

Thesis Prospectus

The Holy Trinity: Religion, Identity, and International Law in Egypt

Henry Stonnington

INST 421

Professor Michele Alexandre

25 September 2017

The University of Mississippi

Croft Institute for International Studies

Sally McDonnell Barksdale Honors College

Introduction

Egypt is a diverse country with citizens of multiple religious communities, Sunni, Shia, Coptic, Greek Orthodox, Protestant, Catholic, Bahai, and the irreligious to name a few. 90% of the population are Muslim, with the majority Sunni, and the remaining 10% are Christian, the majority of whom are Copts (CIA The World Factbook 2017). The way the Egyptian government has accommodated and regulated these identities is a source of much controversy and criticism. The largest of the minorities, the Copts, has become in recent years the focus of many activists, whether from Egypt, the Coptic diaspora, or the West, claiming mistreatment, discrimination, and persecution at the hands of the government and their surrounding communities (Yerkes 2016). Various local and international NGO's and governments have criticized the Egyptian government's treatment of religious minorities. Some, like the Human Rights Watch claim that the Egyptian government has violated its obligations under international law to respect the religious freedom of its citizens, including the obligations it agreed to when it ratified the ICCPR, International Covenant on Civil and Political Rights (2016). However, the Egyptian state has gone through a variety of regimes, governments, and constitutions in the past century, each with a differing view of religious freedom and ways of regulating religious identity. Understanding the place of religious freedom in Egypt today will require a basis in this history. Looking from the 1919 revolution to the current government under President Sisi will show the way the Egypt has changed in its political ideology regarding religion, treatment of its citizens, and regulations of the differences and practices of religious groups. This historical background should help make clear whether Egypt has in fact violated its obligations under the ICCPR, the most significant if not most substantial human rights treaty that Egypt has signed regarding the topic of religious liberty. These possible violations that I will investigate include,

but are not limited to, regulations prohibiting apostasy, discriminatory church building laws, lack of legal protection for non-Abrahamic religions, use of blasphemy laws to censor religious views, the possible discriminatory nature of family law, and the Bahai identity card controversy and their lack of recognition. I will focus on possible violations committed by the Egyptian state, not non-state actors.

It is not enough to simply condemn Egypt's violations of their obligations under international law, and specifically the ICCPR, if Egypt is found not to be compliant. Implementation of standards for human rights is an important and obligatory element of human rights law and activism. This thesis will also show possible ways that Egypt might come under compliance. It will focus on the methods that international human rights regimes are enforced, such as through horizontal means like sanctions by countries and international legal bodies or through more vertical processes such as the transfusion of international and regional norms and grassroots activism of civil society organizations. There are multiple methods that have been used to change governments to respect the rights of their citizens required under international law; these methods will form a part of my thesis.

However, developing these models is also, unsurprisingly, the most difficult part of my thesis. There are no practical international legal forums, like the European Court of Human Rights, that could make the Egyptian government change its practices. Getting inspiration from Tunisia, one of the most effective models for human rights compliance might be having multiple civil society organizations, religious and secular, work with Egyptian political leaders and form policy based on international, regional, and historical norms. This could also work alongside popular movements from below, whose mobilization is now possible with social media, that push for equal citizenship and rights. However, the current Egyptian government may make that

difficult with its new restrictions on non-governmental organizations (Aboulenein 2017).

Another option to work around an authoritarian government would be through more horizontal measures, such as the reliance of transfusion of regional norms, like the recent removal of religion from identity cards in Turkey, the PA, and Jordan that could be followed by Egypt. One more possible horizontal measure is that organizations and alliances that Egypt is a member of pressure it to abide by their norms and agreements. These methods unfortunately present many problems, such as reforms possibly being less effective and being seen as a tool of Western imperialism and intervention. Another possibility is that existing minority religious organizations that have some rapport with the Sisi regime, like the Coptic Church, push politically for reforms, but this too faces many challenges, such as relying on the Coptic Church to become a political organization that represents political interests of the laity, which are diverse like any religion. Creating a realistic model for compliance that navigates these challenges is difficult and will require in-depth knowledge of the political and social situation in Egypt and its standing in the international community. There is no obvious answer to this part of the thesis.

This thesis involves several components. The research question is, “Does Egypt sufficiently protect the religious rights of its citizens under its obligations of international law, specifically the ICCPR, and if not, what methods may be used to bring Egypt under compliance?” These methods must of course work with Egypt’s cultural and historical aspects and not simply resemble an imperialistic structure or the vilification of Islam. I will look at the ways activists and human rights movements have succeeded in countries inside the MENA region, like Tunisia, and perhaps outside it as well. Using processes that enforce human rights obligations, I will show various methods that may be used within the confines of Egypt’s history, politics, and culture and the challenges that they face.

Methodology

The methodology I will be using will have several steps. First, I will analyze and define the standards of religious freedom under international law that pertain to Egypt. I will use the ICCPR as the main standard as Egypt has ratified it and any other pertinent human rights covenants. I will use the texts of the treaties themselves, any reservations that Egypt has applied to them, and scholarship by legal experts regarding these treaties and international law to define the standards.

Second, I will look at Egypt's practices regarding religious freedom and see if they violate the standards. I will look back over Egyptian history to see what religious freedom was in practice in Egypt and how it has changed or remained the same. I will look at the current government's practices and also judicial decisions and laws that still have effects regarding religious freedom or the lack thereof. I will use primary sources such as newspaper reports, government reports like the United States Commission on International Religious Freedom, Egyptian judicial decisions, and Egyptian laws and constitutions. I will also use scholarship on religious freedom, identity, history, and politics in Egypt as well as NGO and press reports on the status and any violations of religious freedom in Egypt. Using these sources, I will analyze determine whether current Egyptian practices and policies violate the standards given under international law.

The next step I will focus on how to bring the Egyptian government into compliance for any standards that they may violate. I will consult legal scholarship on how international human rights regimes are enforced and see which are applicable to Egypt based on its current legal and political situation. I will then look at Egypt's neighbors in the region and perhaps countries outside of the MENA region to see if there are replicable ways to bring about compliance. I will

specifically look at Tunisia. Tunisia is rated as one of the most liberal and free countries in the MENA zone (Freedom House 2017). Like Egypt, its government was overthrown during the Arab Spring. It drafted a completely new constitution and has survived as a relatively liberal democracy since its revolution. I will see if the processes used in Tunisia that made it the exception in the MENA region regarding human rights might also be applicable to its fellow North African Arab country of Egypt. Using scholarly resources on Tunisia's post-colonial legal and political history and surveys that measure citizens' feelings on political and social issues, like Arabbarometer, I will see if there are replicable methods that could be used in Egypt.

However, Egypt is not Tunisia. They have different governments and histories. So, while part of my thesis will focus on possible ways that the successes in Tunisia might be replicable in Egypt, I will also look at the specific challenges in Egypt that may present themselves to these processes and how processes that worked in other countries might not work in Egypt. I will try to create an implementation model and will look at the barriers and challenges that may present themselves to that model. However, I will also search for ways that may work around or overcome these barriers within Egypt's societal structure, including the states relationship with Islam.

Brief Literature Review

Some of the scholarly literature that pertains to this thesis deals with the legal protections under international law for religious freedom. In *The Right to Religious Freedom in International Law: Between Group Rights and Individual Rights*, Anat Scolnicov argues that religious freedom can be viewed through the lens of individual versus collective rights. He maintains the best and correct interpretation of religious freedom under international law is one based on individual rights and that any collective rights should be derived from individual rights.

In “The Freedom to Manifest Religious Belief: Analysis of the Necessity Clauses of the ICCPR and the ECHR,” M. Todd Parker analyzes government restrictions of manifestations of religious belief under the “necessity” clauses which he believes are narrow in those treaties. Devin Carpenter in his article “So Made That I Cannot Believe: The ICCPR and the Protection of Non-Religious Expression in Predominately Religious Countries” looks at the ICCPR and the HRC’s jurisprudence and maintains that they can be read to have protections for non-religious minorities and that these protections should be made explicit.

In her book *Religious Difference in a Secular Age: A Minority Report*, Saba Mahmood looks at the way the modern Egyptian state has regulated religious differences between groups and how despite political secularism’s promise of equality between citizens from the early 19th and 20th centuries, discrimination and religious inequality still exists in Egypt which the modern state has exacerbated. Vivian Ibrahim in her book *The Copts of Egypt: The Challenges of Modernisation and Identity* looks at Coptic relationships with the state in the 19th and first half of the 20th century, including the various opinions of Coptic actors regarding the 1919 national movement, Coptic roles in government and politics during the interwar years, responses to the emergence of political Islam, and intra-communal developments during this time. Samuel Tadros argues in his book *Motherland Lost* that the Egyptian approach to liberalism, modernity, and their relationship with Islam has helped create the Copts current predicament. Maurits Berger in “Apostasy and Public Policy in Contemporary Egypt: An Evaluation of Recent Cases from Egypt’s Highest Courts” analyzes the way the Egyptian courts have dealt with apostasy, creating a legal prohibition against it despite no law banning it through the legal principle of public policy. Clark Lombardi and Nathan Brown in their article argue that Egypt’s secular courts’ interpretation of Article 2 of the Egyptian Constitution have in the past decades

developed a liberal interpretation of Islamic law that is consistent with human rights and democracy.

Regarding human rights law enforcement, Harold Koh argues that the most effective way is not solely through horizontal measures, but instead through a vertical process using international, domestic, and legal norms where citizens, governments, inter-governmental organizations, and NGO's inculcate internal obedience into countries from the bottom-up using a mixture of five different methods: realist, self-interest/ rational choice, liberal theory, communitarian, and legal process. David Gartner claims that transnational civil society actors significantly help enforcement and implementation of human rights protections. Looking at Tunisia, Mounira Maya Charrad writes that it is history of progressive law over the *longue duree* and the activism of social groups, like the Quartet in the aftermath of the Arab Spring, that have allowed Tunisia to develop a relatively liberal model of law, especially regarding women. Considering the impact of the Arab Spring on human rights norms in the MENA region, Julie Stephens and Rhonda Callaway argue that the social media has allowed individuals and civil society to pressure the state from below causing norm diffusion of individual rights across the region during the Arab Spring. This is brief, but by no means exhaustive, review of some of the scholarly literature related to my topic.

Proposed Chapter Outline

- I. Introduction
- II. The Standards Under International Law
 - a. ICCPR
 - b. Defining of the Standards

- III. Egypt's Compliance
 - a. History since Beginning of 20th Century
 - b. Legal tradition
 - c. Current practice
- IV. Models for Bringing Egypt Into Compliance
 - a. Methods Used to Enforce Human Rights Regimes
 - b. Methods Applicable to Egypt
- V. Potential Example of Egypt's Neighbors and Other Countries
 - a. Methods Used in other Countries, Specifically Tunisia
 - b. What is Applicable to Egypt
 - c. Challenges Facing These Methods
- VI. Conclusion

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