

**RECOMMENDATIONS
BY A COALITION OF INDEPENDENT EGYPTIAN
HUMAN RIGHTS NON-GOVERNMENTAL
ORGANIZATIONS (NGOS)
FOR THE UN UNIVERSAL PERIODIC REVIEW
(UPR) OF EGYPT**

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I. Civil and political rights

A. Constitutional reform

Egypt needs a new constitution, or at least a fundamental reform of the 1971 constitution, which constitutes the primary source of the chronic institutional and structural illnesses that plague human rights observance in Egypt, largely because it gives the executive authority absolute power over the legislature and judiciary and grants the president of the republic unlimited authority subject to no oversight or external review.

Although when issued the 1971 constitution was better than the constitutions imposed on Egypt since the July 1952 revolution, subsequent amendments introduced in 1980 and in 2007 have made it the worst post-revolution constitution. It is difficult to imagine engaging in any constitutional reform without revising a large number of the document's articles and fundamentally altering its guiding philosophy and structure, which is beyond the scope of these recommendations.¹ The most significant areas for constitutional reform from the human rights perspective are:

1. Guarantees for the separation of power, including an end to the executive's hegemony over the legislative and judicial branches, the introduction of limits on the absolute authority of the president, and the institution of oversight and review mechanisms in a way that promotes the balance of power among the three branches of government. This requires:

- Amending Article 76, which establishes a purely formal mechanism for the election of the president that is more akin to a referendum, in practice prohibiting independent figures from declaring candidacy for office, and thus almost limiting the voting to the ruling party's candidate.
- Amending Article 77 to institute a two-term limit on the presidency.
- Abolishing Article 74, which gives the president unlimited authority to take whatever measures he deems necessary to confront any grave threat to "national unity" or the "safety of the nation," which has always been used to repress public liberties.
- Revising Article 148, which gives the president the authority to declare an open-ended state of emergency, to guarantee that states of emergency are declared only in times of war, armed domestic conflicts, or national disasters, and that they are only applied to the geographic area affected by the emergency rather than to the entire country. A 90-day limit should also be established for these emergency periods, renewable only by a new decree approved by at least two-thirds of the members of the People's Assembly.
- Amending Article 48 to guarantee independence from the executive power for state-owned media, and ensure that they reflect the intellectual, political, cultural, religious, ethnic, and social pluralism that characterizes Egyptian society.

2. Protection for the sovereignty of constitutional guarantees of public rights and liberties over all other laws that complement the constitution or regulate the practice of these rights and liberties.

This requires:

- Introducing an article at the beginning of Chapter 3 of the constitution dealing with public rights and liberties that explicitly prohibits undermining, eroding, or violating these guarantees on the pretext of regulating them by law.

¹ On several occasions political parties and human rights organizations have drafted a new constitution or offered serious suggestions for constitutional reform, but the government has paid no attention and no serious debate has taken place.

- Abolishing the recently added Article 179 on combating terrorism, which institutionalizes and legalizes the suspension of four of the most important constitutional protections for human rights and allows the exceptional state of emergency to become a permanent state of affairs.
 - Amending Article 151 dealing with the status of international conventions in Egyptian legislation to add a paragraph noting that international human rights conventions ratified by the state are not subject to abrogation, amendment, or suspension by any subsequent law.
3. Guarantees for state neutrality towards adherents of all Abrahamic and non-Abrahamic religions and beliefs, which requires:
- Amending Article 2 of the constitution, which states that “Islam is the state religion and the principles of Islamic law are the principal source of legislation.” This article has supplied justification for increasing pressure on liberties in the name of religion, and it has allowed the issuance of judicial rulings that impinge on freedom of belief, religion, expression, and creativity. The article is also used politically and in the media to deprive women of the right to equality, to justify discrimination between Muslims and non-Muslims, and to legitimize assaults on intellectual, literary, artistic, and academic freedom. Moreover, it strengthens the interventionist role of religious institutions in matters of legislation, politics, economics, education, media, intellectual production, and literary and artistic creativity, at the expense of human rights standards.
 - Amending Article 11, which entrenches a stereotypical view of women’s role within the family and obstructs the achievement of full equality.

B. Legal reform and non-legislative measures

4. End the exceptional state of emergency in effect since 1981 and take immediate steps to release all those held under administrative detention without charge or trial under the emergency law.
5. Until emergency law is lifted, its application should be prohibited against all forms of peaceful expression, particularly against journalists and bloggers, and the Interior Ministry must be held accountable for every violation of this interdiction.
6. Refrain from issuing any new law that further entrenches the absolute authority of the security apparatus on the pretext of combating terrorism. Not only has a counterterrorism law been in effect for 18 years (Law 97/1992), but also it is inconsistent with international human rights norms and should be reassessed. In particular, its expansive definition of terrorism and terrorist crimes are used to harass and criminalize some forms of peaceful expression and opposition. The law should be amended to make all police measures taken to combat terrorism subject to judicial oversight.
7. The president should issue a political declaration prohibiting the public prosecutor, minister of justice, or any other ministry or institution from complying with directives from the Interior Ministry that violate the constitution and existing laws in the country, particularly those related to torture, detention, forced disappearance and religion-based violence, which will lead the general prosecutor to disclose the investigations undertaken over the last two decades in the reported torture incidences, some of which have led to death in religion-based violence against Christians and Baha’is.
8. The Egyptian government should pledge to ensure that all ministries, government institutions, and syndicates influenced by the ruling party with all court orders of relevance to them².
9. Amend the judiciary law to guarantee independence for the public prosecutor from the executive branch, prevent the Justice Ministry from intervening in judicial procedures, ensure that the general assemblies of courts refer cases to the competent judges without intervention, and guarantee independence for Judges’ Clubs.

² This recommendation addresses incidences where the government and some syndicates influenced by the ruling party refrain from executing court's rulings.

10. Amend Article 126 of the Penal Code to ensure that the crime of torture is punished in accordance with the comprehensive definition of the crime and its perpetrators as contained in Article 1 of the International Convention Against Torture.
11. Amend the Code of Criminal Procedure to ensure that victims of grave police abuses or their families have the right to file criminal suits against the perpetrators of these abuses.
12. Stiffen the penalties for torture and ban the discretionary granting of leniency to prevent evasions of the prescribed punishment for these crimes.
13. Open State Security headquarters, where torture is commonly used against detainees and prisoners, to periodic inspections by the Public Prosecutor's Office and human rights organizations, and give human rights groups access to all other detention centers and prisons.
14. Ban the referral of civilians to trials before military tribunals by amending the code of military justice to limit the prerogatives of the military judiciary to the prosecution of military personnel who have committed crimes, and violations or infractions committed inside military units or during the course of military duty. Article 6 of the law allowing the president to refer civilians to military trials should be abolished.
15. Review articles in the Penal Code to reduce the number of crimes punishable by death, as a preliminary measure to the future abolition of the death penalty, and prohibit depriving defendants of such crimes from appearing before their natural judge.
16. Abolish the political parties law (Law 40/1977) and its amendments, which gives the ruling party the right to veto licenses for any political party and intervene in their affairs, and replace it with a law based on international standards that protect the freedom to organize, including guarantees for the establishment of political parties through simple notification. The natural judge in such affairs should be the body charged with overseeing and later regulating the establishment and practices of political parties.
17. Abolish the NGO law (Law 84/2002) and replace it with a law based on international standards that guarantees the right to organize and includes the following particulars:
 - NGOs shall be established by simple notification with no need for advance licensing.
 - The general assembly has the sole authority to establish the association's policies, articles of association, and board members.
 - Guarantees for the right of NGOs to establish general, regional, or activity-related federations without restrictions, and the right to build networks and alliances and join international and regional networks without administrative oversight.
 - Ban the dissolution of NGOs or the dismissal of their boards by administrative order.
 - Ban the dissolution or suspension of any NGO save by a court order subject to appeal.
 - Guarantee the right of NGOs to receive the funding necessary for their activities without prior consent.
 - Until the new law is issued, all forms of security intervention in the affairs of civil society should stop, particularly since these interventions are in violation of existing law.
18. Guarantee the freedom of trade and labor syndicates, which requires:
 - Guarantees of the right to pluralism in professional and labor syndicates and the abolition of Law 35/1976, which imposes government custodianship over trade syndicate activities, undermines syndicate freedoms, and forces trade syndicates to adopt a unilateral, authoritarian structure that reinforces a monopoly of power.
 - Implementing court orders overturning the results of labor and syndicate elections in 1,850 syndicate committees, 23 general syndicates, and the 2006-2011 session of the General Federation of Trade Unions.
 - Abolishing Law 100/1993 and its amendments and holding elections in all professional syndicates, which have been delayed for more than 14 years; ending judicial custodianship of the Engineers Syndicate, in place since 1994, and implementing court orders for elections in the syndicate.
19. Guarantee the freedom of the media by:

- Ending the control of the executive authority and the ruling party over state-owned media outlets and taking action to restructure visual and aural media to reinforce pluralism, competitiveness, and free democratic expression. In contrast to the bill prepared by the government, any law in this field must guarantee:
 - The conversion of state-owned aural and visual media into public institutions with independence of action in administration, funding, and programming. The boards of these media should be representative, and members should be chosen based on competence and in consideration of the representation of various views and opinions.
 - The licensing of visual and aural media outlets should be the purview of a national media council that is not subject to custodianship by the executive branch, whether by the Ministry of Information or the cabinet. The law establishing this council should uphold the right of judicial review of any of its decisions.
 - Abolishing the legislative and administrative restrictions on the freedom of information and citizens' right to knowledge, and adopting a law that guarantees the right of media workers to access and publish sources of information and punishes any obstruction to information access.³
 - Abolishing all freedom-depriving punishments for press and publication crimes and prohibiting provisional detention for these crimes, including the crime of insulting the president. All articles in the Penal Code and the publications law should be reviewed to prevent the use of such punishments to stigmatize or deter freedom of opinion, expression, and the press.
20. Reform the electoral system, including:
- Adopt a system of unconditional proportional lists, which can guarantee better representation for political parties and increase the opportunity for political participation by women and non-Muslims.
 - Revise the system of state funding for political parties in general elections to redirect some funding to encourage parties to include young people, women, and Copts on their electoral lists.
 - Amend the law on political rights (Law 73/1956, amended by Law 17/2007, Law 73/1972, Law 175/2005, and law 174/2005 that regulates the presidential election) to end the dominance of the Ministry of Interior over the administration of general elections, including the presidential election, and invest the supervision with one independent judicial body chosen by judges through the General Assembly of the Courts. This body should be granted the prerogatives necessary to fully oversee the electoral process, starting from the preparation, review, and updating of voter rolls, to the reception of candidacy applications and appeals; the determination of electoral districts, and general and subsidiary polling stations; the drafting of campaign regulations; the use of legal provisions that criminalize thuggery, violence, and vote-buying; and the use of religious slogans, houses of worship, public monies, or state facilities to support certain candidates, and ending with the declaration of the election results. This task requires a judicial police force subsidiary to the independent judicial agency -not the Ministry of Interior- to guarantee that the agency's directives are carried out.
 - Legalize the right of non-governmental organizations to monitor the electoral process at all stages and extend all the necessary facilities to enable them to conduct this mission independently; the system by which the National Human Rights Council issues permits in this regard should be abolished.
 - Accept the principle of international monitoring of general elections.

³ The government-sponsored bill imposes arbitrary restrictions on access to information.

21. Take legislative and non-legislative measures to promote the principles of equality and non-discrimination among followers of all religions and faiths and their right to manifest their religious beliefs, build houses of worship, and engage in their religious rites and practices. In particular:

- End the official, undeclared ban on the construction, renovation, and repair of non-Sunni Muslim houses of worship.
- Take decisive measures to confront public calls for or incitement to religious hatred and sectarian violence and dismiss members of the Islamic Research Academy who issue religion-based interpretations or publications containing such incitement, particularly since this institution is state funded.⁴
- Strictly apply the law to all parties who engage in sectarian violence, regardless of their religious affiliation, and stop the impunity that has grown in recent years, particularly in 2009.
- Stop all forms of arbitrary security intervention in the personal affairs or travel of people because of their beliefs.
- Stop raids on the homes of Copts who hold worship services there and prohibit the forced displacement of Copts or Baha'is from villages and cities that witness sectarian violence.
- Eliminate calls for religious bigotry or hatred in educational curricula and state-run media programs and replace them with content that reinforces the values of tolerance and equality.
- Abolish official undeclared rules that prevent the application of the principles of equality, equal opportunity, and non-discrimination in all public jobs and offices such that the assumption of these positions is dependent only on qualifications.

22. Take the measures necessary to foster the principles of equality and non-discrimination based on ethnicity or place of origin, particularly in regard to the Nubians' right to return to their original homeland and establish and own homes in respect of their special cultural heritage. This applies as well to the right of Sinai residents to own land, enjoy protection from security harassment, and enjoy safety and security.

23. Amend Article 317 of the law regulating universities, specifically provisions for the presence of security personnel on campus, and implement court orders requiring the suspension of all university police activity on campus. Pledges must be made to end security interventions in student activities, in the appointment of faculty members, and in academic work, as well as administrative and security interference in faculty elections and student unions.

II. Economic and social rights

24. Implement Article 134 of the labor law (Law 12/2003) to set a minimum wage commensurate with the cost of living.

25. Amend Articles 91⁵ and 94⁶ of the labor law, which restrict women's right to maternity and childcare leave.

26. Amend Article 192⁷ and 193⁸ of the labor law and abolish Prime Ministerial Decree 1185/2003⁹ to enable workers to exercise their right to strike.

⁴ The law states that the president has the right to appoint the members and chair of the Islamic Research Academy.

⁵ The article states that a woman must be with her current employer for ten months before taking maternity leave and limits such leaves to two.

⁶ The article states that at least 50 workers must be employed at the facility for a woman to take maternity leave and also limits such leaves to two.

⁷ Section A of the article states that workers and civil servants must pursue any strike through a professional or labor syndicate for the strike to be legal, and prohibits workers from striking on their own; Section B states that only labor unions, not professional syndicates, can approve strikes; Section C compels all workers in Egypt—even those who do not belong to a trade organization or believe that their organization is hostile to their rights—to receive consent to strike from the General Industrial Syndicate to which they are affiliated, although in many facilities workers are not organized into trade unions.

⁸ The article prohibits strikes in which workers seek to amend collective contracts that are still in force; it also bans the organization or declaration of strikes during all stages of mediation and arbitration.

27. Abolish Article 97 of the labor law, which excludes female agricultural workers from legal protections, in order to protect the right of women to work in Articles 88 and 96.
28. Abolish Section F of Article 57¹⁰ of the labor law, which restricts various forms of labor solidarity.
29. Guarantee social insurance through the following measures:
 - The state must repay the insurance funds it has borrowed, totaling more than LE360 billion.
 - The independence of pension funds must be maintained separate from government control, and the government must be prohibited from funding the state budget through these pensions. This requires: a) abolishing Presidential Decree 422/2005,¹¹ and b) abolishing Finance Ministerial Decree 272/2006 to amend the implementing regulations of the state budget law.¹²
 - The creation of a governing board for pension funds which will include representatives from beneficiaries, trade unions, and civil society institutions.
30. Eliminate all environmental encroachments that pollute the Nile and provide clean, safe drinking water to all citizens.
31. Implement court orders to halt the privatization of the General Agency for Health Insurance.
32. Take action to improve the quality of public education by raising wages for those involved in the educational process; increasing the number of schools; providing a pedagogical, academic, and athletic structure that fosters education; and developing academic curricula that encourages innovation and free thinking.

III. Gender equality

33. Review the provisions of Law 1/2000, known as the *khula*' law, to put an end to discrimination against women, who are forced by the current law to renounce all monetary and financial claims on their spouses in exchange for a divorce.
34. Amend articles in the Penal Code that institutionalize gender discrimination in honor crimes and adultery.
35. Adopt a bill to prohibit and punish violence against women within and outside the family, including a provision criminalizing marital rape.
36. Adopt appropriate measures for the social protection of battered women.

IV. The institutional structure for human rights compliance

A. International conventions and declarations

37. Join the optional protocols of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, the International Convention Against Torture, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child, and the International Convention on the Rights of Persons with Disabilities.
38. Ratify the International Criminal Court's articles of association.
39. Withdraw the state's objections to Article 2, 9, and 16 of CEDAW; Article 20 and 21 of the Convention on the Rights of the Child; and Article 4 and Paragraph 6 of Article 18 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

⁹ The decree enumerates several vital and strategic sectors in which strikes or calls to strikes are prohibited. Although such a ban should be as narrow as possible, the decree is expansive and covers numerous facilities, including hospitals, medical centers, pharmacies, bakeries, transport sectors (ground, sea, and air), cargo transport, civil defense facilities, electricity, water, gas, and sewage facilities, communications facilities, ports and airports, and educational institutions.

¹⁰ The section prohibits the collection of money or donations, the distribution of fliers, the collection of signatures, and the organization of meetings in the workplace without the consent of the employer.

¹¹ The decree invests the finance minister with authority over insurance and pensions.

¹² Since currently insurance revenues are considered part of general state revenues and payments part of state payments.

40. Withdraw the declarations submitted by the Egyptian government when ratifying the Covenant on Civil and Political Rights and the Covenant on Economic, Social, and Cultural Rights, both of which contain a general, expansive reservation on the state's obligation to comply with the provisions of the conventions if they contradict any provisions of Islamic law. In practice, this negates Egypt's obligations under the conventions.

41. Withdraw a similar declaration submitted by the Egyptian government on Articles 21 and 22 of the International Convention Against Torture, which allows the convention committee to examine complaints from individuals or states who are party to the convention regarding torture in Egypt.

42. Ratify the Convention Relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness, issued in 1961 and 1954.

43. Cooperate constructively with UN convention agencies and special UN mechanisms, specifically:

- Review the Egyptian constitution and legislation in light of obligations under international conventions ratified by Egypt and make them consistent with international human rights standards.
- The government should submit its reports to UN convention agencies in a timely manner without delay, and the reports should be prepared with due seriousness and responsibility with a view to responding to repeated inquiries and observations from UN agencies and experts, some made over several decades.
- Respond to requests by numerous UN special rapporteurs to visit Egypt, particularly the special rapporteur on torture, who has requested access repeatedly for 15 years.
- Stop playing a destructive role in UN human rights agencies, attempting to weaken UN mechanisms and the independence of their experts, and curbing the role of NGOs in these agencies, particularly in the UN Human Rights Council.

B. State agencies working in human rights

44. Foster and encourage the role of human rights committees and offices in the various ministries, particularly the Ministries of Foreign Affairs, Interior, and Justice, and ensure that they receive the information necessary to do their jobs; eliminate all restrictions on their cooperation with non-governmental human rights organizations and competent international agencies and organizations; refrain from using such cooperation as a purely instrumental means of improving the government's image before the international community; carefully consider and respond to reports from human rights organizations and refrain from dismissing them out of hand.

45. Foster and encourage the role of the parliamentary Human Rights Committee, supply it with information, compel ministers and senior officials to appear before it, and stop using it as a platform from which to attack local and international human rights organizations.

46. Guarantee independence for the National Human Rights Council by:

- Staffing it with independent figures, ending the dominance of the ruling party and its supporters (who currently constitute two-thirds of its members), and strengthening representation for independent human rights organizations (who currently have only 1 of 27 members on the council).
- Ensuring that council members are able to administer their affairs without intervention, and without the need not submit their reports for prior review; and ensuring that they do not have their priorities and agendas imposed from above, such that the council is able to give priority to human rights problems at home rather than focusing on giving a false picture of the situation to international parties.
- The government must consider the council's reports with all due seriousness, comment on them responsibly, and respond to its communications and citizens' complaints made through the council.

- Not using the council as a way to exercise government custodianship over independent human rights organizations, particularly through the system of permits granted by the council to monitor general elections.

C. Capacity-building programs in human rights

47. Undertake a thorough review of educational and training programs in human rights organized by the government or the National Human Rights Council to ensure that they actually meet their objectives.

48. Stop including lecturers and trainers in these programs who are known for their hostility to human rights principles and international and local organizations, or who have themselves either violated human rights or justified the violation. This also applies to training sessions organized by the National Human Rights Council.

D. Human rights organizations

49. The government must act in accordance with the standards included in the International Declaration on Human Rights Defenders, issued by the UN General Assembly in 1998, particularly since the Egyptian government was a prominent objector to the declaration, and review all relevant laws, particularly the NGO law, to ensure that they create an appropriate climate for action in accordance with international norms.

50. Cooperate seriously and responsibly with other human rights organizations, particularly through an in-depth discussion of their reports and recommendations, and refrain from dismissing them out of hand.

51. Stop all forms of administrative and security harassment of human rights defenders while they do their jobs.

52. Enable human rights organizations to exercise oversight over the authorities' performance in the relevant fields, particularly through inspections of official and non-official detention centers and the monitoring of general elections without oversight by a third party.

E. UN agencies and international donors

53. These parties must ensure that their financial support of human rights (whether to government institutions, the National Human Rights Council, or non-governmental organizations -particularly to GONGOs) is in fact spent on achieving the objectives agreed upon by both parties, and that funds are not used to achieve political objectives that are in contradiction with the agreed upon objectives.