

“Freedom, dignity, social justice”

Basic Provisions in the Constitution

Egyptian Human Rights NGOs Papyrus



Why this Papyrus?

The principles proposed here aim to contribute to the current social debate surrounding the constitution of the January 25 Revolution from a human rights perspective, particularly regarding guarantees for the protection of a civil state and a secular state, as inspired by the values of the January 25 Revolution.

The purpose of this document is not to reject, oppose, or disparage other initiatives that have been released or that are currently being prepared. Indeed, some of those who participated in drafting this document also contributed to discussions over the document released by Dr. Mohamed El-Baradei, a potential presidential candidate, and agree with the basic rights outlined in that document. Nevertheless, the fact that similar documents have been prepared by various political groups does not obviate the importance of issuing a document offering a human rights perspective.

This document was drafted to be brief and condensed. It is not a summary of the constitution. Thus, it does not address in detail the human rights guarantees that must be enshrined in the constitution, as the place for this is the constitution itself. The document suffices by referring to a supreme safeguard for these rights, namely, that all rights and guarantees found in international human rights conventions and international law must be incorporated as the base line for the new constitution and that these sources of law should be the prime reference used to elaborate these rights in the constitution and in legislation.

The document does not adopt a particular system of governance (parliamentary, presidential, or mixed) but leaves this issue to the constitution. It rather stipulates a set of higher constitutional values that must be respected in any democratic system, regardless of the specific mode of governance adopted by the constitution.

The document also refrains from offering any specific formulation on what is commonly known in Egypt as “Article 2” of the constitution related to the sources of legislation, as the constitution is the appropriate place to determine this issue. However, the document does affirm the need for

multiple sources of legislation as a supra-constitutional principle that reflects the reality of Egyptians' religious, sectarian, ethnic, and cultural diversity. This principle has become a point of broad social consensus, including among different camps of political Islamists, although disagreements remain about the appropriate formulation to express the diversity of legislative sources.

This document calls for the creation of a Constitutional Council whose mandate is to guard these supra-constitutional principles against infringement based on supposed "democratic" pretexts that claim majority backing. After a democratic system is firmly established in Egypt, perhaps over the next 20 years, Egypt may no longer need such a safeguard to ensure the protection of these rights.

The Basic Constitutional Provisions Papyrus

Article 1

Egypt is a nation of multiple religions, sects, confessions, ethnicities, and cultures. This unique diversity, which has shaped the character and identity of Egyptians, along with the productive engagement of its constituent parts throughout history and the interplay of Pharaonic, Nubian, Coptic, Arab, and Islamic civilizations, is a source of pride and respect for all Egyptians and the backbone of their sacred national union. Egyptian identity is multidimensional and has roots in multiple civilizations. This diversity is the most significant source of the richness and distinction of Egyptian identity. Historically and practically it cannot be reduced to one dimension without destroying Egyptians' national unity or depriving the country of its independence.

The constitution guarantees the diversity of the sources of legislation as a reflection of the diverse currents feeding Egyptian identity and in support of national unity so that no legislation is imposed regulating the private sphere of citizens that contradicts their beliefs and so that no legislation is imposed regulating public or private spheres that conflicts with guarantees of human rights and public liberties.

The constitution guarantees every Egyptian the right to enjoy cultural rights, insofar as this is also a requirement for the preservation of the national heritage and the cultures of various ethnic, religious, and geographic groups throughout the history of Egypt.

Article 2

1. Egypt is an independent, free, and democratic state. Its political system is based on the constitution, which is founded on several fundamental principles:

- a. The sovereignty of the people as the source of all authority.
- b. Respect for civil, political, economic, social, and cultural rights as established by international conventions and international law. The constitution shall elaborate these rights without

infringing on them, and the legislator shall not have the right to infringe on or restrict these rights using any justification not found in international conventions. The constitution shall provide that human rights values constitute the main pillar of Egyptian foreign policy.

c. The separation, balance, and mutual oversight of the three branches of authority, the executive, the legislative, and the judicial.

d. The rule of law and the equality of all citizens before the law.

e. The constitution shall provide for a system that guarantees Egyptians the right to dignity and social justice.

2. The philosophy of the democratic system in the constitution aims to:

a. Strengthen and protect the values of pluralism as a part of human nature, a fundamental human value and the foundation upon which to unleash Egyptians' energies to build their country and advance in all fields. As such, the constitution guarantees the flourishing of pluralism. No majority shall be permitted to suppress any minority by any means, whether ideological, religious, confessional, or ethnic, or any artistic, literary, or philosophical school of thought. The constitution and legislation also prohibit all forms of incitement to religious hatred and racism that lead to violence.

b. Adopt and foster all forms and methods created or developed by Egyptians that strengthen democracy based on participation and popular oversight, starting with pupils' committees in schools and leading up to a system of local governance, which constitutes an effective model of self government that helps hone Egyptians' capabilities for the sake of development and advancement. These initiatives shall be based on elections at every level. The constitution must address freedom and the instruments of democratic governance as a major pillar for the advancement of the Egyptian nation and its progress in all fields, including the eradication of poverty and illiteracy.

3. The people exercise sovereignty through their parliament based on periodic general elections; the representative elected parliament shall undertake the task of legislation and oversight of executive actions.

4. The constitution guarantees the freedom to establish and operate political parties, professional and labor unions, non-governmental organizations, and all other forms of civil society association by notice, as long as the objectives and programs of these bodies do not violate the basic rights of Egyptians elaborated in this document and as long as they pursue their activities in a peaceful manner. The constitution does not permit the establishment of political parties based on religious or ethnic exclusion. Political parties, professional and labor unions, and non-governmental organizations have the right to offer advice to the different legislative bodies in cases related to their respective fields of specializations.

5. The constitution guarantees full independence of the judiciary, including the Public Prosecutor, and limits the jurisdiction of the military judiciary solely to military crimes committed by members of the armed forces.

6. The constitution guarantees the independence of religious institutions. These institutions shall be devoted to strengthening their spiritual role in advancing the character of Egyptians and cultivating religious values. Any partisan activity is not permitted in any facilities belonging to religious institutions.

7. The democratic system of the constitution guarantees the principle of accountability for all officials who occupy executive or legislative public office before the people and before representative and judicial bodies for all their conduct while in office. They are prohibited from practicing any kind of private enterprise during their term in office.

Article 3

The police is a regular, civil, non-military, body, which oversees the protection of internal security and the public order. The Interior Ministry shall be subject to oversight by elected representative bodies and assumed by a political figure.

Article 4

The state alone has the power to establish armed forces. Under no circumstance may any other body or group establish military or paramilitary formations. The armed forces defend the country's independence and secure it against military dangers.

The President of the republic is the commander in chief of the armed forces. The Ministry of Defense shall be subject to oversight by elected representative bodies.

Article 5

All Egyptians, women and men, shall enjoy all the rights and guarantees specified in this document without discrimination; any assault on these rights shall constitute a crime.

No text in this document shall be interpreted to arrogate to any state institution, group, or individual any right to engage in any activity or deed aimed at undermining the rights, liberties, and guarantees contained in this document.

Upon approval of this document, it shall become binding on any constitutional assembly established to form the new constitution. No part of it may be amended in the twenty years following its approval, even by parliamentary majority or a new constitutional assembly. The parliament shall review current laws for their consistency with the provisions of this document and amend them or draft alternative legislation when necessary.

Article 6

A Constitutional Council shall be established to oversee the protection of the constitution and the democratic system, in particular to guarantee the application of Article 5 of this document. This council shall be comprised of the chairs of the high courts,¹ led by the president of the Supreme Judicial Council. The Constitutional Council's decisions are binding on all parties.

¹ Including the Supreme Constitutional Court, which is to be granted complete independence based on Article 2 (B) of this document.

Members of parliament, political parties, human rights organizations, civil society groups, and national human rights institutions shall have the right to petition the constitutional council directly with a constitutional grievance or any complaint relevant to its mandate.

Signatories

1. Cairo Institute for Human Rights Studies (CIHRS)
2. Alternative Development Foundation
3. Andalus Institute for Tolerance and Anti-Violence Studies
4. Arab Penal Reform Organization
5. Arabic Network for Human Rights Information
6. Association for Freedom of Thought and Expression
7. Cairo Center for Development
8. Center for Egyptian Women's Legal Assistance
9. Center for Trade Union and Workers' Services
10. Coptic Solidarity
11. Egyptian Association for Community Participation Enhancement
12. Egyptian Center for Women's Rights
13. Egyptian Foundation for the Advancement of Childhood Conditions
14. Egyptian Initiative for Personal Rights
15. Egyptian Organization for Human Rights
16. Egyptians Against Religious Discrimination
17. Habi Center for Environmental Rights
18. Hand in Hand for Egypt
19. Helwan Foundation for Community Development-Bashayer
20. Hisham Mubarak Law Center
21. Human Rights Center for the Assistance of Prisoners
22. Human Rights Legal Aid Group
23. Ishraqa Center for Women's Rights
24. Mother Association for Rights and Development
25. Nazra for Feminist Studies
26. New Woman Research Center
27. United Group