



UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Initial Analysis of Problematic Provisions Related to Freedom of Religion or Belief and Associated Rights in Egyptian Draft Constitution

Below is a brief analysis of problematic provisions in the draft constitution approved on November 30. The English translation of the draft constitution comes from the multimedia news website, Egypt Independent. To read a summary of the international standards for constitutional religious freedom protections in English, [click here](#), and in Arabic, [click here](#).

Provisions on Religion and the State:

- Article 2: “Islam is the religion of the state....” This is the same as both the previous and the interim constitution. International standards do not prohibit having an official religion, and many countries around the world have one. However, an official religion cannot be used as a basis for depriving individuals who do not wish to follow that religion of their rights or discriminating against them or their religious beliefs.
- Also in Article 2: “The principles of Islamic Sharia are the principal source of legislation.” This is the same as both the previous and interim constitutions: however, a new provision was added in Article 219: “The principles of Islamic Sharia include general evidence, foundational rules, rules of jurisprudence, and credible sources accepted in Sunni doctrines and by the larger community.” This raises the question of the standing of other Muslim doctrines in Egyptian law, and favors an interpretation of one conservative school of Sunni Islam over all others.
- Article 3: “The canon principles of Egyptian Christians and Jews are the main source of legislation for their personal status laws, religious affairs, and the selection of their spiritual leaders.” By limiting personal status law to Christian and Jewish principles, the provision fails to address the personal status of members of other religious groups and non-religious persons.
- Article 4: “...Al-Azhar Senior Scholars are to be consulted in matters pertaining to Islamic law.” When read in conjunction with Article 2, the provision potentially gives Al Azhar scholars a role in reviewing legislation.
- Article 60: “Religious education and national history are core subjects of pre-university education in all its forms.” To comply with international standards, this provision should be implemented in a non-discriminatory manner.

- Articles 86, 137, and 157 require that the President, Prime Minister, cabinet ministers, and members of the People's Assembly and Shura Council "swear to Almighty God" in the oath of office. This would violate the religious freedom rights and discriminate against individuals who do not believe in God.

Provision on Religious Freedom:

- Article 43: "Freedom of belief is an inviolable right. The State shall guarantee the freedom to practice religious rites and to establish places of worship for the divine religions, as regulated by law." Article 43 has a number of flaws. Protections are limited to "rites" and establishing places of worship; international standards protect a much broader range of activities and expression. Furthermore, this limited conception of religious expression is limited to followers of the "divine" religions, which would exclude followers of other religions, not to mention atheists and agnostics, from enjoying basic freedoms. Also, there is no mention of the right to change one's religion, or of the right of parents to raise their children consistent with their own religion or belief.

Limitation on Defamation of Religion

- Article 44 states that "insult or abuse of all religious messengers and prophets shall be prohibited." This ban is supported by Article 31, which says "[i]nsulting or showing contempt toward any human being shall be prohibited." These are impermissible limitations on freedom of expression under international human rights law.
- Article 45 states: "Freedom of thought and opinion shall be guaranteed. Every individual has the right to express an opinion and to disseminate it verbally, in writing or illustration, or by any other means of publication and expression." However, the language in the Articles 44 and 31 appears to limit this provision.

Other Limitations not Allowed under International Human Rights Law:

- Article 10: "The family is the basis of society and is founded on religion, morality, and patriotism. The State is keen to preserve the genuine character of the Egyptian family, its cohesion and stability, and to protect its moral values, all as regulated by law." Since the "genuine character" of a family is undefined, this article could allow women to be discriminated against on the basis of religious interpretations or perceived cultural norms.
- Article 11: "The State shall safeguard ethics, public morality and public order, and foster a high level of education and of religious and patriotic values, scientific thinking, Arab culture, and the historical and cultural heritage of the people; all as shall be regulated by law." And Article 12: "The State shall safeguard the cultural and linguistic constituents of society, and foster the Arabization of education, science and knowledge." These vague and broad provisions allow the government much leeway to restrict a whole host of individual human rights on grounds not allowed under international human rights law.
- Article 81 provides: "Rights and freedoms pertaining to the individual citizen shall not be subject to disruption or detraction. No law that regulates the practice of the rights and freedoms shall include what would constrain their essence. Such rights and freedoms shall be practiced in a manner not conflicting with the principles pertaining to State and society

included in Part I of this Constitution.” The final sentence of this article is problematic. The draft constitution’s lengthy Part 1 includes, among other provisions, the establishment of Islam as the official religion and the principles of Islamic sharia as the principle source of legislation, as well as the vague and broad Articles 10 and 11 discussed above. This sentence, combined with Article 219’s conservative interpretation of the principles of Islamic law, could allow for a wide variety of restrictions not permitted under international human rights law.