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Egypt in general:

- Egypt is a transcontinental country that is located in the northeast corner of Africa with Sinai Peninsula in the southwest corner of Asia.
- Egypt's population is 91 million (2012 estimated)
- The most populous country in Africa.
- The 15th most populous country in the world.
- Muslims: 90% of the population.
- Christians: 10% of the population.
- Arabic is the Native language.

The 2011 Revolution:

- On January 25, 2011, protesters flooded in Egypt in range over the regime of the ex-president Hosni Mubarak.
- The outcomes:
 - Mubarak has completely stepped down delegating the power to the military forces.
 - Islamists started to rise as a major political power “especially the Muslim Brotherhood”.
 - Democratic elections held in which Mohamed Morsi, the Muslim Brotherhood's candidate, elected and inaugurated as Egypt's president after the revolution.

The 2013 Revolution:

- In April 2013, Egyptians started to sign petitions that President Morsi should step down allowing an early presidential election in which over 15 million citizens did sign the petition.
- On June 30, 2013, Over 30 million people demonstrated in the streets chanting against the Muslim Brotherhood and asking President Morsi to step down.
- Under the pressure of the people, the army interfered declaring that President Morsi is no longer Egypt's president and that the Chief Justice should assume power until a presidential election is to be held.
- As a result of these circumstances, the 2012 Constitution has been suspended and a new committee has been appointed to amend it.

In this paper, I will try to expound how the new constitutional drafters avoid the mistakes committed by the Islamists in the 2012 Constitution, and how to promote the issue of Human Rights in the new Constitution.

1. Article 2 and the Principles of Islamic Sharia

- Article 2 reads, ‘Islam is the religion of the state and Arabic its official language. Principles of Islamic sharia are the principal source of legislation.’
- Egypt’s liberals and Christians see Article 2 as the main indicator of the Islamization of the constitution.
- Although the onset of the Article, ‘Islam is the religion of the state and Arabic its official language’, has never been a problem simply because it mirrors the status quo in Egypt that Islam is the majority religion and Arabic is the dominant language.
- However, what haunts Egypt’s liberals and Christians is the last portion of the Article, which lists the principles of Islamic sharia as the principal source of legislation, meaning that all laws and regulations must not violate the principles of Islamic sharia.
- However, the worries of Egypt’s liberals and Christians are somewhat alleviated in that a neutral entity, the Supreme Constitutional Court (SCC), reserves the sole power to exercise judicial review in order to decide the constitutionality of all laws and regulations and to interpret laws in order to remove any vagueness or ambiguity regarding their meanings.
- Interestingly, the SCC did not frustrate Egypt’s liberals and Christians when it came up with a liberal interpretation of Article 2 that significantly contributed to maintaining Egypt’s moderate nature.
- However, the SCC adopted a secular approach in interpreting Article 2 when it limited the definition of ‘the principles of Islamic sharia’ to include only those rules which are authentic.
- The Court’s secular-liberal approach reached its acme when it declared that all laws should be consistent with human justice and welfare (human rights).

2. The Freedom of Belief

- One of the most controversial freedoms in the Constitution of 2012 is the freedom of belief, as Egypt’s liberals see that the new constitution restricts that freedom whilst the Islamists see that this freedom is fully guaranteed under this constitution.
- The Constitution of 2012 explicitly mentions freedom of belief in Article 43, which reads, ‘[f]reedom 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.’
- On the one hand, according to the traditional rules of statutory construction, the plain meaning rule seems suitable to be applied on the onset of the article, ‘freedom of belief is an inviolable right.’
- On the other hand, one could construe the last part of the Article, ‘the State shall guarantee the freedom to practice religious rites and to establish places of worship for the divine religions, as regulated by law,’ as a restriction on freedom of belief.

- In fact, this phrase may be seen as a restriction on the freedom of belief simply because it requires the State to guarantee the freedom to practice religious rites and to establish places of worship only for the divine religions, Islam, Christianity, and Judaism. Consequently, those who believe in undivine faiths are neither allowed to publicly practice their religious rites nor establish places of worship.
- However, one should not confuse the right to belief and the right to practice religious rites simply because according to the text of Article 43 the right to belief is guaranteed and protected for all citizens whether they believe in a divine or undivine faith. More precisely, under Article 43, the right to belief in any religion is fully guaranteed so as well as the right to atheism; however, only those who believe in divine religions can publicly practice their religious rites and establish places of worship.
- Another provision that could be seen as curtailing freedom of belief is Article 3, which reads, ‘[t]he 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.’
- On the first side, a cursory examination of the article reveals that it supports freedom of belief as Egypt’s non-Muslims - Christians and Jews - are allowed to defer to the rules and laws of their religions regarding their personal affairs.
- On the other hand, one could see this article as restricting freedom of belief simply because it acknowledges only Christianity and Judaism as religions beside Islam which may be the main source of legislation in matters related to their believers’ personal status law. Thus, the article ignores other faiths in Egypt, such as the Baha’i faith: those who believe in faiths other than Christianity or Judaism are not allowed to defer to the canon rules of their faiths to govern their personal affairs and would be subject to Islamic law.
- Indeed, I am not either arguing against this Article or challenging its reasonableness simply because I do not see it inconsistent with the freedom of belief. In fact, acknowledging only divine religions, Christianity and Judaism, to be recognized faiths beside Islam, the majority religion, is simply a matter of the state’s ideology, which should not be construed as a restriction on freedom of belief or trampling on minorities’ religious rights especially after explicitly recognizing such freedom in Article 43.

3. Rights of Detainees

- Despite that the 2012 Constitution requires that all detainees must be treated in such a way that preserves their human dignity that they should not be subject to any kind of either physical or moral harm. Art.(36).
- Art.(35) “Any person arrested or detained must be informed of the reasons in writing within 12 hours be presented [the detained person] to the investigating authority within 24 hours from the time of arrest, be interrogated only in the presence of a lawyer, and be provided with a lawyer when needed.”

- Indeed, these time limits provided in Article 35 are without reasonableness especially since the Article did not mention why the detained citizen cannot be informed with the reason of detention and interrogated right after his detention. / Further, these time limits could give the detention authority the opportunity to abuse the detained citizen before being subject to interrogation.

4. The Principle of Equality

- In fact, both the Constitution of 1971 and the Constitution of 2012 commit the state to preserve equality for all citizens in both rights and duties, without discrimination or preference.
- However, unlike the Constitution of 1971, which prohibited discrimination between citizens based on sex, religion, or race, the Constitution of 2012 does not explicitly ban discrimination based on sex, religion, or race.
- Specifically, Article 40 of the 1971 Constitution reads, '[t]hey [ie the citizens] have equal rights and duties without discrimination between them due to sex, ethnic origin, language, religion or creed.' However, Article 33 of the 2012 Constitution omits the phrase 'without discrimination between them due to sex, ethnic origin, language, religion or creed' to mention only that, '[a]ll citizens are equal before the law. They have equal public rights and duties without discrimination.'
- Indeed, this article may create a certain margin for discrimination against citizens based on their sex, race, or religion. For instance, one could see the article as a tool to serve the Islamists' hidden ideology that women and non-Muslims not be allowed to run for the presidency, which would certainly constitute 'discrimination between citizens.'

5. The Freedom of Expression

- The Constitution of 2012 guarantees the right of citizens to express their thoughts, views, and opinions. Additionally, the Constitution of 2012 emphasizes that the freedom of creativity is a right for every citizen and that the state should guarantee such freedom.
- Despite this, the range of freedom of media and press remains to some extent questionable.
- The Constitution of 2012 mentions the freedom of media and press when it reads, '[f]reedom of the press, printing, publication and mass media shall be guaranteed. The media shall be free and independent to serve the community and to express the different trends in public opinion, and contribute to shaping and directing in accordance with the basic principles of the State and society, and to maintain rights, freedoms and public duties, respecting the sanctity of the private lives of citizens and the requirements of national security.'

- Despite acknowledging the media, in its various forms, to be a free and independent entity, the Constitution overlooks one of the most urgent claims, namely that imprisonment for publication crimes must be prohibited. Indeed, this claim seems to be reasonable especially since it guarantees journalists' ability to work free from the grip of government as well as judicial prosecution.
- Furthermore, the Constitution lists 'the requirements of national security' as a possible curb on the freedom of media and press that this freedom should be practiced in accordance with these requirements. However, it does not explicitly define 'the requirements of national security', which could lead to extended interpretations that could be used to restrict the freedom of media and press.