Constitutions and religion in Egypt: a comparative study

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Abstract

Purpose – The purpose of this study is to investigate the position of religion for the three constitutions of Egypt.

Design/methodology/approach – In this study, by tracing religious identity-related studies and seeing whether their existence is attributed to the ruling elites' attitudes, it examines how factors such as new elites and new in ideology affect change of articles of religion.

Findings – The results demonstrate that the most significant factor was the existence of a new elite having a different ideology, which was obvious in the three constitutions: 1971, 2012 and 2014.

Research implications – The manner in which studies of religion are written is the basis for legislation and the source of public policies that affect the discourse of political systems or results in economic and social rights that affect public policies. Therefore, if people are engaged in the process of drafting identity articles, they would participate in the reformation of their traditions and systems and there would be more integration in the society.

Originality/value – Few studies have attempted to work on the sociology of constitutions and religion in the Egyptian context.

Keywords Constitutions, Egypt, Societal impact, Ruling elites, Sociology of constitutions,
State and religion relation

Paper type Case study

1. Introduction

This study aims at identifying the placement of religion in Egyptian constitutions (1971, 2012 and 2014[1]), as well as the differences among them, because all of the three are related to dramatic events such as the first Former President Sadat taking over power and the other two coming after two revolts. Therefore, all the constitutions are considered turning points in Egypt's life; the first was launched in a transition from a charismatic leader (Nasser) to a new pragmatic leader who was looking for a new legitimacy, and the recent two

constitutions were released after revolutions that brought new elite with different ideology to power.

In this study, religion is referred as the inclusion of an article that states religion as the state religion, the relation between *Shari'a* and legislation and the role of religious institutions defined by the constitution.

2. Theoretical framework

On the one hand, this study depends on the sociology of constitutions; it is fundamental to sociological examination of constitutions that, in perceiving constitutions as documents reacting to conditions within a broad inner-societal environment, it opposes purely textual definitions of constitutionality. It is prepared to recognize societies as possessing a multiple and diffuse constitutional apparatus. For normative analysis, it is clear that a constitution comprises a body of norms that (either adequately or inadequately) prescribes legal conditions for the public use of power and forms a focus for normative debate about the self-conception of society as a whole. For sociological inquiry, however, it is always possible that a society might have a normative constitution that evades simple forms of prescription and cannot easily serve as a singular focus for society's self-reflection or normative self-construction (Thornhill, 2011, p. 10).

Therefore, the sociology of constitutions is affected by societal impact or socio-culture constrains, elite attitudes and political system characteristics; thus, the constitution is drafted in this context. Indeed, a sociological approach might observe constitutions to be evolving via multi-levelled historical/functional processes, and it might identify the suggestion that categorical dis-junctures occur in forming constitutions as revolving around a simplification of society's functional structure (Thornhill, 2011, p. 10).

The yield of sociology of constitutions, therefore, allows us to indicate that deviation from certain constitutional norms that might be undesirable (for sociological reasons) and might threaten the basic resources and structural form of a society.

On the other hand, on the state-religion relation, before the advent of Christianity, separate religious and political orders were not clearly defined in most civilizations. People worshipped Gods of the particular state in which they lived, religion in such cases was just a department of the state. With the decline of the Roman Empire in the West, civil authority fell into the hands of the only educated class that remained – the churchmen. The concept of secular government as expressed in the First Amendment to *the United States* Constitution reflected both the influence of the French Enlightenment on colonial intellectuals and the special interests of the established churches in preserving their separate and distinct identities.

The 20th century saw the First and Fourteenth amendments to the Constitution applied with considerable strictness by the courts in the education field. Late in the century, conservative Christian groups in the USA generated considerable controversy by seeking textbook censorship, reversal of court prohibition of school prayer and requirements that certain Biblical doctrines that contradicted scientific theories should be taught (Encyclopedia Britannica).

Armenia was the first country to make Christianity its national religion. It sometimes appeared in Eastern Christianity that the head of the state was the head of the church and supreme judge in religious matters. This is called "caesaropapism" and was most frequently associated with the Byzantine Empire.

In England, Henry VIII nationalized the Catholic Church and thus created a state church. Under Elizabeth I, it was effectively subordinate to the interests of the state. In reaction to this, a Puritan movement developed within the church, which wanted to return to the

ecclesial life of the early church. This led to the emergence of the independent and congregationalist movements and culminated in the English Revolution, which shattered the relationship between church and state. Puritans and other non-conformists who emigrated to America decided that there should be a separation between both church and state. Even though the state has continued to be involved in the affairs of the Church of England, in the 1928-1929 Prayer Book controversy, the Parliament rejected the Church Assembly's proposals. Since then, there have been several steps to make the Church more independent and self-governing. In 2008, Prime Minister Gordon Brown agreed to always accept the Church's suggestion on the appointment of Bishops. Currently, there is no serious impetus towards disestablishment. The Church of England continues to be intimately involved with the state from the parish government to education with Bishops sitting in the legislature and during the coronation of a monarch. About 36% of primary state schools and 17% of secondary state schools are church schools. The Church of *Scotland* considers itself to be a "national church" rather than an established church because it is entirely independent of parliamentary control in spiritual matters, although it maintains links with the monarchy.

Also, the Jewish Beth Din is recognized under law and its rulings are binding if both sides in a dispute accept its jurisdiction. Under arbitration law, Muslim *Shari'a* courts are recognized and their rulings can be enforced if both sides seek a ruling. Both the Bet Din and *Shari'a* courts can only make rulings that fall within English Law and citizens always have the right to seek redress in the civil courts. Some elements of *Shari'a* financial law have been incorporated into English Law so that Muslims who cannot pay or receive interest do not have to pay tax twice on property deals (*New World Encyclopedia)*.

However, religion, especially in liberal democracies such as the USA, is alive and well and shaping political culture in numerous ways. Consequently, there very much remains a theologico-political problem. Which is "state-authorized coercion" that needs to be justified and what role religious reasons can play in justifying state coercion. Reasonable agents cannot identify an adequate secular rationale (The Stanford Encyclopedia of Philosophy).

While religion is a cause of conflict, it can be particularly powerful for political elites to exercise as a tool in conflict settings because religions often have codified guidelines that convey normative behaviors. The presence of these guidelines can reinforce the organizational strength of particular groups and underscore the nonnegotiable status of their beliefs, both of which can be useful during a conflict. Similar to what Sadat did (explained later) 2), the religious identity includes multiple levels of division that do not exist within other identity types such as interfaith differences, differences between sects within religious traditions and divisions between secularists and strong religionists. Such divisions create opportunities for outbidding that intensify tensions and conflict, which was a problem faced by Sadat, and not all Islamic groups had consensus on his decisions (McCauley, 2019).

Therefore, the study's *hypothesis* is:

H1. New ruling elites factor leads to change in religion's articles.

3. Methodology
This study uses *the comparative analytical method*. Doing research in the social sciences always leads to a reduction in the complexity of real life. The comparative method is useful to achieve this goal because it allows for controlling contextual variation. The issue is therefore how to select the proper combination of relevant cases and variables to validate

theory without disregarding relevant contextual features (Sage, 2019). Therefore, the abovementioned three constitutions were selected.

How and when people become religious (Edwards and Pinkney, 2018) is very important, especially if the decisions of people in ruling positions are influenced by their background and affect the political sphere. Although "Islamic law has been in existence for more than 1,400 years, its implementation has been subject to the will of the rulers" (Ismail and Tohirin, 2010). Therefore, this study is not concerned with whether the rulers are spiritually formed as humans (Hardaker and Sabki, 2018) because of Islam or not.

This methodology has many ways for application; this study is concerned with those cases that have more in common that, depending on the Research Question, differ from each other (Collier, 1993). On the one hand, the number of cases is indeed maximized, but there is the pitfall that time is considered to be constant across all cases (or, at least, that change is consistent within the cases). Yet, the obvious advantage is that the universe of discourse can be extended; thus, the scope of comparison extends across time and space (Stimson, 1985).

The central *units* of variations here are the government or ruling elite, and the unit of change is the years of change of those elites and the unit of measurement is the launch of each constitution, which means a total number of three cases. As mentioned above.

The research question is:

RQ1. Does the "new elites" factor lead to change in religion's articles?

A comparative analysis of the "political" in society begins by formulating the unit of variation by referring to relations at a macro level (i.e. systemic level). By elaborating these units, one must always remember that the units of observation (i.e. the (sub)systems or cases under review) that are used are not identical but are considered to be similar (Sage, 2019).

In addition to the *elite approach*" which is one of the main approaches to the analysis of political systems and the assessment of their focus and stability (Hillal, 2015, pp. 139-147), the concept of "Elite" refers to "the numerical minority (or minorities) that is distinguished from the rest of the society in terms of their degree of influence, and the essence of the concept of the elite is the unequal distribution of influence and power." Those who come at the top of the pyramid's power (Higley, 2010, pp. 161-176), the first writers (Mosca, 1923; Michels, 1962; Pareto, 1968) indicated that the basis of the elite is the set of ideas and symbols, and the distinctive approaches used by the elite (in competition with other elites) to win the support of the masses (Hillal, 2015, pp. 139-147).

Hence, the study examines the effect of ruling elites (factor) and their influence on the change of religion's articles within constitutions: 1971, 2012 and 2014. Note that the ruling elite in Egypt is represented in its leadership because the President always has the final say. However, during the King's rule, the constitutional committee had a say, but this depended on what the King wanted, as will be discussed later. Note that the President was the one who asked for the drafting or amendment of the three constitutions; therefore, even if the study is talking about the role of the constitutional elite, it turns out that they represented the President's view in the end.

This article compares the 1971, 2012 and 2014 constitutions to see if the factor of new elites or new ideology affects the change of articles of religion.

4. Historical evolution of religion in Egyptian constitutions
The first constitution to mention religion of the state, for the Egyptian kingdom, was released after independence in 1923. The committee that prepared this constitution was appointed by the King through his Prime Minister at that time, and comprised 4 former ministers, 9 members of parliament and two representatives of Islam (the head of Sufi and

former Mufti at that time), five representatives of Christianity, a Jewish member and a Bedouin member (Hillal, 2011, p. 130). An important point to be mentioned here is that the constitution was denounced by the largest political party at that time, the Wafd (Brown, 2014). The elite of the 1923 constitution borrowed from Western constitutions; most European constitutions at that time stipulated the state religion, although a small minority such as the Constitution of Estonia in Article 11 stipulated that there is no state religion (Alsherif, 1938, p. 587).

The 1923 constitution stated through article 149, that "Islam is the religion of the state [...]" (1923 Constitution). However, it did not refer to the role of AlAzhar or any other religious institution. The lateness of this article seems to indicate that religion was not a priority for this elite or it was not a concern of the people at that time because they had been educated in France or had received almost a French education in Egypt so this affected their attitudes. Moreover, it may be attributed to perhaps their respect to the conservative nature of the Egyptian society and recognizing the general Islamic feelings of the public. This article was passed by consensus and there is no discussion regarding why to mention religion or not or why in this section 'General Provisions' rather than other sections in the constitution in the constitutional committee discussions (Constitutional Committee Discussions, 1923).

The subsequent constitutions passed the same text as the 1930 constitution, which was released by Ismail Sedky. Moreover, in the 1956 constitution, which was released after 1952 free officers' movement, the political system changed from monarchy to republican with a one-party system, but its positioning in the constitution was much advanced (article 3 rather than article 149). It was included in the "General Provisions Section," while it is included now (1956) in the first section "The Egyptian State" or what was later referred to as "The Elements of the State and Society" in 2012, and then returned to the constitution to be called "State" as it was in the Constitution of 1971. Then, all constitutions passed the same wording: "The state religion is Islam." This constitution was prepared by an appointed committee from Nasser after refusing the proposed 1954 constitution, which was prepared by a committee appointed by the first President Mohamed Naguib in January 1953. Similar to the 1964 constitution, there is no available information about the committee that prepared the constitution; therefore, there were no discussions/sessions for this article in the parliament library. This 1964 constitution was issued after the dissolution of the Egypt-Syria union and remained in place until a new one was promulgated in September 1971.

However, all of Egypt's constitutions stated and passed the same article with the same wording, only the 1958 constitution of the United Arab Republic did not mention a state religion, which may be because of its nature as a temporary constitution or because the Former President Nasser did not want to talk about differences in constitution that relates/constitutes to unity. Then, the separation made Egypt function with the 1956 constitution. Hence, until the dramatic change in 1971, this was the situation in both the monarchy and republican eras.

5. The socio-political context of constitution making in Egypt (1971–2014)
We cannot understand the changes that happened in religion article's placement without understanding the socio-political context of the constitutions. The 1971 constitution was launched after a year of the Former President's Sadat arrival to power. Although Former President Nasser had a charismatic personality that gave him the legitimacy, his successor tried to seek a new type of legitimacy; he thought religion would be the solution. So, he made use of Islam to get closer to the people, and then destroyed the Torah prison and burnt down all the Egyptian intelligence's records. Finally, he showed that he was going in a democratic

direction when he declared it was acceptable to have more than one party; therefore, the new issue of the 1971 constitution was to add "principles of *Shari'a*" to the religion's article as a source of legislation. He imagined that adding an article about *Shari'a* would give him this legitimacy in the society, mind the power of the Islamic groups and the increase of the Islamic feelings in the society after 1967, when Sadat allied with them to finish communist groups in the society.

Sadat thought this was not enough; therefore, he edited Article two again and made *Shari'a* the main source of legislation to make political gains such as altering the article of presidential terms. He wanted the people to be more concerned about another issue rather than asking for the constitution to be amended out of his own self-interest; therefore, he passed some other amendments and succeeded in this. This worked as a compromise between the ruling elite (former president Sadat) and the Islamists at that time (the opposing elite); they would pass the amendment of presidential terms along with other amendments (such as establishing the Shura council) if he passed the amendment of *Shari'a* principles, the main source of legislation. This could therefore be considered a change in the elite's way of thinking, even if it was not actual change, although compromise had taken place. However, it caused many problems to the Supreme Constitutional Court because many constitutional complaints had been brought before it before the amendment date; therefore, it then established the principle of the non-retroactivity of Article 2, i.e. committing the legislator to adopt the principles of *Shari'a* as the main source of legislation after the date it went into force (Dupret, 2016, p. 10).

In 2011, a popular uprising led to a change in the political system/elite by the fall of Former President Mubarak, after which the Supreme Council of Armed Forces took over the power. Since then, the constitution became common in all the political, legal and field conflicts. After suspending the 1971 constitution and the decision of forming a committee to prepare a new constitution (AbdelMajid, 2012), Egypt in its first presidential elections had an Islamist president (Brotherhoods) in power with 51.73% of votes (France24, 2012).

A conflict escalated regarding electing the Constituent Assembly during the period from April to June 2011; more than 10 documents of "Constitutional Principles" were submitted to the Parliament (2 chambers/councils; People and Shura). This assembly had most of its members from the Islamic groups and marginalized many key groups and stakeholders in the Egyptian society (Hamzawy and Fakir, 2012), which led to the dissolution of the assembly before starting its work on April 10,2011. Then, the second Constituent Assembly was formed on June 12, which had members from other political and social groups. Although the second assembly was more representative than the first, conflict did not stop because Islamic groups sought to give it a religious nature through suggestions of new articles that led to changing the Egyptian state nature (Hillal *et al.*, 2013; AbdelMajid, 2012). Moreover, the 2012 constitution added a new article (219), in addition to an article indicating to Al-Azhar role (article 3). The rule of Brotherhoods led to social and political contractions that ended with another uprising and a temporary president (Adly Mansour) who called for the formation of the 10th/experts committee to edit the constitution (all of them with legal and constitutional background), and then the Fifty Committee headed by Mr. Amr Moussa. Unlike the 2012 constitutional committee, the Fifty Committee comprised the major components of the Egyptian society. They represented the breadth of the Egyptian state as well as state-licensed bodies; they also included a smattering of public intellectuals, social movement leaders, and politicians – though with only one Islamist in the group, the relationship between election results and the body's composition was nil (Brown, 2014) which drafted almost a new constitution and sent it to the referendum on January 2014. This

committee changed the statement of Article 3 regarding Al-Azhar role and deleted Article 219 that differentiated between Muslims (Sunni and Shi'i).

6. *Shari'a*: a source of legislation

This part aims at showing the political and social context of the changes happening in the constitution regarding Article 2. Most political systems sought to use religion to obtain popular support because the reference to Islam or *Shari'a* can be achieved in different ways, some of which are only political. In this latter case, it means that one can resort to *Shari'a* in an institutional setting, in an electoral process or in opposition demonstrations against the ruling power. An example of this is when it was used by the late President Gamal Abdel Nasser to justify the defeat or setback of 1967 (Hillal, 2011, pp. 113-114). This facilitated the emergence of a political Islamic vision, with other factors such as lack of freedom and the failure of authoritarian policies of modernization (Dupret, 2016, p. 5). However, using the Islamic orientation was not the focus of the Nasserite discourse because having God as a reference rather than religion was his focus; Islam/religion in the Nasserite discourse occupied the last position (Aboud, 1993, pp. 235, 239). The Muslim Brotherhood used Islam with the same meaning , which means that the opposition between the Muslim Brothers and Former President Gamal Abdel Nasser (d.1970) was more a fight for power than an ideological opposition (Dupret, 2016, p. 4).

6.1 Dramatic change of 1971

Although the text on "Islam is the State Religion" remained as it is since 1923, the text of "Principles of Shari'a" underwent many changes. In the mid-20th century, Islamic referent was marginalized in the political, ethical or legal discourse. Then, under pressure from national, regional and international dynamics, *Shari'a* began to gain more ground, both from below – what might be called the Islamization of societies – and from above – it comes back as a constitutional and political referent (Dupret, 2016, pp. 2-3). However, this does not mean Islamic referent disappeared from the scene in the first three-quarters of the 20th century. Nevertheless, it was subject to the overriding goal of building a nation-state (Dupret, 2016, p. 5).

As Former President Anwar Sadat was presented as "the believer president" (Aboud, 1993, p. 235), he used religion to wipe out the left stream (Marxism). Similarly, Former President Mubarak followed in his steps and undermined the ideological basis of modern liberal Islam (Nasr, 2013, p. 153). However, the efforts of the two regimes (Anwar Sadat and Hosny Mubarak) facilitated the Islamization of the public sphere. The struggle of the ruling elite with the Islamic opposition was based on "a kind of competitive religious populism rather than on the adoption of competing visions of society, so that each party claimed to be the legitimate defender of religion and nation." (Nasr, 2013, pp. 111-112).

The clear example of that is when President Anwar Sadat announced that the time had come to draw up and enact a permanent constitution for the Egyptian Arab Republic and that this constitution must be derived from our true nature and from this land of ours (Al-Ahram, 1971, 21 May). Therefore, the preparatory committee's first task was to sound out public opinion concerning the basic principles, when 6832 suggestions were received by the sub-committee (Al-Ahram, 1971, 9 June). Therefore, quite a large proportion touched the position that Islam should occupy in the new constitution of the "state of science and faith." These suggestions could be divided into three blocks. First, suggestions called for the proclamation of Islam as the state religion (among those was Al-Azhar rector at that time). Others asked for a clause stating that Quran and Sunna are

the bases of constitution, -Dr Moustafa Al-Samanudi- (Al-Ahram, 1971, 7 June). Second, the place of Islamic *Shari'a* as a source if not the source of the legislation, for which Dr Alutaifi and Mr Mohamed Shehata Alzuhari suggested that the constitution prescribe a firm and sound application of the principles of *Shari'a*. Hence, a discussion about the laws that may not be consistent with *Shari'a* (O'Kane, 1972) when some suggested that all laws incompatible with this norm be abrogated (Al-Ahram, 1971, 8 June). Third, suggestions about women and laws of personal status to improve their political, social and economic conditions; some called for the guarantee of feminist movement (Latifa AlZayyat) (Al-Ahram, 1971, 7 June).

The articles that represented this discussion were in the draft of constitution; article 2: "Islam is the religion of the state; Arabic is its official language; and the principles of the Islamic shari'a are a principal source of legislation." (1971 Constitution), and article 11, which we are not concerned about here.

This use of religion increased since the time that Sadat ascended to the presidency; he pursued policies that strengthened Islamists. A part of his program of liberalization was to give new freedom to Islamists and allow them to organize and publish again and release members of the Muslim Brotherhood who had been jailed under Nasser (Lombardi, 2001: 138). By the time, the government's economic and foreign policy became increasingly unpopular, the government began to consider more substantial movement towards Islamization (Lombardi, 2001, p. 142). This political use for religion can be attributed to economic and cultural circumstances (Morcos, 2011a, 2011b, 2011c, February). In particular, after the controversial peace treaty, the elite (Sadat) showed more willingness to move towards controlled Islamization by disbanding Nasser's Arab Socialist Union and to establish a new ruling party, the National Democratic Party (NDP), with a new ideology that was less hostile to Islamists. The one who was in charge to develop the new party was Dr Sufi AbuTalib who prepared the ideological paper of terms taken from the ideological manifestos of Islamists - particularly Muslim Brotherhoods and members of the jamaat/groups (Lombardi, 2001, pp. 142-147).

Although secularists argued that the state was not required to make its law conform to Islamic norms in any way, Islamists argued that state law always had to be consistent with legal principles discovered via Islamic legal reasoning (Lombardi, 2001, p. 117). In 1980, the Islamists had become more powerful, and many calls to make the principles of Shari'a the source of legislation, many conferences from Islamists and confronting ones from the Church (Al Moqatel, 2019). Once again, when president Sadat called for an amendment (through parliament members: Fayida Kamel[2], Nawal Amer and Kareema Al'rossy) in 1980, the climate was favorable to this amendment in light of the rise of Islamists as mentioned above. The adoption of the final version of the amendment must be understood in light of Sadat's attempt to negotiate some form of extensively popular Islamic legal reform. Although the amendment promised to ensure that Egyptian law would be a form of 'Islamic" state law, it was entirely ambiguous to what Islamic state law was. This ambiguity allowed the government considerable flexibility to satisfy its obligations under the article by negotiating an Islamic legal code that was politically acceptable to the Egyptian people as a whole (Lombardi, 2001, p. 118).

Then, another conflict happened, which was about "identifying the principles of *Shari'a*", after the ratified amendment on May 22, 1980. Then, the Supreme Constitutional Court (SCC) in case 8 for year 17 defined whose authenticity was not merely presumptively true but was entirely beyond doubt (Brown and Lombardi, 2012; Brown and Lombardi, 2006; SCC, 1980), and then set the abovementioned principle of the non-retroactivity.

6.2 Arab spring and 2012 constitution
In the Arab world, the use of religion by regimes to pursue their interests has been going on for nearly a century (Ibrahim *et al.*, 1983, p. 808). The result of the policies of the ruling elite in the era of Mubarak, based on religious principles, was that certain groups were excluded, particularly after the regime's deal with Salafists. This resulted in the sacrifice of the religious tolerance in the struggle for retaining power (Nasr, 2013, pp. 128-129).

This struggle continued until the victory of Islamist groups in the rise of the so-called "Arab Spring," and the return to the use of Islamic and *Shari'a* repertoires, which was attributed to the dual status of ideological convergence of nationalism and Islamism, and the instrumental recovery of the Islamist rhetoric by in-power regimes. (Dupret, 2016, p. 6). The political uses of divine law did not draw a Muslim conception of politics but a natural way of policy making using an Islamic frame of reference (Dupret, 2016, p. 7).

Although the 2012 constitution passed the same text of article 2, it added a new article 219 in a trial for interpreting what is meant by principles of *Shari'a* and restrict it at the same time. This later article (219) aimed to relate the concept of *Shari'a* to *Sunna's* thought, which had never happened before. Moreover, the article that made all the articles in section one practiced according to *Shari'a* enclosed many rights.

With the downfall of Former President Mohamed Morsy in July 2013, it did not result in the separation of religion and state in the country. Indeed, something quite different seems to be occurred: religion became nationalized (Morsy and Brown, 2013). The fall of Mubarak ended the grip of the presidency over all state institutions, and no civilian president is likely to be able to reestablish it (Brown, 2013a, 2013b, Nov).

6.3 June 30th uprising
During the anniversary of the revolution against Mubarak on January 25, 2013, clashes erupted between pro- and anti-factions of Former President Morsy. Violence between the various groups continued as the society increasingly became divided between the ruling Islamists and the secularists who resisted their rule. Hence, the use of religion in politics continues and remains till now. Events escalated on 30th June as millions took to the street demanding Morsi's resignation. On July 1, 2013, the military gave the pro-Morsy and anti-Morsy faction 48 h to reach a solution or face military intervention. Following the former's inability to find a political solution, the military deposed Morsy on July 3, 2013, suspended the Constitution and set up an interim government headed by the Supreme Constitutional Court President, Adly Mansour (ContitutionNet, 2019).

After July 3, the political system changed and the constitution reflected this. On July 8, 2013, there was a constitutional declaration that suspended the 2012 constitution and established a new road map for the country through the experts' committee work (comprising six top judges and four constitutional lawyers to write a new constitution). Then, there was a presidential decree establishing the Fifty Committee members to prepare a final version of the constitution (Brown, 2013a, 2013b), which stated in its first sessions that they do not want to be involved in any conflict with any group in the society (Constitutional committee 2013). Many changes had been made to the constitution, the clearest ones regarding religion, were removing article 219 and many parts that mentioned *Shari'a*.

7. Religious institutions defined by the constitution
Al-Azhar was first mentioned in the 1930 constitution in article 142, which stated that the King appoints his head (1930 Constitution). Former President Nasser ambitiously moved to reorganize Al-Azhar through the Law 103 of 1961, which placed the entire institution and its

endowments under the formal jurisdiction of the Ministry of Religious Endowments (Morsy and Brown, 2013).

Although, nothing was mentioned about it in the 1971 constitution, 2012 was the peak, as the 2012 constitution, at his 4th article gave Al-Azhar more authority and roles than ever before. The most controversial point was consulting it in *Shari'a*-related matters. This had an implication in Sukuk Law when Al-Azahr objected because no one consulted it; however, the constitution required that (AbdelAziz, 2013).

The 2014 constitution does not simply draw some of its legitimacy from Al-Azhar (by citing the institution's support for Morsy's overthrow) but also guarantees it oversight over its own affairs. It is declared in Article 7 to be "the basic reference point for religious sciences and Islamic affairs;" its head cannot be dismissed. He is to be appointed by a Body of Senior Scholars in a manner specified by law (earlier rushed through by the military in January 2012), which makes the initial composition of the Body wholly appointed by the current head of Al-Azhar with any upcoming vacancies to be filled by the Body itself. More than even the police, and like the Supreme Constitutional Court, Al-Azhar becomes a self-perpetuating body under its senior leadership, accountable only to itself (Brown, 2014).

By this amendment, the 2014 constitution removed the ambiguity about Al-Azhar's role.

Regarding other religious institutions, in 2012. However, some (such as Dr Suzi Adli Nashed) suggested moving the article "Independent Authorities Section", because neither the "Community Provisions Section" nor "The Egyptian State Section" speaks to institutions, and the article remains as it is (Constitutional Committee, 2012, p. 562). Moreover, the Muslim Brotherhood insisted on having the authority to organize endowment; however, in Dr Mohamed Emara's opinion, the constitution should revive it but it should not have an authority until required (Constitutional committee, 2012, p. 485). The 2014 constitution did not discuss this.

8. Conclusion
Unlike some experiences, crises and transitions did not give birth to democratic constitution making in Egypt; instead, those who sat in positions of political authority used the constitutional text as a way of enshrining their current position and, especially after the mid-20th century, their ideological orientation (Brown, 2014).

Although the 2012 and 2014 constitutions passed the same text of Article 2 and it became the second article, it did not change after the 1971 constitution. This may be because the elite who came after 1923 were from the middle class and the elite of 1971 were just 80 people, most of them were members of parliament and some professionals. The elite of 2012 were 50 members of parliament and 50 professionals such as university professors and lawyers (most of them with an Islamic background, either the brotherhood or Salafist), although the elite in 2014 represented many denominations of the Egyptian community. Also, maybe, as the biggest part of human consciousness comes from religion (Kilada, 1998), as the Egyptian people care about religion so any change or deterioration in the article's position may cause many problems, the social context. In addition to the role of Islamic groups, the second article could not be touched, but was used to practice pressure all the time. This societal impact may explain the success of the compromise of Former President Sadat. This was attributed to the change in awareness of the elite (the president at that time) of the possible societal impact.

To summarize, the most important factor that led to change in religion articles in those constitutions was the rule of new elite. However, the existence of ruling elites does not necessarily mean the establishment of Islamic or *Shari'a*-centered political and

constitutional systems when they use it in politics. It is almost as if their motivation is to seek political gain over the opposing elite or the masses. Thus, it is possible to say that, when foreign-educated elites ruled, they tended to adopt the Western system when constitutions were established, which affected religion articles when these elites changed. Especially, when new elites take over power (especially with different ideologies such as the Islamic elite in 2012), this has affected the religion articles in the constitution, as explained above.

Notes

1 Legally 2014 constitution is not a new one, as it was an edition of the 2012 constitution, but because of the massive changes done to it, the researchers consider it a new constitution.

2 Fayida Kamel was the wife of interior minister at that time Nabawi Ismail, and a close friend to Jihan El Sadat (President's wife at that time).

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