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BY MUSTANSIR BARMA

Egypt's Labor Dilemma

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"Bread, freedom, and social justice," is the familiar slogan chanted across the Middle East and North Africa since the Arab uprisings erupted in December 2010. Labor issues fit into this trifecta: bread is a symbol of earning a decent living, freedom is tied to worker rights such as assembly and industrial action, and social justice is linked to dignity derived from employment and better working conditions. Egyptian workers remain frustrated about the lack of progress in achieving the labor rights that are fundamental to this rallying cry.

The labor movement played a pivotal role in Egypt's January 2011 uprising and the ouster of President Hosni Mubarak. Protests by textile workers in 2006 and 2008 in the Nile Delta city of Mahalla al-Kubra went beyond traditional worker demands of higher wages, better working conditions, job security, and benefits. Linking labor's hardships to a greater problem endemic to the regime, twenty thousand workers in Mahalla launched a direct challenge to Mubarak's rule, marking a seminal point in labor activism in Egypt.

Fast forward to today; the plight of workers has only deteriorated. According to government figures, unemployment swelled to 13.3 percent in mid-2013, compared to pre-revolution levels of 9 percent.[1] Unemployment in urban areas is even worse, at 16 percent, while the female unemployment rate stands at 25 percent.[2] Youth joblessness is twice the overall rate and is exacerbated by eight hundred thousand new graduates entering the workforce annually, many of whom lack the skills that employers seek.[3]

1 "Egypt's jobless rate rises to 13.3% in Q2/2012: CAPMAS," *Ahram Online*, August 18, 2013, http://www.masress.com/en/ahramonline/79351.

2 Ibid.

3 Estimates place youth unemployment around 25 to 30 percent. For more on youth unemployment, see Ghada Barsoum, "No Jobs and Bad Jobs," *Cairo Review of Global Affairs*, July 12, 2013, http://www.aucegypt.edu/gapp/cairoreview/pages/articleDetails.aspx?aid=280.

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In light of this alarming unemployment picture, successive governments have made job creation a priority. President Adly Mansour's administration announced a $3.2 billion economic stimulus plan in August 2013 that envisioned labor-intensive projects as the core of new investments. Although this is a step in the right direction, workers yearn to see improvements in workplace conditions and benefits, and unwavering worker protests show that the public is not yet convinced. Since Morsi's removal in July, strikes have taken place across a number of sectors. More than ten thousand workers at Mahalla went on strike at the end of August because they did not receive the full profit-sharing bonuses they were promised. Two thousand workers at Suez Steel went on strike for a month last summer. The previous Muslim Brotherhood government made little progress in the job creation and wage fairness platform on which it ran, and labor activists grew fearful of the "Brotherhoodization" of unions. On November 24, 2012, Morsi passed a presidential decree amending the labor law, which resulted in the dismissal union leaders aged above sixty. This allowed then-Manpower Minister Khaled El Azhary, who hailed from the ranks of the Muslim Brotherhood, to replace union leaders at will rather than through elections, as was the system previously. The number of protests, strikes, and demonstrations surged in the last two years. In 2011, Egypt witnessed

Mustansir Barma is a political economist whose most recent position was senior economic researcher at the American Chamber of Commerce in Egypt. He is currently a policy analyst based in Nairobi, Kenya.

1,300 labor strikes; in 2012, this number rose to 3,300.[4] The number of unions has swelled from a few dozen in 2010 to hundreds today. These unions share common goals of wage fairness, better working conditions, and advancement of labor rights through legislative revisions.

Successive governments have sought to appease both workers and employers, but in fact have done very little to address the concerns of either group. The continuation of Mubarak-era policies of state control over the workforce has alarmed labor activists, while businesses worry about strict labor market regulations and the prospect of policymaking favoring populism rather than economic pragmatism. Stuck between two forces often at odds with each other, government officials have adopted a dual track approach of appearing pro-labor while trying to instill investor confidence and support for businesses by clamping down on strikes. In August, labor movements chastised mobile magnate chief-turned-politician Naguib Sawiris for suggesting a two-year moratorium on strikes and demonstrations.

Recent cabinet appointments have been more encouraging. Minister of Manpower Kamal Abu Eita is the founder and former president of the Egyptian Federation of Independent Trade Unions (EFITU), the independent union federation, the first real structure representing workers' interests, which emerged from the revolution. Minister of Social Solidarity Ahmed al-Borai contributed to the drafting of a new labor law in 2003, has worked toward a trade union law, and served as manpower minister in 2011. The test for officials will be to listen to labor demands while supporting businesses and investment, by formulating comprehensive policies that simultaneously address the concerns of both employees and employers.

Before the Revolution: Control above Representation

Half a century ago, then-President Gamal Abdel Nasser implemented a host of policies to support labor and bring about social justice. In 1961, he passed a landmark law that guaranteed a government job to all university graduates. Later, as economic ties with the West improved following the 1979 Camp David peace accords and treaty with Israel, the private sector also thrived. An entrepreneurial spirit further boosted a growing middle class. However, the 1980s saw fewer jobs in the Gulf, and many Egyptians working there returned home. With budgetary pressures increasing as international wheat prices skyrocketed, having a government job no longer commanded the highest salaries. The state's fiscal situation only deteriorated in the 2000s when it continued to heavily subsidize energy products even though the international price of energy soared. Today, public sector wages account for one quarter of the budget, but these white collar workers have increasingly fallen into poverty.

Besides the six million public sector workers, the private sector employs twenty-plus million workers. Although Egypt boasted growth rates topping 7 percent in the mid-2000s, not everyone benefited from the private sector-led economic boom. The fruits of economic growth did not trickle down to all Egyptians. Private sector unemployment rose while those still employed experienced deteriorating working conditions and plunging real wages.

Outside official statistics, the informal sector employs up to half of the workforce. Informal workers range from street peddlers to household helpers to unofficial taxi drivers. The number of informal workers has grown since the revolution, as many Egyptians are forced to find work wherever they can. Although informal workers benefit from the flexibility to react to changing circumstances quickly, they face greater job uncertainty and do not have access to banking facilities such as credit. The state also loses out on much-needed revenues since the informal economy is unregulated and untaxed.

As president, Nasser established the government-affiliated Egyptian Trade Union Federation (ETUF) in 1957, which was the sole representative of workers for over half a century.[5] Today there are twenty-three unions under ETUF, each representing a different sector of the economy. Yet, the effectiveness of unions under ETUF was always muted due to the Trade Union Law 35 of 1976, which formed a highly restrictive regulatory structure under which unions were forced to operate. ETUF was more concerned with maintaining stability and the status quo than advancing worker rights.

The Rise of Independent Unions

On January 30, 2011, the sixth day of Egypt's

4 "Year in review 2013 – Workers hold 2,486 protests," *Daily News Egypt*, December 31, 2013, http://www.dailynewsegypt.com/2013/12/31/year-in-review-2013-workers-hold-2486-protests/.

5 In 2009, the General Union for Real Estate Tax Authority Workers was formally recognized as the first independent union after two years in formation. The independent union movement was led by current Manpower Minister Kamal Abu Eita.

uprising, EFITU was launched as an alternative to the government-affiliated ETUF. Hundreds of new independent unions representing over two million workers came together under EFITU, the first independent body of its kind in Egypt. Despite receiving support from international labor groups such as the International Trade Union Confederation, EFITU has failed to gain legal recognition from the Egyptian government, and ETUF remains the only legal union federation. Abu Eita has been actively working to address union freedoms and is soon expected to submit a draft law to this end.[6] A trade union law would promote workers' right to free association, protect unionists and laborers against arbitrary firings, confront labor violations, and establish a "just" payscale.

Demands for higher wages and better working conditions are widespread. Indeed, strikes have taken place across virtually all sectors of the economy including textiles, transportation, hotels and tourism, processed food, glass, the judiciary, the media, education, healthcare, and the police. In May 2011, doctors' strikes impacted two-thirds of Cairo's hospitals. In October 2011 over 1,500 public transport workers went on strike. Throughout 2012 and 2013 port workers at Ain Sokhna have crippled operations and forced several shipping companies to reroute. In 2013 bakeries across the country threatened to strike if plans to remove flour subsidies went ahead (the flour subsidies remained).

The economic implications of the vast number of strikes have been severe. Minister of Planning Ashraf al-Araby estimated that worker strikes would cause $15 billion of losses to the economy in the fiscal year that ended in June 2013.[7] That said, the effectiveness of strikes in terms of advancing labor rights has waned. The proliferation of unions can actually impede collective bargaining as companies struggle to understand which unions actually represent their workers, since most of the new unions are unofficial. Although some of the more organized strikes have been successful and led to changes in management, many of the thousands of strikes have done little to advance labor rights. For example, a month-long Suez Steel strike that ended in August failed to secure workers' initial demands for profit-sharing and safer working conditions. The workers settled when fifteen of their colleagues (who were labor representatives) were rehired and three others were released from jail, but their initial demands went unmet. More generally, many strikes have ended without concessions because many companies are struggling through a faltering economy.

The Other Side of the Coin: Employers' Lens

Employers face considerable challenges in meeting labor and government demands. Three stand out in particular: fears that renationalization verdicts may go hand-in-hand with rehiring large groups of workers, punitive employment contract laws, and difficulties in securing visas for foreign workers.

Despite the urgent need to generate renewed investment in the country, the reality is that several cases of privatization reversals have shaken investor confidence. A privatization drive that began in the 1990s set in motion a practice that left room for corruption, whereby some assets were sold well below market value. Perhaps the most prominent example is the privatization of department store chain Omar Effendi, which a Saudi trading company bought in 2006. Given that Omar Effendi is a household name, the case received widespread attention, and it also captures the essence of the renationalization cases, with components of underpricing, corrupt transfer, and mass layoffs. After several rounds of the judicial circuit since the case began in 2011, the most recent judgment is the August 2013 ruling by the Supreme Administrative Court. The verdict supported the previous annulment of the sale on grounds that Omar Effendi was sold by direct offer rather than through a competitive public auction, and at half its market value. The court also found the firing of thousands of employees to be in violation of the terms of the sale contract.

In the post-uprising period, an aggressive campaign has pursued those responsible for corrupt sales. Since privatization cases and contract annulments fall under public interest litigation, any citizen can bring motions before the administrative courts. Effectively, this means that the process by which companies are targeted is haphazard. As a result, several companies have already been ordered back to public control through a renationalization program. One such example pertains to Assiut Cement, which Mexican cement company Cemex bought in 1999. In September 2012 a court decision annulled the privatization and ordered the reemployment of 2,545 workers (out of a previous workforce of 3,777) that had been let go since

6 EFITU seeks the cancelation of Trade Union Law 35 of 1976. An alternative draft law has been circulating but has not been prioritized by the authorities.

7 American Chamber of Commerce in Egypt, "Egypt Watch Bulletin," December 15, 2012, http://www.amcham.org.eg/resources_publications/publications/watch_bulletin/default_articles.asp?MC=21212&MyP=1.

the privatization. Aside from the inefficiencies that would arise from arbitrarily tripling the workforce, the logistics behind rehiring those workers would be virtually insurmountable. In September 2013, two verdicts returned Tanta Flax & Oil and Nile Cotton Ginning to state control. With a total of eleven renationalization rulings since the 2011 uprising, investors are increasingly nervous.

Another challenge companies face is dealing with redundancy laws that restrict the ability of employers to fire workers. According to the United Nation's Survey of Economic and Social Developments in the Arab Region (2012-13), employers must pay workers in Egypt an average redundancy package equal to 26.7 weeks of their final salary in order to terminate their employment.[8] For employees who have served over ten years, the payment package is more than a year of their last annual salary. Such prohibitive costs effectively mean workers cannot be fired irrespective of low productivity. Workers thus have limited financial incentives to be productive. Moreover, there is rarely any additional compensation or recognition for meeting expectations or going beyond the bare minimum. Legal experts say that even when the law favors employers, courts tend to support employee rights.[9]

To circumvent these regulations, many private sector workers are forced to sign a hiring and dismissal form at the same time, or are put on a one-year contract and rehired at the end of each year as new employees. This solution is suboptimal for both employer and worker: the employer is left with an annual window to drop workers rather than being able to align staffing decisions with an overall corporate strategy. The worker has no incentive to stay with the organization if a better offer comes along, forcing the company to invest in retraining a replacement.

The recent tightening of expatriate visa rules also poses a new problem for businesses in Egypt. After Law 12 of 2003 capped foreign workers at just 10 percent of a company's workforce, a ministerial decree issued in the months just after the uprising (April 2011) sought to impose even more restrictions. The decree introduced three changes: first, companies must hire an Egyptian over an expatriate if the Egyptian can be trained to do the job within three to six months. Second, in the case that an expatriate is hired, he can remain in that position for a maximum of three years. And third, during that time the expatriate must train two Egyptians in similar skills. The policy revision was designed to heed populist calls to give preference to Egyptians for jobs; as a result of the decrees, issuance of new visas and renewals for foreign workers have become more restricted. This unfortunately hinders long-range internal planning and efficiency and risks the loss of foreign training and technology transfers.

Promoting Balanced Labor-Employer Relations

Since the start of Egypt's democratic transition, officials have had to tread a fine line between supporting businesses while also defending labor rights, especially since issues such as raising the minimum wage were key demands of the revolution. In October 2011, the National Council for Wages approved a monthly minimum wage of $100 for the private and public sectors. It was to have taken effect in January 2012, but implementation by the military-led government was sporadic at best. Morsi's government did not do much better to address wage issues, as proposals floated in the Shura Council for months.[10] In September 2013, a new minimum wage of $175 was approved for the public sector, with the same level expected for the private sector. Unions have insisted that this level is too low, while the private sector claims it already pays more and argues that any wage law should be based on productivity. Public rhetoric of both the military-led government of 2011-12 and the Morsi-led one of 2012-13 emphasized the importance of pro-labor policies. Yet in practice, workers saw a continuation of Mubarak-era policies that opted for control over representation.

As labor unions have attempted to make headway with employers, new legislative measures have dealt setbacks to workers' right to demonstrate. Although the cabinet billed the protest law it approved in February 2013 as a way of protecting peaceful demonstrators, it was in reality a clampdown on the right to demonstrate. Violations of the law carry prison sentences and fines of up to $7,000. Similarly, a draft protest law in October 2013 drew criticism because of restrictions imposed on the right of assembly, giving authorities the power to postpone, cancel, or relocate protests. Meanwhile,

8 United Nations Economic and Social Commission for Western Asia, "Survey of Economic and Social Developments in the Arab Region, 2012-2013," July 2013, http://www.escwa.un.org/information/publications/edit/upload/E_ESCWA_EDGD_13_3_E.pdf.

9 Mohamed Talaat, "The Different Types of Employment Contracts: Mr. Mohamed Talaat, Chair, Legal Affairs Committee," speech delivered at AmCham Egypt, June 19, 2013, http://www.amcham.org.eg/events_activities/committees/Speeches.asp?E=602&t=7.

10 The Shura Council has traditionally been parliament's consultative wing. However, in the absence of a sitting House of Representatives (formerly People's Assembly)—the law-making arm—legislative powers under Morsi's presidency resided with the Shura Council.

employers and investors face uncertainty with the populist renationalization trend and challenging regulations.

Successive transition governments have not been able to find a happy medium in wage policy or other aspects of employer-employee relations. The government should consider the following steps to better address the interests of both workers and employers:

- Empower independent unions. If the government were to grant collective bargaining rights to independent unions, business disruptions caused by strikes may be mitigated. In addition, as the union landscape matures, consolidation based on common interests will likely occur and a supportive institutional framework will allow a soft landing. Unions can work with companies directly to discuss issues such as wage fairness. Companies, in fact, have been receptive to discussions with newly formed unions since the revolution.

- Promote policies that increase private sector dynamism. The government should reform labor laws to stimulate private sector investment. In particular, lower redundancy costs, facilitate smoother work permit processing, and adjudicate the need for foreign workers on a more nuanced basis. New policies should ensure adequate social protection so that workers are not beholden to their employers and have job mobility without fear of losing their livelihood. The process by which privatizations are now reviewed should be reevaluated, with a goal of mitigating uncertainty for investors. Other policies to stimulate the private sector should focus on the ease of business entry and closure, reducing the red tape and corruption involved in obtaining operating permits, legislating simpler tax codes, and improving investor protection and contract enforcement. A dynamic private sector will, in turn, generate demand for labor and encourage investment, reducing the government's need to absorb graduates into an already bloated public sector.

- Promote entrepreneurship and empower the informal sector. The government should develop programs on job counseling and entrepreneurship mentoring to spark innovation and investment. Government bodies such as the Social Fund for Development, with a focus on small- and medium-sized enterprises, can partner with the private sector to develop programs that build capacity and deliver technical assistance. In addition, the government should implement policies to bring workers in the informal economy into the formal labor market, through incentives such as access to credit, vocational training programs, and tax breaks.

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1030 15th Street, NW, 12th Floor, Washington, DC 20005
(202) 778-4952, AtlanticCouncil.org