

Criminalizing Incitement to Religious Hatred- Egypt Case Study¹

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1. Contempt of religions is criminalized under the Egyptian Penal Code (Law no. 58 of 1937). Article 98 (f) of the Penal Code, as amended in 2006, stipulates the following:

“Whoever exploits religion in order to promote extremist ideologies by word of mouth, in writing or in any other manner, with a view to stirring up sedition, disparaging or contempt of any divine religion or its adherents, or prejudicing national unity shall be punished with imprisonment between six months and five years or paying a fine of at least 500 Egyptian pounds.”

3. Article 98 (f) has long been criticized for including vague and imprecise terms such as “extremist ideologies”, “sedition” and “national unity”. This provision has enabled the Egyptian Government to restrict freedom of expression and of the media, criminalize the holding or expression of certain religious beliefs and views, prosecute members of religious minorities, punish critical academic research, censor forms of artistic expression deemed to contravene religious or moral codes, or justify official or societal bigotry against religious minorities, including minority groups or beliefs within the Muslim faith. Article 98 (f) has been invoked against journalists, writers, poets, bloggers, academics, human rights defenders and peaceful political dissidents.

4. For instance, Karim Amer, a 22-year-old blogger, continues to be imprisoned for the peaceful exercise of his right to express his political and religious views. In 2007, Amer was sentenced to a four-year prison term by an Alexandria criminal court in case no. 887/2007 for charges that included “spreading information disruptive of public order and damaging to the country’s reputation”, “incitement to hate Islam” and “defaming the President”.

5. Moreover, Article 98 (f) was often used by the Interior Ministry’s State Security Intelligence (SSI) service to detain and prosecute Muslims for belonging to minority sects within Islam or for holding or expressing views that deviate from the mainstream interpretation of the Muslim faith. For

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example, two Egyptian Shiite Muslims, Mohamed al-Derini and Ahmed Sobh, were detained by SSI forces in August and November 2007, respectively, and charged under Article 98 (f) with "promoting extreme Shiite beliefs with the intent of causing contempt of the Islamic religion" in case no. 1061/2007. Their interrogation before the State Security Prosecutor's Office included questions such as "do you believe [the Prophet's cousin] Ali should have become the first Caliph?" and "do you believe Muslims should fast on the [Shi'ite holiday of] Ashura?". Both men were released in December 2007 but continue to face charges.

6. Similarly, in May and June of 2007 SSI forces detained Abdel-Latif Mohamed Ahmed, Ahmed Mohamed Dahmash, Abdel-Hamid Mohamed Abdel-Rahman, Amr Tharwat al-Baz and Ayman Mohamed Abdel-Rahman and charged them and two other individuals with "exploiting religion to promote extreme ideas in contempt of the Islamic religion, by denying the *sunna* [Prophet's legacy] and considering the Qur'an to be the main source of legislation". The five men were held for several months before being released and continue to face charges that include "rejecting the penalty for apostasy" and "rejecting the stoning of adulterers."

7. The term "divine religions" (*al-adyaan al samaawiyya*), is often used in Egypt as a means to deny and withhold state protection to members of other religious minorities that do not fall under, or are deliberately excluded from, the three Abrahamic religions of Islam, Christianity and Judaism. The fourth annual report of the State-affiliated National Council for Human Rights documents state-sponsored religious discrimination against followers of the Baha'i faith and members of the Jehovah's Witnesses. Both groups are not officially recognized as religious sects in Egypt.

8. This artificial hierarchization of protected religious beliefs is not in line with Egypt's Constitution, which protects religious freedom and non-discrimination without distinction between "divine religions" and other beliefs. The practice also fails to heed the recommendation presented to the Human Rights Council by the Special Rapporteur on Freedom of Religion or Belief and the Special Rapporteur on Contemporary Forms of racism in Council report A/HRC/2/3, which emphasizes that "Member States should bear in mind that defamation of religion must receive the same degree of concern and equal treatment regardless of which religion is targeted, thus avoiding hierarchization of forms of discrimination, even if their intensity varies according to history, geography and culture."

9. The notion of "contempt of religions" also opens the door for individuals to exercise censorship over forms of artistic expression that they deem

insensitive to their beliefs. On 1 April 2008, the Court of Administrative Justice in Cairo revoked the decision to grant poet Helmy Salim the State Award for Achievement in the Arts. The decision came in the course of a lawsuit (no. 61/31339) filed by an individual against the Minister of Culture, complaining that in early 2007 Salim published a poem, titled "Layla Murad's Balcony," parts of which "offend the divine being." In its ruling on the illegality of granting Helmy Salim the State Award, the court stated that in the poem, "Layla Murad's Balcony," Salim had "flagrantly offended the divine being in a way that suggests the utmost debasement." As a result, "The sin that he committed...against God and against society, challenging its traditions and religious beliefs should fail the sum total of his work, rendering him ineligible for any state honor or prize... In addition, the Penal Code criminalizes contempt of religion, which is entirely inconsistent with the idea of granting the aforementioned a prize or award of any type."

10. In a similar case, on 13 May 2008, the Court of Administrative Justice in Cairo ruled on a lawsuit filed by an attorney asking that writer Nawal al-Saadawi's citizenship be revoked "to ensure the public welfare as a result of her offenses to Islam and the divine being." The same attorney had filed a criminal complaint to the Public Prosecutor accusing al-Saadawi of "contempt of religion" after she published a play in 2007 titled "God Resigns at the Summit Meeting." The Court rejected the petition, reasoning that al-Saadawi's writings did not constitute one of the specific causes stipulated by law for revoking citizenship.