

THE THREAT TO MINORITY GROUPS IN THE “NEWLY DEMOCRATIC” REPUBLIC OF EGYPT

As the previous dictatorial and corrupt Egyptian regime was unrivalled for thirty years, the ousting of Hosni Mubarak on the 11th of February 2011 by the Egyptian people, has been labelled as nothing short of miraculous. The world shared in on this euphoria when words like democracy, justice, human rights, equality and freedom were repeated globally in every newspaper and social networking website. What seemed like a newfound sense of hope for the world’s most ancient civilisation, has unfortunately been short lived. Many minority groups in Egypt are now in fear that the future of the Egyptian people has been placed in the hands of a group of individuals more tyrannical than their predecessor.

On the 30th of June 2012, the Muslim Brotherhood’s Mohammed Morsi was sworn in as Egypt’s first democratically elected president since the ‘revolution’ which overthrew Mubarak’s regime. What, on the face of it, appears to be a victory for democracy in the Arab world has in fact become a serious threat to the state of basic universal human rights which exist in Egypt.

1. When democracy contributes to regression rather than progression...

Under Egypt’s previous Constitution, Article 2 stated that Sharia law, that is traditional Islamic law, was Egypt’s “principle source of law”.¹ Many minority groups as a result, particularly women and non-Muslims, were severely discriminated against and persecuted. One of Mohammad Morsi’s key election promises, to some of the conservative Islamists who voted for him, was not merely the institution of Sharia law. Rather, the new government proposes to move beyond merely implementing Sharia “principles” and towards codifying Sharia law as the all-encompassing governing law of Egypt.² As a result, minority groups and secularists have been particularly disillusioned by Egypt’s progress into a “democracy” and feel that Egypt’s democratic elections have only worsened the country’s chances of promoting true equality and human rights.³

Despite claiming to be proponents of democracy, the Muslim Brotherhood have frequently stated that women and non-Muslims

do not have a right to the presidency.⁴ The combination of this overtly discriminatory political party, with the institution of Islamic law as Egypt's governing law, will undoubtedly reduce the chances for human rights surviving in the new (but certainly not improved) Egypt. In fact, under this system of Islamic law and dominantly Islamic parliament, it appears that only "Muslim males" will be considered as "full" and equal citizens.⁵

2. A losing balancing act between Egypt's observance of international human rights standards and its adherence to Sharia law

As a member of the United Nations, the Arab Republic of Egypt is bound by Article 55(c) of the *United Nations Charter*, which commits all nations to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion".⁶ As the only African member state of the United Nations in 1948, Egypt participated in the adoption of the *Universal Declaration of Human Rights*⁷ and have since signed and ratified most of the significant international human rights instruments.⁸ Despite this, under the previous legal framework and government, where human rights laws were inconsistent with the operation of Sharia law, Sharia law almost inevitably prevailed.⁹

The first Egyptian Constitution purported to enforce legal equality of all citizens regardless of "race, ethnic origin, language, religion or creed"¹⁰ in accordance with Egypt's international human rights obligations. These principles were, however, compromised during the leadership of former President Anwar Sadat,¹¹ whereby under his leadership, Egypt experienced a "Great Islamic Transformation".¹² During this transformation the principles of Sharia law were constitutionally entrenched from being "a principle source" in 1971 to "the principle source" of legislation in 1981.¹³ This thereby limited all legislation to be bound and interpreted according to the tenets of Sharia law.¹⁴ It has, however been speculated that the

current Islamist government will entrench Sharia law even further into Egypt's legal system.¹⁵

According to Islamic literature, Sharia law originates from the Qur'an and Sunna,^[16] thereby rendering it 'divine law'¹⁷ and "the sole valid interpretation of Islam".¹⁸ The impact of the "Islamic transformation" during Sadat's reign was apparent by the recession of Egyptian nationalism and patriotism in the years that followed Sadat's leadership, which was replaced with a sense of Pan-Islamism.¹⁹ This was evident, for example, in government schools where the daily salute to the flag was replaced with the Islamic proclamation of "Allahu Akbar".²⁰ Thus, as Sharia law is perceived to be the "literal and final word of God"²¹, many argue that this justifies superseding human rights laws or obligations in the event of a conflict with Islamic law.²²

Contrary to western understanding however, "Sharia law" is not merely one code of law but is a source of Islamic legal doctrines comprised of a variety of inherently contradictory, yet equally valid interpretations.²³ This pluralism inherent in the Islamic tradition accommodates the evolution of Islamic law and also provides adherents with a personal choice as to which interpretation they wish to abide by. This pluralism however vanishes once the state codifies Sharia law into state law, as such codification is merely the arbitrary exercise of state power selecting one interpretation out of several other valid choices and enforcing it under the guise of divine law.²⁴ Consequently, Islamic law which is inherently flexible becomes static, to the extent that its application becomes incompatible with modern times and conditions. For this reason, the implementation of Sharia law as the source of law in a nation state should not merely invoke concern in secularists, but should also offend Muslim adherents, as this codification undermines the pluralism inherent in Islam and usurps the power of independent Islamic scholars responsible for interpreting Islamic law.²⁵

Theorists also challenge the 'universality' concept within international human rights law,

arguing that the international human rights agenda is reflective of “Western” standards²⁶ which are incongruent with Islamic norms.²⁷ Through his “*Clash of Civilisations*” theory, Samuel P. Huntington argues that “Western concepts” such as the rule of law, separation of church and state, equality, liberalism and human rights “have little resonance” with non-western cultures.²⁸ Therefore, the limited effectiveness of human rights law on the behaviour of Islamic Middle Eastern states and their resistance to adhere to the international human rights framework,²⁹ may be attributed to the perception that the international human rights programme is representative of an imperialistic agenda³⁰ which is dictated by “Judeo-Christian bias”³¹ and is therefore inappropriately applied where Islamic culture prevails.³²

Such ‘universal’ human rights, perceived to be dominated by Western discourse and opposed by Islamic countries, particularly involve civil and political rights which relate to principles of religious freedom and legal equality of all human beings regardless of religion or sex.³³ The assertion of Islamic pluralism culminated in 1990 when Muslim countries proposed an Islamic human rights counter model to the existing international human rights framework, through the *Cairo Declaration of Human Rights in Islam*.³⁴ While this model is consistent with certain principles found in traditional Islamic law, protections in relation to religious freedoms and assurances to safeguard the equality of minorities were “notably absent”.³⁵ As a result Elizabeth Ann Mayer argues that this Islamic model substantiates Huntington’s thesis, as the *Cairo Declaration* in effect represents an “Islamic civilizational model” which affirms that some “universal” human rights concepts as accepted by the “West” are “irreconcilable with Islam”³⁶.

Thus although Egypt has traditionally enjoyed a “positive association” with the United Nations,³⁷ and has ratified the most pertinent international human rights instruments which constitute the *International Bill of Human Rights*,³⁸ the constitutional entrenchment of Sharia law within Egypt’s domestic legal

system has often justified gross breaches of human rights against minorities.³⁹ This has been particularly evident where international human rights law conflicts with the principles of Islamic Sharia law, in relation to the religious freedoms of non-Muslim minority groups and the equal treatment of women.⁴⁰ Thus, while some theorists agree that the argument of cultural relativism justifies some divergences away from international human rights law,⁴¹ Muslim human rights theorist Abdullahi Ahmed An-Na’im affirms that the rights to “life, liberty and dignity for every individual person or group of people” are non-derogable and should be universally accepted by all cultures.⁴²

3. The precarious case of Coptic Christians and non-Muslims in a democratic Egypt

The Arab Republic of Egypt contains the largest Christian population within the Middle East, whereby the Coptic Orthodox, Catholic and Protestant Churches constitute over ten percent of the Egyptian population, which is in effect over eight million people.⁴³ The Coptic Orthodox population in particular, is one of the oldest Christian communities within the Middle East, significantly predating the ‘Arab conquest’ of Egypt in 640 A.D.⁴⁴ Prior to the arrival of Muslims, Egypt was a Christian province of the Byzantine Empire⁴⁵ and was renowned as “the Land of the Copts”.⁴⁶ Following the “Islamic invasion” however, many Coptic Christians were coerced to pay a monetary tax, known as a “jizyah”, or convert to Islam.⁴⁷ Those who refused were either persecuted or massacred.⁴⁸ The Christians who agreed to pay the jizyah were called “dhimmis”, which is a term used to describe the second-class status of non-Muslims living in a Muslim country.⁴⁹

Although the newly elected president, Mohammad Morsi has attempted to assure the Coptic community that they will not be discriminated against, if his government proceeds to implement Sharia law, this would sanction a certain degree of discrimination against this religious minority.⁵⁰ This was particularly prevalent under the former regime whereby non-Muslims were



Christians and other non-Muslim minorities were continually discriminated against in public sector employment,⁵² and most Christians were disqualified from holding judicial or political office,⁵³ while the few that held political positions were heavily censured.

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denied certain rights and were not considered full citizens of the state.⁵¹ This was evident as Christians and other non-Muslim minorities were continually discriminated against in public sector employment,⁵² and most Christians were disqualified from holding judicial or political office,⁵³ while the few that held political positions were heavily censured. This was particularly seen in the aftermath of the Egyptian revolution, whereby the Coptic Christian governor of Qena, Emad Shehata Michael was called to resign by Islamist protesters who claimed that “a Copt won’t implement Islamic law”.⁵⁴

Discrimination of Christians is also clearly evident within educational institutions, whereby in accordance with the religious curriculum, students are taught that “dhimmas” or non-Muslims are “infidels”.⁵⁵ Moreover, Christian tertiary students are denied admission into the publicly financed Al Azhar University,⁵⁶ and despite their high education qualifications, there are still no Coptic Christians who occupy a university or faculty dean position in Egypt.⁵⁷

Furthermore, although Article 21 of the *International Convention on Civil and Political Rights* (ICCPR) stipulates that the “right to peaceful

assembly shall be recognized”,⁵⁸ the previous and current Egyptian governments have continued to impose an “ancient law” which requires Christians to acquire presidential approval or permits from a governor in order to assemble or renovate a church.⁵⁹ This is particularly problematic as the process of acquiring approval or a presidential decree is often “deliberately entangled”,⁶⁰ whereby “requests are purposely lost in the bureaucratic maze”⁶¹ and as a result Christian congregations often wait several years to build or repair church property.⁶² The complexity of this process is clearly reflected by the fact that during the first decade of former President Hosni Mubarak’s leadership, only ten permits were issued,⁶³ and the process is not likely to ease under the current Islamist government. These regulations are not only a clear violation of the religious human rights of Coptic Christians’ rights to worship but are also clearly discriminatory, as the same restrictions are not applied to Egyptian Muslims in constructing Mosques⁶⁴ and in fact private Mosques are built in large numbers without any official permission.⁶⁵

Moreover, the Coptic Christian community in Egypt has been subject to persistent persecution

and has been frequently and violently attacked by radical Islamic “mobs”⁶⁶ who believe that it is their “religious duty” to eliminate adherents who believe in “falsified or perverted” religions, such as Christianity or Judaism⁶⁷. As a result, several Coptic Christians have been violently murdered on several occasions. Recent events include:

- 1 the slaughter of twenty-one Coptic worshippers following a New Years mass in Alexandria on January 1, 2011;⁶⁸
- 2 the violent attack on Coptic Christians on March 9, 2011 which resulted in the death of thirteen people and seriously injured forty five people, while over a hundred and fifty people were moderately injured; and
- 3 the Maspero Massacre which saw twenty-seven Christians mowed down by army vehicles and countless injured during what was supposed to be a peaceful political protest regarding the rights and treatment of Coptic Christians in the post-Mubarak era.⁶⁹

In a majority of these incidents, particularly those since the ousting of Mubarak, the perpetrators have not been prosecuted.⁷⁰ What is worse is that in some cases the Coptic victims have been compelled by authorities to retract their complaints and enter into “reconciliation” with the attackers, in order to preserve “National Unity”⁷¹.

This continued failure by the government to prevent these assaults on Coptic Christians by non-state actors and to hold the perpetrators accountable contributes to a climate of “impunity” which encourages further attacks.⁷² Article 2(3) of the *ICCPR* requires the state to redress the violation of religious human rights through the implementation of an “effective remedy”. Thus, as Egypt has ratified the *ICCPR* it has an affirmative obligation to enact legislative measures to protect the religious human rights of the Christian minority in Egypt from the persecution of non state actors.⁷³

Throughout Egypt’s history, in particular in recent times, Coptic Christians have been publicly encouraged to convert to Islam. In fact

the “entire state is mobilized to facilitate the conversion procedures”,⁷⁴ which include “organised, and well-dissimulated groups” that target young Coptic girls and women.⁷⁵ In contrast, under the Sharia law of ‘apostasy’, any Muslim who repudiates his or her faith “is guilty of a capital offense punishable by death”.⁷⁶ This is justified within Egypt as any conversion away from Islam is considered “treason” under Sharia law.⁷⁷ Thus, several Muslims who have converted to Christianity have faced “despicable treatment by the authorities”,⁷⁸ and under this system of Sharia law “honour killings” are condoned. Through honour killings, Muslim men and in particular Muslim women, who have converted away from Islam, may be “burned alive”⁷⁹ or murdered through other means. Although “honour killings” appear to be archaic and incompatible with the “renewed” democratic Egypt, the current Salafist political party, Al-Nour during the political elections has frequently advocated the legitimacy of honour killings.

4. When gender inequality is justified in accordance with law

Despite the equal participation by women in the Egyptian revolutions which ousted Hosni Mubarak, the election of the Muslim Brotherhood’s presidential candidate, Mohammad Morsi is believed to have contributed to a dismal turn in women’s rights in Egypt.⁸⁰ The declining state of women’s rights is best illustrated by the fact that since the collapse of the Mubarak regime, the number of female members in parliament has fallen from sixty-four to a mere nine, whereby the only female presidential candidate, Bothaina Kamel was forced to withdraw from the election as she failed to gain enough signatories to register for the candidacy.

Although Egypt was one of the very few Muslim countries to ratify the *Convention on the Elimination of All Forms of Discrimination Against Women of 1979*, it entered a reservation to Article 16 of the Convention, which provides for the equality of men and women in all matters relating to marriage and family relations, during the marriage and upon its dissolution. The Egyptian reservation specifically stated that



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since these matters were governed by Sharia, Egypt had to derogate from its obligations under the Convention.⁸¹ In this regard they stated, “The Arab Republic of Egypt is willing to comply with the content of this [instrument], provided that such compliance does not run counter to the Islamic Sharia”.⁸²

Under traditional Islamic Law women are considered the wards of men and are legally disqualified from holding general political or judicial office.⁸³ This has been frequently cited by the conservative Salafist Al-Nour party who have openly stated that women are forbidden from being present in the public sector. Sharia law also upholds the archaic ideal that men have the “right” to punish women for “disobedience” or behaviour which contravenes Islamic principles.⁸⁴

Many Islamic scholars and leaders have also sought to strengthen the Islamic foundations of the practice of female circumcision (mutilation) in Egypt. Some have called upon custom as a source of Islamic law, claiming that “female circumcision is a part of the legal body of Islam and is a laudable practice that does honor [sic] to the women”⁸⁵ The West considers this practice barbaric, cruel and inhumane, and deems it a clear violation of human rights.^[86] The idea behind the practice is to reduce the woman’s sexual appetite by excising the clitoris. As a girl’s virginity is highly valued by Islamic tradition, the purpose of circumcision is to protect her against any possible violation of her chastity.⁸⁷ This perverted view of a woman’s

autonomy was clearly displayed during the revolution when the military engaged in barbaric acts by conducting “virginity tests” on female activists. The failure of the army leadership and current government in holding perpetrators accountable for this gross violation of human rights is evident by the fact that no one has been convicted for this incident and the only doctor charged was acquitted in March 2012.

In addition, since the election of President Mohamed Morsi there has been a surge in violent sexual attacks against women and particular harassment against women who do not wear the Islamic head cover.⁸⁸ This trend could be directly correlated with the pressure placed upon the Muslim Brotherhood, by Islamist conservatives, who believe that Sharia law should be strictly observed, and that women should conform to strict rules relating to dress and clothing.

5. A future for human rights in Egypt?

Although the Egyptian Revolution appeared to promise a future of democracy, equality and human rights, the imposition of Sharia law by the predominantly Islamist government led by Mohammad Morsi will significantly compromise the attainment of these goals. Despite having ratified several international human rights instruments, it is clear that some basic human rights will be threatened by the institution of Sharia law as Egypt’s governing law, as these human rights will be systematically superseded by Sharia law on the basis of

cultural relativism. Although the western model which separates “church and state” or in this case “mosque and state” would be ideal, it appears that under the current government this is not viable. Thus although the revolution

managed to overthrow an autocratic regime and dictator, it fell short in terms of bringing about true democracy and for now, the human rights of many Egyptian minority groups remain threatened and uncertain.

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