in both countries, although some of these articles need to be intensively justified and specified in terms of the frame of applying the law.

Furthermore, the Human Development Index for the year 2013 states that Tunisia resides in the 90th place, which is better than Egypt who in 110th place. Also, the Gender Inequality Index for the year 2013 shows that Tunisia is in 48th place while Egypt is in the 130th place. In addition, the trend of the HDI is stable during and after the years of Arab spring for both countries with a very slight increase in the last years as a trial to make the situation better with the new political era. Due to its large population compared to Tunisia, Egypt's Internet users increased dramatically since the year 2005, and especially during the years of transition between year 2011 and 2013. Moreover, and according to the corruption perceptions index ranking of year 2014, Tunisia comes in 79th place worldwide, above Egypt who is 94th. While according to the World Press Index Ranking for year 2014, Egypt ranks 159th worldwide as opposed to Tunisia who is 133rd.

5.2 Recommendations

The recommendations are divided into two parts, one related to general research purposes and the other concerning the amendments for the constitutions of both Egypt and Tunisia.

As for the general research purposes recommendations, it recommended further investigations in the other Arab spring countries such as Yemen, Syria and Libya as there violations of human rights are greatly reported there, coupled with a lack of documentation of these violations because of their ongoing wars. Also, there should be follow-ups and updates concerning the implications of the new constitutions in Tunisia and Egypt, and a comparison with the actions of the new regimes taking over the country right now. Moreover, further researches could be conducted using extensive questionnaires focusing on the implications of human rights in police stations, prisons, courts, media, governmental institutions and more in order not only to cover the aspects studied in this research, but also to cover other aspects in a broader form.

As concerning the recommendations for Egypt and Tunisia constitutions, it has been dealt with in separate sections hereunder.

5.2.1 Remaining Human Rights Compliance Requirements in Egypt's Constitution

Based on the discussion of the articles of the constitution in chapter 4, some recommendations to the constitution are suggested in order to fulfill the human rights of Egyptian citizens.

The new constitution should guarantee the right to equality to all citizens without any exceptions in Egypt. In other words, rights provided by the constitution should be assured. In addition, Article 38 should be prolonged to contain: “National origin, race and color, property, birth, political or other opinion, sexual orientation and gender identity”. Moreover, it is recommended that Article 10 and Article 11 should be eliminated from the constitution since they endorse “harmful gender-based stereotypes” (Article 19, 2013).

Also, the right of access to information should be assured to citizens of all types and status. This includes the enforcement of the constitution on public organizations to disclose their information to the public. Furthermore, the right of access to information should be applicable to all kinds of information provided by public and private organizations; especially when the information is necessary to guarantee any forms of rights (Article 19, 2013).

The constitution should guarantee the protection of the freedom of the media and its elements, and changes should be adapted to Articles 51 and 52. The changes should provide protection in the form of no prior censorship, “no licensing or registration system for the print media”, “no licensing of individual journalists or entry requirements for practicing the profession”, the “independence of all bodies with regulatory powers over the media, including governing bodies of public media, should be guaranteed”, the “right of journalists to protect their confidential sources of information should be guaranteed”, and “journalists should be free to associate in professional bodies of their choice” (Article 19, 2013).

5.2.2 Remaining Human Rights Compliance Requirements in Tunisia's Constitution

Also, there are some recommendations suggested to the Tunisian constitution in order to fulfill the human rights of the citizens.

The Tunisian constitution should be edited to recognize the right to life as an unconditional right. In other words, it should subsequently eliminate the death penalty (International Commission Of Jurists, 2013).

Article 24, Article 25 and Article 36 should be edited to guarantee that limitations on the rights mentioned in these articles are in full compliance with international standards (International Commission Of Jurists, 2013).

Articles 5, 7 and 37 should be edited to afford active methods and instruments and to specify for the Tunisian authorities all the phases required to guarantee gender equality and eliminate all forms of discrimination against women (International Commission Of Jurists, 2013).

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