

**United Nations Human Rights Council
Universal Periodic Review
Egypt**

Submission of The Becket Fund for Religious Liberty

1 September 2009



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The Becket Fund is a nonpartisan, nonprofit, public interest law firm dedicated to protecting the free expression of people of all faiths.

United Nations Human Rights Council Universal Periodic Review of Member-State Egypt

The Becket Fund for Religious Liberty, in special consultative status with ECOSOC, submits this analysis of the rule of law and religious freedom law in Egypt as a contribution to the Universal Period Review of UN member-state Egypt.

1. Background

The population of Egypt is 90 percent Sunni Muslim, less than 1 percent Shia Muslim, 8-10 percent Christian (which is mostly Coptic Orthodox), and also includes very small populations of Bahá'í s, Jehovah's Witnesses, Mormons, and Jews.¹

The government of Egypt is disproportionately controlled by the executive branch, which has broad powers to make unilateral decrees and to declare a state of emergency. The legislative branch is bicameral with a lower house (the Majlis al-Sha'b or People's Assembly) and an upper house (the Majlis al-Shura or Shura Council).² The People's Assembly has a limited role in policy making as the president initiates any legislation, and the Shura Council operates as an advisory body to the president.³ Despite the declared independence of the judiciary, the executive branch consistently disregards judicial rulings and attempts to influence the makeup of the judiciary.⁴ In its 2009 report, Freedom House rated Egypt "not free."⁵

The Religious Affairs Department of the Ministry of the Interior handles all religious affairs, including registration of new religions.⁶ The Ministry of Islamic Endowments (Awqaf) issues licenses for mosques, and the Al-Azhar University acts as a reviewing body for matters of Islamic theology, including approval of converts to Islam and censoring materials that could be deemed blasphemous.⁷

2. Legal Framework

2.1. Constitution

Article 46 of the Constitution states that "[t]he State shall guarantee the freedom of belief and the freedom of practice of religious rites."⁸ Article 40 provides for equality for all citizens before the law regardless of religion, and Article 47 guarantees the freedom of opinion and expression, including the protection of "self-criticism and constructive criticism."⁹

However, Article 2 of the Constitution states: "Islam is the religion of the state and Arabic its official language. Islamic jurisprudence is the principal source of legislation."¹⁰ Without clear delineations between civil and religious legal systems, this *Sharia* supremacy clause risks the preferential treatment of Muslims under Egyptian law to the detriment of the rights of religious minorities.

In 2007, the Egyptian government amended the constitution to entrench emergency laws that allow for broad surveillance laws and military courts that do not provide for appeal, hence eroding a sense of judicial accountability and rule of law.¹¹

¹ See U.S. Dep't of State, International Religious Freedom Report, 2008: Egypt [hereinafter "IRF Report 2008"]. Available at <http://www.state.gov/g/drl/rls/irf/2008/108481.htm>.

² See Freedom House, Freedom in the World Report 2009: Egypt [hereinafter "Freedom House Report 2009"]. Available at <http://www.freedomhouse.org/template.cfm?page=22&year=2009&country=7601>.

³ See Freedom House Report 2009.

⁴ See Project on Middle East Democracy, Country Backgrounder: Egypt 2008 [hereinafter "POMED Backgrounder"]. Available at http://pomed.org/docs/Egypt_Backgrounder.pdf.

⁵ See Freedom House Report 2009.

⁶ See IRF Report 2008.

⁷ See id.

⁸ Egyptian Constitution, art. 46.

⁹ Id. art. 40 and 47.

¹⁰ Id. art. 2. Article 2 was amended in 1980 to emphasize the supremacy of sharia law as "the principal source" of law, rather than "a principal source" of law. (see Christian Solidarity Worldwide Religious Freedom Profile: Egypt July 2008 [hereinafter "CSW Profile 2008"]. Available at http://www.online2.church123.com/attach.asp?clientURN=christiansolidarityworldwide2&attachFileName=4bee0597855e8e691dced4295b358aa6.attach&attachOriginalFileName=CSW_Briefing_Egypt_July_2008.pdf).

¹¹ Article 179 of the Constitution now reads:

The State shall work to safeguard the general discipline and security in the face of the dangers of terror. The law shall regulate the provisions related to the measures of conclusion and investigation necessary for combating those dangers under the supervision of the Judiciary in a way that the measure stipulated in the first paragraph of Article 41 and Article 44 and the second paragraph of Article 45 of the Constitution is not to hinder putting those provisions into effect. The President of the Republic may submit any crime of terror crimes to any judicial body stipulated in the Constitution or the law."

Article 88 of the Constitution now reads:

The necessary conditions stipulated in the members of the People's Assembly shall be defined by law which shall set out the provisions of the election and referendum and casting ballot shall take place in one day. A higher committee which enjoys independence and impartiality shall supervise the elections in the manner regulated by the law. The law shall set out the competencies of the committee and the way of its formation

Under the Emergency Laws enacted in 1981 after the assassination of President Anwar al-Sedet in October 1981, the government can detain suspects for up to 90 without formal charges.¹²

2.2. International Legal Obligations

In 1982, Egypt acceded to the International Covenant on Civil and Political Rights, in which Article 18 guarantees the freedom of religion or belief.¹³ Additionally, as a member of the United Nations, Egypt has agreed to the principles expressed in the Universal Declaration of Human Rights, which also protects the fundamental right to freedom of religion or belief, including the rights to choose one's own faith.¹⁴ In 1984, Egypt acceded to the African Charter on Human and Peoples' Rights, in which Article 8 guarantees the "freedom of conscience" and "the profession and free practice of religion."¹⁵

2.3. Penal Code

Article 98(F) of the Penal Code forbids the use of religion "to promote or advocate extremist ideologies... with a view toward stirring up sedition, disparaging or showing contempt for any divinely-revealed religion, or prejudicing national unity and social harmony."¹⁶ Originally enacted to combat political ideologies such as communism, the broad language of Article 98(f) is lends itself to abuse by overzealous or discriminatory officials. In addition, only official "divinely-revealed" religions are protected by Article 98(f); thus, minority faiths that might not be recognized, like the Bahá'í s, are both unprotected and disproportionately affected by this law. In a departure from international human rights law, this law seeks to protect ideas, beliefs, and religions, rather than protecting the individuals who hold those ideas, beliefs, and religions. It is equivalent to a 'defamation of religions' or blasphemy law.

Article 160 penalizes the destruction, vandalism or desecration of religious buildings, sites and symbols, cemeteries and graves, as well as the hindering of religious ceremonies. Article 161 makes it a criminal offence to print and publish deliberately distorted texts of religious materials for State-approved religions, or to mock and ridicule religious ceremonies in public. Article 176 forbids public incitement to hold a religious community in hatred or contempt, and Article 178 provides up to two years' imprisonment for violations of "public morality."¹⁷ While these provisions are aimed at the maintenance of public order, their overbreadth virtually ensures undue restrictions on peaceful speech, in particular dissent.

2.4. Executive Orders

In 1961, President Nasser issued Decree No. 263, which banned all practices of the Bahá'í faith as a form of blasphemy. This law went a step further than State Law 263, enacted in 1960 to ban Bahá'í institutions and activities.¹⁸ In 1975, a Supreme Court case upheld the presidential decree as constitutional.¹⁹

The legal structure governing the construction of places of worship dates back to the Ottoman *Hamayouni Decree* of 1852, which granted minorities the right to construct places of worship with permission from the sultan. Vague amendments were added to the law in 1934 and made the process for obtaining a construction permit more laborious. While President Mubarak has issued a number of presidential decrees since 1998 to decentralize the application process for building permits, the various decrees and arcane laws have not been synthesized into a straightforward set of criteria to obtain a building permit for a religious building. Vague references in the most recent presidential decree to necessary "supporting documents" allow local officials to discriminate against minority religions seeking to build places of worship.²⁰

and current and former members of judicial bodies shall be among its members. The committee shall form the general committees supervising the elections at the level of the constituencies and the committees exercising the measures of casting ballot and votes' counting. The general committees shall be formed of members of judicial bodies and votes counting shall be made under the supervision of the general committees in accordance with the rules and the measures defined by the law.

See [POMED Backgrounder](#) and [Democracy Demotion in Egypt: Is the United States a Willing Accomplice?](#), The Washington Institute for Near Eastern Policy (March 23, 2007), available at <http://www.washingtoninstitute.org/templateC05.php?CID=2582>; and [Modernizing the Constitution of Egypt](#), Egypt State Information Service, Ministry of Information (2007) (Unofficial and Abridged Translation), available at <http://constitution.sis.gov.eg/en/ecard03.pdf>.¹² See Hudson Institute's Center for Religious Freedom, [Religious Freedom in the World: Egypt](#), 156-160 (Paul Marshall ed. 2008) [hereinafter Marshall: Egypt].

¹³ In *Muhammad Ahmad Abduh Higazy v. the Minister of Interior et al*, the Cairo Administrative Court recalled that Egypt ratified the ICCPR with a reservation on Article 18 in order to ensure that ratification of this article would not contradict Islamic law. See [IRF Report 2008](#).

¹⁴ Universal Declaration of Human Rights, G.A. Res. 217A, art. 18, U.N. GAOR, 3d Sess., 1st plen. mtg., U.N. Doc. A/810 (Dec. 12, 1948).

¹⁵ African Charter for Human and Personal Rights: Article 8. Adopted by the Organization of African Unity on June 17, 1981. O.A.U. Doc. CAB/LEG/67/3 Rev. 5 (1981), entered into force in 1986.

¹⁶ Penal Code No. 58 of 1937, art. 98(f).

¹⁷ Id., art. 176 and 178.

¹⁸ See [Marshall: Egypt](#).

¹⁹ See [CSW Briefing 2008](#).

²⁰ See [IRF Report 2008](#).

3. Implementation

The legal structure outlined above is discriminatory in nature. Thus, the implementation of these laws results in violation of the freedom of religion of minority religions.

3.1. Conversion

The Egyptian government does not recognize the conversion of Muslims to another religion. In 2008, the Cairo Administrative Court ruled that non-Muslims are free to convert to Islam, but Muslims are not allowed to convert, because apostasy would be in violation of the principles of Islam.²¹ At a public hearing at the U.S. Congress in 2007, the Egyptian government denied any attempts by Egyptian officials to “arrest individuals attempting to convert from one religion to another...[as]... completely and utterly false.” The government claimed that such accusations are usually related to attempts to forge official documents or to benefit from more favorable family law rules under a different religion.²² In 2008, a court ruled that Mohammed Hegazy could not alter his ID card to reflect his conversion from Islam to Christianity because Article 2 of the Constitution declares Islamic law as the “principal source of legislation.”²³

In July 2007 the Grand Mufti Ali Gomaa of Egypt stated that Muslims are free to convert: “The essential question before us is can a person who is Muslim choose a religion other than Islam? The answer is yes, they can.”²⁴ However, the Dar al-Iftaa, the highest official body governing Islam in Egypt, later retracted the Grand Mufti’s statement.²⁵

In February 2008, the Supreme Administrative Court ruled that the government must issue new identity cards to 12 individuals who were born Christians, converted to Islam, and desired to return to Christianity. However, local compliance with this ruling and other similar rulings has not been confirmed.²⁶

3.2. Identification Cards

According to Article 47 of the Penal Code, all Egyptian citizens are required to carry an identification card with them at all times. Additionally, official identification is often required for occupation, educational institutions, and banking.²⁷ Members of religious groups other than the three recognized religions often face discrimination because they are not issued identification cards.²⁸ Converts to religions other than Islam often face delays of 6 months to a year before being issued a new ID.²⁹ Converts to Islam are usually issued a new ID within 24 hours of their conversion.³⁰ Because of a Presidential ban on Bahá’í s, they have faced undue discrimination in their applications for official state documents, including ID cards, birth certificates, and passports.³¹

In January 2008, the Court of Administrative Justice in Cairo ruled that the state must provide official identification cards to Bahá’í s by leaving the religious affiliation blank or by using a symbol in this space.³² Previously, Bahá’í s could not receive ID cards or any official documentation because they do not belong to one of the three recognized religions – Islam, Judaism, and Christianity. Following appeals from some Islamic groups, the court ruled in March 2009 that all appeals would be dismissed.³³ On August 8, 2009, two Egyptian Bahá’í s received identification cards.³⁴

²¹ *Hasan Husni Naguib ‘Abd-al-Masih (a Bahá’í) vs. the minister of Interior* (Action No. 12780 of JY61).

²² Because family law is governed by different laws depending on an individual’s religion, one religion’s laws may advantage a concerned party more than another religion’s laws. Especially in matters of inheritance, child custody and divorce, provisions under religious law may differ from one system to another. See Statement of the Embassy of Egypt to the United States, Briefing with the Task Force on International Religious Freedom, U.S. Congressional Human Rights Caucus, May 2007.

Source: Egyptian testimony at TIRF briefing

²³ *Muhammad Ahmad Abduh Higazy v. the Minister of Interior et al*; Egyptian Constitution, art. 2.

²⁴ See Egypt’s religious advisor says Muslims can choose own religion, ABC News (July 24, 2007) available at <http://www.abc.net.au/news/stories/2007/07/24/1987362.htm?section=world>

²⁵ From the Dar al-Iftaa statement: “The quotes attributed to the mufti were never said during the interview published by the Washington Post... the mufti said that Islam forbids Muslims from renouncing their faith ... and that if a Muslim did they would be committing a mortal sin.” See Egypt Mufti denies saying Muslims can choose own religion, AFP (July 24, 2007).

²⁶ See Egyptian Initiative for Personal Rights. First Quarterly Report, 2008 and Fourth Quarterly Report, 2008 re: Freedom of Religion and Belief in Egypt.

²⁷ See IRF Report 2008.

²⁸ See id.

²⁹ See CSW Briefing 2008.

³⁰ See id.

³¹ See IRF Report 2008.

³² See Egypt court upholds Baha’i plea in religious freedom cases, Baha’i World News Service (January 29, 2008), available at <http://news.bahai.org/story/600>.

³³ See U.S. Comm. on International Religious Freedom Annual Report: Iraq (May 2008) [hereinafter “USCIRF Iraq 2009”].

³⁴ See Egypt: Bahais issued new identity cards, Los Angeles Times (August 10, 2009), available at <http://latimesblogs.latimes.com/babylonbeyond/2009/08/egypt-bahais-issued-new-identity-cards.html>

3.3. Blasphemy/Defamation of Religions

Articles 98(f), 160, 161, 176, and 178 of the Penal Code are consistently used against individuals who engage in peaceful debate about religion. In 2007, Abdel Karim Suleiman, a 22 year-old Internet blogger and former student at Al-Azhar University, was imprisoned for criticizing Islam, the attacks on Coptic Christians in Alexandria in 2005, and President Hosni Mubarak.³⁵

Egypt has also consistently been a supporter of the “defamation of religions” movement at the United Nations. Egypt has voted in favor of the resolution at the Human Rights Council every year since 1999 and at the General Assembly every year since 2006.³⁶ This resolution attempts to imitate and protect domestic Egyptian laws, like Article 98(f), that inhibit peaceful debate about religion.

3.4. Places of Worship

Despite the liberalization of laws concerning construction of religious buildings, the application of such laws continues to be inconsistent and discriminatory. President Mubarak retains the ability to approve new construction of churches, but has yet to make a decision on over 100 permit applications, most of which were submitted over 5 years ago.³⁷ Local officials are also very reticent to issue permits for repair and renovation of existing buildings. All mosques must be registered with the Ministry of Islamic Endowments (Awqaf). Nonetheless, approximately 5000 mosques and prayer areas are unregistered with the Ministry.³⁸ Although the law treats repair of mosques and churches identically, mosques face fewer administrative hurdles than churches.³⁹

3.5 Registration of Religious Groups

Despite efforts to gain legal registration, the Jehovah’s Witnesses have failed to receive such registration from the government.⁴⁰ Mormons and Bahá’is are also not recognized by the government.⁴¹ The presidential ban on Bahá’is treats Bahá’is as blasphemers against Islam because they profess the existence of a prophet after Mohammed.

3.6 Family Law

In Egypt, family law is delegated according to the laws of an individual’s respective religion, but limited only to the three major recognized religions – Islam, Judaism, and Christianity. Family law includes marriage, divorce, alimony, child custody, and burial. However, the application of the law often advantages Sharia law. In cases between a Muslim man and a Christian woman, Sharia law is applied. Non-Muslim men must convert to Islam in order to marry a Muslim woman.⁴² In 2006, the Alexandria Administrative Court decided that a male convert to Islam could convert his two minor sons to Islam despite objections from his sons, who practiced Coptic Christianity, and their mother, also a Christian.⁴³ In 2009, the court reversed its previous decision and granted custody to the mother, but refused to change the religious affiliation from ‘Muslim’ on the boys’ identification cards.⁴⁴

3.7 State-sponsored Intimidation/Discrimination

Under the Emergency Laws enacted in 1981 and maintained under recent constitutional amendments, security forces are permitted to detain suspects for up to 6 months without formal charges.⁴⁵ This law is often used to intimidate individuals involved in conversion from Islam – ministers, missionaries, and converts. In 2005, Mr. Bahaa Ahmed Hussein Mohammed

³⁵ See [Egyptian Blogger Sentenced to Four Years in Jail](http://www.npr.org/templates/story/story.php?storyId=7555505), National Public Radio (February 22, 2007), available at <http://www.npr.org/templates/story/story.php?storyId=7555505>.

³⁶ CHR Res. 2005/3, at 21, U.N. ESCOR, 61st Sess., Supp. No. 3, U.N. Doc. E/CN.4/2005/135 (Apr. 12, 2005); CHR Res. 2004/6, at 28, U.N. ESCOR, 60th Sess., Supp. No. 3, U.N. Doc. E/CN.4/2004/127 (Apr. 13, 2004); CHR Res. 2003/4, at 34, U.N. ESCOR, 59th Sess., Supp. No. 3, U.N. Doc. E/CN.4/2003/135 (Apr. 14, 2003); CHR Res. 2002/9, at 56, U.N. ESCOR, 58th Sess., Supp. No. 3, U.N. Doc. E/CN.4/2002/200 (Apr. 15, 2002); CHR Res. 2001/4, at 47, U.N. ESCOR, 57th Sess., Supp. No. 3, U.N. Doc. E/CN.4/2001/167 (Apr. 18, 2001); CHR Res. 2000/84, at 336, U.N. ESCOR, 56th Sess., Supp. No. 3, U.N. Doc. E/CN.4/2000/167 (Apr. 26, 2000); CHR Res. 1999/82, at 280, U.N. ESCOR, 55th Sess., Supp. No. 3, U.N. Doc. E/CN.4/1999/167 (Apr. 30, 1999); G.A. Res. 61/164, U.N. Doc. A/RES/61/164 (Dec. 19, 2006); G.A. Res. 62/154, U.N. Doc. A/RES/62/154 (Dec. 18, 2007); G.A. Res. 63/171, U.N. Doc. A/RES/63/171 (Dec. 18, 2008); HRC Res. 7/19, at 54, U.N. Doc. A/HRC/4/123 (Mar. 27, 2008); HRC Res. 4/9 at 19, U.N. Doc. A/HRC/4/123 (Mar. 30 2007); HRC Res. 10/22, at 78, U.N. Doc. A/HRC/10/L.11 (Mar. 26, 2009).

³⁷ See [USCIRF Iraq 2009](#).

³⁸ See [IRF Report 2008](#).

³⁹ See [id.](#)

⁴⁰ See [id.](#)

⁴¹ See [Marshall: Egypt](#).

⁴² See [IRF Report 2008](#).

⁴³ There have been a series of lawsuits in Egyptian and international courts, including the African Commission on Human and Peoples Rights, between Kamilia Gaballah, a Christian woman, and Medhat Ramses Labib, her ex-husband who converted from Christianity to Islam in 1999. See [Law Granting Twins to Muslim to be Reviewed](#), Assyrian International News Agency (February 22, 2009), available at <http://www.aina.org/news/20090221190526.htm>; See [Mother Fights to Keep Twins from Muslim Father](#), Christian Today (October 7, 2008), available at <http://au.christiantoday.com/article/mother-fights-to-keep-twins-from-muslim-father/4465.htm>.

⁴⁴ See [Egyptian court imposes Islam on twins](#), Baptist Press, (July 1, 2009), available at <http://www.bpnews.net/bpnews.asp?id=30812>.

⁴⁵ See [CSW Briefing 2008](#).

el-Akkad was arrested after converting to Christianity and held without charges for 6 months, after which he was acquitted for “contempt of religion”. Soon after, Mr. El Akkad was arrested and held again without charges for almost a year.⁴⁶ In February 2009, another Muslim convert to Christianity, Mr. El-Gohary, was verbally accosted by government officials when he requested legal documents required to apply for a new identification card. The official’s actions incited others present to intimidate El-Gohary verbally and physically. He eventually left the premises without the proper documents and his lawsuit was thrown out on procedural grounds.⁴⁷ Mr. El-Gohary’s case is now on appeal.⁴⁸

Because of an unwillingness to usher in robust democratic reforms, the government continues to outlaw political activity by religiously-affiliated parties, in particular the Muslim Brotherhood. Responsible for the assassination of President al-Senet, the Muslim Brotherhood has formally renounced violence as a form of political discourse, but maintains a restrictive platform towards the role of women and non-Muslims in Egyptian society.⁴⁹ The government continues to detain members of the Muslim Brotherhood for political dissent under the Emergency Powers and Article 98(f) of the Penal Code.⁵⁰

4. Normative Effects

A legal environment of intolerance and state-sanctioned discrimination naturally begets a crucible for sectarian tensions and violence. Violence and destruction of private property directed towards non-Muslims and Muslim minorities continues pervasively throughout Egypt, and especially in areas with high concentrations of minorities. In Upper Egypt, an area with a large Christian community, attacks have occurred against the Abu Fana monastery, Christian-owned shops in Armant, and Coptic properties in Esna. Converts from Islam are highly persecuted in Egypt, where many have received death threats and have been obstructed from judicial proceedings.⁵¹ Bahá’í’s consistently receive threats and are discriminated against for their religious affiliation.

Although there is technically no religious test for public office, there is a de facto discrimination against non-Muslims holding public office. Of 28 governors in Egypt, one is Coptic. In the Peoples Assembly there are 6 Copts out of 454 members. There are three appointed Coptic members in the Shura Council, which consists of 88 appointed members and 176 elected members.⁵²

Members of the Muslim Brotherhood remain very active in political and public life in Egypt, but are shuttered from robust public debate because of government threats and arrests. The suppression of the Muslim Brotherhood, the largest opposition group in Egypt, risks the radicalization of underground militant Islamist movements.

5. Recommendations

During the Universal Periodic Review, the UN Human Rights Council should take care to consider religious freedom in its evaluation of Egypt. We respectfully recommend that the UNHRC not only base its evaluation of Egypt on constitutional assurances of religious freedom, but also on the use of legal doctrines to oppress minorities and to suppress dissent.

The Egyptian government should endeavor to protect all citizens from discrimination regardless of their religious affiliation. The UNHRC should address official government discrimination in the issuance of ID cards and building permits, in addition to state inaction to protect minority groups, such as Bahá’í’s and Christians.

The UNHRC should also evaluate the Egyptian government’s abuse of emergency powers, especially in regard to indefinite arbitrary detention.

We also encourage the UNHRC to engage in a constructive debate in regard to the use of domestic blasphemy and “defamation of religions” laws in Egypt. We encourage the UNHRC to study the effects of these laws on the fundamental freedoms of religion and expression, especially as they have begun to affect international resolutions within UN bodies.

⁴⁶ See [Egypt: Authorities Release Jailed Christian Convert](http://www.compassdirect.org/en/display.php?page=news&lang=en&length=long&idelement=4883), Compass Direct News (May 24, 2007), available at <http://www.compassdirect.org/en/display.php?page=news&lang=en&length=long&idelement=4883>.

⁴⁷ See [Egyptian Islamic Lawyers Urge Death Sentence for Convert](http://www.aina.org/news/20090226172430.htm), Assyrian International News Agency (February 26, 2009), available at <http://www.aina.org/news/20090226172430.htm>.

⁴⁸ See [A Christian on the run in Egypt](http://www.latimes.com/news/nationworld/world/la-fg-egypt-convert23-2009aug23,0,6941260.story), Los Angeles Times (August 23, 2009), available at <http://www.latimes.com/news/nationworld/world/la-fg-egypt-convert23-2009aug23,0,6941260.story>.

⁴⁹ See [POMED Backgrounder](#).

⁵⁰ See [IRF Report 2008](#).

⁵¹ See [a Christian on the run in Egypt](#), *supra*.

⁵² See [CSW Briefing 2008](#).