

POLICY BRIEF



Egypt

Institutionalized discrimination of minority faiths

Egypt is a pivotal country in the Middle East and North Africa because of its strategic location, the size of its population and its historical, cultural, and diplomatic influence.

Article 2 of the Egyptian Constitution sets Islam as the state religion and principles of Islamic Sharia as the primary source of legislation. Article 64 states that “freedom of belief is absolute”.¹

Muslims constitute about 90% of the population. The largest religious minority is Christianity (about 10%), followed by the Baha’is (less than 1%).² Minority faiths regularly face pervasive discrimination and intolerance. President Al Sisi, since taking office in 2014, has displayed some significant gestures toward

Egyptian Christians, such as attending the Orthodox Christian mass with the Coptic Pope, and has shown general goodwill to improve the current situation of this religious minority in the country. Although these first steps have shown a goodwill that has not been shown before, the only concrete step addressing institutional discrimination against Christians has been supporting the issuance of the 2016 Church Construction and Renovation Law (Law 80/2016).³

Blasphemy Law and Hate Speech

Article 98(f) of the Egyptian Penal Code criminalizes the propagation of “*extremist thoughts with the aim of instigating sedition and division or disdain*ing

¹ Egypt’s Constitution of 2014, available at: https://www.constituteproject.org/constitution/Egypt_2014.pdf.

² “Egypt: Country Dossier”, *World Watch Research, Open Doors*, February 2019, pp. 8. Available at: <http://opendoorsanalytical.org/wp-content/uploads/2019/02/Egypt-WWR-COUNTRY-DOSSIER-February-2019-update.pdf> (password: freedom).

³ Farouk, M., Hawthorne, A., Rizk, A., “Prayers Unanswered: Assessing the Impact of Egypt’s 2016 Church Construction Law”, *Project on Middle East Democracy*, December 2018, pp. 3. Available at: <https://pomed.org/report-prayers-unanswered-assessing-the-impact-of-egypts-2016-church-construction-law/>.

and contempting any of the heavenly religions” and “prejudicing national unity or social peace”.⁴ Under this law, blasphemy charges are very common against Christians and other religious minorities, and they are often used as a pretext for mobilization and attacks against faith communities. For example, a Coptic Christian was sentenced to three years of prison for a “blasphemous” Facebook post, and a Coptic teacher was charged with blasphemy for a set of questions about Mohammed at school.⁵ Although the Egyptian blasphemy law requires the accused manifest a specific intent to blaspheme, which is uncommon in existing blasphemy laws in other countries,⁶ its scope is to protect religions and is thus contrary to international religious freedom standards which protect the rights of the individual.⁷ Article 176 of the Penal Code addresses incendiary speech and incitement to religious hatred and violence, thus making article 98(f) unnecessary in its current form and in any other revised forms.

Customary Reconciliation Councils

Episodes of sectarian disputes and violence – including but not limited to violence against churches;

alleged defamation; attempts to prevent the opening or restoration of churches or prevent worship in established churches – are usually settled through a mechanism of extralegal binding arbitration called customary reconciliation councils. The councils, some fixed by local authorities and others called in a more ad hoc manner, are often comprised of local prominent families and public officials, including at times security officials. Inherited norms rather than codified law govern the councils’ proceedings.

Even when Christians are murdered, cases can be assigned to a customary reconciliation council and therefore remain outside the judicial system.

After an attack on a church, it is common for the police not to arrest suspects, and if they are arrested, they are often released by the public prosecutor in favor of participation in the customary reconciliation councils. Even when Christians are murdered, cases can be assigned to a customary reconciliation council and

⁴Egypt’s Criminal Code, Art. 98(f), 1937, available at: https://sherloc.unodc.org/res/cld/document/criminal_code_of_egypt_english_html/Egypt_Criminal_Code_English.pdf. The “*Heavenly religions*” are intended to be Islam, Christianity and Judaism (See Egypt’s Constitution, note 1) This provision therefore excludes other religions from protection from “disdain” and “contempt”.

⁵See “Egypt cracks down on blasphemy in wave of arrest” at <https://www.copticsolidarity.org/2020/11/20/egypt-cracks-down-on-blasphemy-in-wave-of-arrests/>; <https://www.shorouknews.com/news/view.aspx?cdate=13112020&id=579b8e69-5a51-477b-99cc-f66184f56410&fbclid=IwAR0OgfeHSGmXzMlxbRehD9SbiBYGEPFS7VOWPpo1APBvNnJR3UHbjZBwhs> (Arabic); “Egypt: Copt sentenced to three years in prison for ‘blasphemous’ Facebook post” and “Coptic teacher charged with contempt of religion for questions about Muhammad”, *World Watch Monitor*, available respectively at: <https://www.worldwatchmonitor.org/2018/12/%C2%AD%C2%AD%C2%ADegypt-copt-sentenced-to-three-years-in-prison-for-blasphemous-facebook-post/>, and <https://www.worldwatchmonitor.org/2018/03/coptic-teacher-charged-with-contempt-of-religion-for-questions-about-muhammad/>. See also “Justice Denied, Promises Broken: The Situation of Egypt’s Minorities Since 2014”, Minority Rights Group International, January 2019. Available at: https://minorityrights.org/wp-content/uploads/2019/01/MRG_Rep_Egypt_EN_Jan19.pdf.

⁶See, for instance, the Pakistan’s blasphemy law, which doesn’t require a specific intent for the offence: *Pakistan Penal Code*, Section 295(c), available at: <https://www.oecd.org/site/adboecdanti-corruptioninitiative/46816797.pdf>.

⁷See “General Comment No. 34”, *Human Rights Committee*, Geneva, July 2011, Para. 48.



Photo: ‘Garbage City’ in Cairo.

therefore remain outside the judicial system, with the councils' decisions binding without a right of appeal. The majority faith community often imposes its own terms and coerces the minority participant (most often the Christian) to relinquish its rights, regardless of whether the participant is the victim. Historically, the prosecutor has been all too willing to accept the councils' results even when such results contradict the law and violate protections under the Constitution. Despite intentions for peaceful reconciliation, in reality these councils perpetrate a climate of impunity and encourage further attacks. Such practices have become a means to evade the rule of law and are encouraged and supported by judicial and law enforcement officers.⁸

Religious affiliation on ID cards

The requirement of including one's religious affiliation on ID cards has been a disputed issue for a number of years in Egypt and remains unresolved. ID cards in Egypt are essential to access post-secondary education, obtain a job, travel and vote, among other things. The law requires religious affiliation on the cards, which applicants choose from one of the "heavenly religions" (Islam, Christianity and Judaism). Choosing no religious affiliation is not an option, therefore faith adherents from other religions are forced to pick one of the three listed religions or have no ID card. Furthermore, for converts from Islam to other religions or no religion, or for any other individual who wishes to change his/her religious affiliation from "Muslim" to another, it is practically impossible to ensure that change on their identification document. Despite being permitted by the Civil Status Law, government officials in the Civil Status Department regularly refuse Egyptian citizens the option of changing their religious affiliation *from* Islam because they believe that Sharia prohibits apostasy (leaving Islam).⁹ On the other hand, changing religious affiliation *to* Islam is reportedly very easy.¹⁰

Church Construction and Renovation Law

The aforementioned Law 80/2016 replaced the previous vague legal framework on church construction and renovation with one single law, and it has a number of positive aspects that should be noticed, such as localizing the approval or permits by putting governors



Photo: A family that lost their wife/mother in the Palm Sunday bombing on St Marks Coptic Orthodox church, Alexandria, 2017.

in charge of approving permits rather than the president, and the creation of a system leading unrecognized churches to gain a license.¹¹ However, since its approval, only 8 permits for the construction of new churches, and only about 14% of applications for unlicensed churches have been approved, and the law doesn't seem to give any right of appeal to the governor's decisions on licenses and permits. Additionally, the law gives to security agencies (namely the National Security Agency, General Intelligence Service, and the Administrative Control Authority) a role in the registration approval process that is non-existent in the approval of mosques, which shows that church matters are treated as a national security issue.¹² The law also requires that a church should be proportional to the size and needs of its community – without specifying the meaning of "proportional" and "needs" – while no such requirement is needed for the construction of mosques.

⁸ "Justice Denied, Promises Broken: The Situation of Egypt's Minorities Since 2014", *Minority Rights Group International*, January 2019, pp. 9-10. Available at: https://minorityrights.org/wp-content/uploads/2019/01/MRG_Rep_Egypt_EN_Jan19.pdf. See also "According to Which Customs: the Role of Customary Reconciliation Sessions in Sectarian Incidents and the Responsibility of the State", *Egyptian Initiative for Personal Rights*, June 2015. Available at: <https://eipr.org/en/press/2015/06/%E2%80%9Cwhose-customs-role-customary-reconciliation-sectarian-disputes-and-state>.

⁹ *Ibid.*, pp. 14-15.

¹⁰ "Prohibited Identities: State Interference with Religious Freedom", *Human Rights Watch*, November 2007, pp. 1-9. Available at: <https://www.hrw.org/report/2007/11/11/prohibited-identities/state-interference-religious-freedom>.

¹¹ Farouk, M., Hawthorne, A., Rizk, A., "Prayers Unanswered: Assessing the Impact of Egypt's 2016 Church Construction Law", *Ibid.*, pp. 13-14.

¹² "United States Commission on International Religious Freedom: 2019 Annual Report", *USCIRF*, April 2019, pp. 168-169. Available at: <https://www.uscirf.gov/sites/default/files/2019USCIRFAnnualReport.pdf>.

To ensure the respect of fundamental rights of Egyptian Christians and other minority faith adherents, Open Doors recommends:

1 The international community to work closely with the Egyptian Government on funding and promoting **grassroots projects** aimed at curbing religious hatred and promoting religious tolerance, interfaith dialogue and collaboration, especially focusing on areas in Upper Egypt.

2 On **blasphemy charges and hate speech**, the Egyptian Government should repeal article 98(f) of the Egyptian Penal Code, that is discriminatory in its nature and not compliant to international human rights standards, and instead emphasize the importance of applying article 176 covering incitement to hatred and incendiary speech.

3 To restore the rule of law and ensure justice and security to vulnerable Christian communities, the Egyptian Government should work along with the security services and the judicial system to immediately end the practice of **Customary Reconciliation Councils for sectarian violence and disputes**.

4 To Prevent the widespread discrimination of Christians and other minorities because of their **religious affiliation on ID Cards** the Egyptian Government should:

- Remove religious affiliation and any religious reference from official identity documents;
- In the interim, deliver appropriate training for Civil Status Department officials

on international and national religious standards and tolerance, and ensure that disciplinary measures are appropriately taken against those who illegally refuse to change one's religion on their ID cards;

- Immediately take all necessary steps, in respect to Article 53 of the Egyptian Constitution, allowing individuals to select the religious identity of their choosing on any presently existing government identification documents that requires religious identity.

5 To address issues linked to the **Church construction and renovation law** the International Community should:

- Urge the Egyptian Government to cease to consider church construction and legalization as a matter of national security and therefore eliminate the role of security agencies in approving the legalization of churches;
- Call on the Egyptian Government to Repeal Article 2 of the law, which establishes that churches should be proportional to the size and need of the community it serves, as it establishes a subjective criterion for issuing permits and often results in refusals of such permits;
- Consider providing training to Egyptian law enforcement officials on international religious freedom standards and providing security protection for churches from riots and attacks.

Any questions? Please email advocacy@od.org