



The promulgation of the 1882 Constitution was the result of populist demands. Previous eras were limited to bylaws or the Siyasetname, issued under Muhammad Ali to regulate the public affairs of the country. They were not constitutions in a technical sense as they were limited to purely administrative matters.

The Constitution of 1882 created the first Egyptian parliamentary representation - previous councils had been only consultative. Prime Minister Sherif Pasha was delegated to draft the constitution, but because of mounting disputes he did not remain in power to witness its ratification. His successor, Prime Minister Mahmud Sami El Baroudi, presented the new constitution, which was passed by the House of Representatives, ratified by the Khedive, and officially declared in force on February 8, 1882.

#### Characteristics of the 1882 Constitution:

- Declared two authorities in the state, the executive and legislative branches.
- Assigned the task of debating and endorsing the state budget to the Parliament.
- Outlined the powers and responsibilities of the executive branch. Completely excluded the Khedive from any type of oversight.
- Affirmed the sovereignty of the nation over the state and affirmed that the nation is not subject to hereditary rule.

Among the disadvantages of this constitution was that it was issued via Khedival decree, to the people. It also ignored the judiciary and considered it to be a sub-category of the executive power.

This constitution was repealed after the British occupation of Egypt and the issuing of the bylaws in 1883.

#### The following differences distinguish the constitution of 1923 from the 1882 Constitution:

- Recognized the separation of three powers, the executive, judiciary, and legislative.
- Established a bicameral system with two councils: the Senate, with a consultative function, and the Council of Representatives, with a legislative function.
- Detailed many rights and freedoms omitted from previous constitutions. Examples include: regulation of nationality rights, the right to resort to the judicial system, and the right to freely practice one's religion.
- Regulated the issuance of laws and ministerial oversight more elaborately than its predecessors
- Characterized by its emphasis on the sovereignty of the Egyptian nation.

Although the draft Constitutions of 1879, 1882, and 1923 were drafted in response to popular demand, they were issued as a grant from the ruler, none of them submitted the head of state to any type of oversight or accountability. And, it allowed the King to ratify laws. If the king rejected a draft law, it required a two-thirds majority to pass.

# Egyptian Constitutions

King Fouad issued a royal decree to repeal the 1923 Constitution, and replace it with the 1930 constitution, drafted by the government of Ismail Sidky Pasha to strengthen the powers of the king at the expense of the Parliament. The authority of the parliament had increased due to the control of the Wafd Party and other political parties over the reins of the state. While the new 1930 Constitution retained many of the 1923 articles, it added several items increasing the powers of the king to counter the growing influence of the liberal Wafd party in Parliament. For example, it gave the right to propose financial laws to the King alone and not to the Senate. On March 12, 1935, under public pressure and in what became known as the "Cairo Uprising," the King abolished the 1930 Constitution and reestablished the 1923 Constitution.

#### Constitutional Declarations:

When the army staged a coup in 1952 and announced its first constitutional declaration, repealing the 1923 Constitution, ousting King Farouk, and replacing him with his son Ahmed Fouad, Egyptians supported this movement.

- The First Declaration promised to establish a committee that would draft a new constitution, but it was unsigned and undated.
- The Second Constitutional Declaration, issued in January 1953 and without a signature dissolved all political parties and confiscated all their funds on behalf of the people.
- The Third Declaration (undated) set forth general principles leaning towards democracy and constitutionality. It was signed by Major-General Mohammed Naguib, Commander-in-Chief of the Army, and the leader of the revolution.
- The Fourth and final declaration decreed the abolition of the monarchy, the proclamation of a Republic, and the inauguration of Major-General Mohamed Naguib as President of the Republic on June 18, 1953.

This provisional constitution was issued in 1954 and was rejected by the Revolutionary Command Council, although it was drafted by cross-section of fifty leading politicians, and legal and economic experts.

The 1956 Constitution was issued after the ousting of Mohammad Naguib from his post in 1954. Gamal Abdel Nasser was declared his successor. The Revolutionary Command Council formed a constitutional drafting committee.

This constitution was put to a popular referendum in 1956 and became the first Egyptian constitution to be issued with popular consent from the people. Its most prominent elements were: the State's guarantee to provide for universal education and employment. It also specified a law for agricultural land ownership. However, the Nasser regime tightened its grip on governance and the media and dissolved all political parties as well as the Muslim Brotherhood.

The 1956 constitution closely followed the 1923 constitution, but replaced the monarchy with a republican system. The preamble made it unequivocally clear that the constitution was issued by the Egyptian people and not as a favor granted by anyone. The 1956 Constitution stayed in force for only twenty months.



#### Provisional Constitution, the "Constitution of the Union"

Came about following the union between Egypt and Syria, which led to the suspension of the 1956 Constitution and the declaration of the 1958 Provisional Constitution. This document was very brief and included a number of principles and transitional provisions in addition to an emphasis on the Arab character of the new state and the regulation of nationality.

The 1964 Constitution decreed a socialist orientation to the country. It was issued as a temporary constitution until a permanent one could be drafted. This constitution differed from prior ones because it defined the ideology of the state of Egypt as socialist.

After the military defeat of 1967, the drafting of a permanent constitution was postponed. After Gamal Abdel Nasser's death in 1970, his successor Anwar Sadat decided to expedite the issuance of the constitution as part of his "Corrective Revolution" and in order to secure control over the country and to eliminate what he later called the "centers of power". A constituent commission was formed by Presidential decree and the 1971 Constitution was then put to a referendum. It was called a permanent constitution, like its 1956 predecessor.

#### Characteristics of the 1971 Constitution:

- Confirmed the socialist nature of the state.
- Stressed the pan-Arabist and Islamic basis of the state.
- Elevated the status of the judiciary and established the Supreme Constitutional Court, which enabled the judiciary, for the first time, to regulate laws effectively and to rule on the constitutionality of laws.
- Stressed the dual nature of the executive branch, consisting of the Head of State and the cabinet.
- Detailed the powers of the "People's Assembly."
- Specified the use of referenda and elections as selection tools for MPs and president.
- Specified the four powers of the state; the executive, the judicial, and legislative powers - with the addition of the press, The constitution detailed the powers of each authority and how its affairs were to be conducted.
- The President of the Republic remained unaccountable before the People's Assembly. He serves as the head of the executive and judicial branches, and the Supreme Commander of the Armed Forces.

There have been three amendments to the 1971 Constitution.



The First Amendment included two clauses. The first clause was related to the length of the Presidential term. The amendment substituted "for other periods" instead of "for another period," thus extending the presidential term indefinitely. The second clause confirmed the supremacy of Islamic law over all other sources of legislation by changing the wording of the article from "Islamic law (Sharia) is a principal source of legislation" to "Islamic law is the principal source of legislation" provisions.

The Second Amendment was to Article 76 of the Constitution modifying the selection process of the President of the Republic. Instead of specifying a referendum as the means to select the President, the amendment specified that the President would be elected by direct, national, secret ballot. This amendment stirred great political controversy because of the surprising format of the new article - the text of the new article took up almost two pages of the Constitution—the longest article in the document. It is also included procedures and conditions of nomination that contradicted the original nature of the Constitution. The modification stipulated that a party needed at least 5% of the seats in the Parliament to be able to nominate a candidate, thereby diminishing the chances of parties and political movements from participating in this process.

35 articles were amended. Most of the amendments revolved around changing the economic direction of the country from socialism to a free economy, and upholding the principles of citizenship. It also included amendments to the articles related to the Vice President and his powers, and granted additional authority to the Prime Minister.

Following the ousting of President Mubarak on February 11, 2011, the Supreme Council of the Armed Forces (SCAF), the highest military authority, assumed leadership of the Egyptian state. On February 13, 2011, SCAF announced a constitutional declaration suspending the 1971 Constitution and declaring some general principles for the State. On March 19, 2011, seven articles of the Constitution of 1971 were amended and put to a referendum. Article 179 on the Law of Terrorism was abolished, and two paragraphs were added to Article 189.

## March 2011

In March 2011, however, SCAF issued a 64 article constitutional declaration disregarding the March referendum pertaining to amending and re-activating the old constitution. The amended articles submitted to the referendum were integrated into the Constitutional Declaration. The Constitutional Declaration has since undergone two modifications:

- An amendment was made to Article 38 of the Constitutional Declaration concerning the election of members of the People's Assembly and the Shura Council.
- More controversial were changes to Articles 28 and 60:
- Article 28, pertaining to the committee that supervises the presidential elections. The clause specified that, "The Commission's decisions are final, binding and non-violable by any means and/or authority. The Commission's decisions may not be suspended or abolished." The controversy focused on the immunity and the non-appealability of decisions of the Committee of the Presidential Elections.
- Article 60 pertains to the Constitutional Constituent Assembly. It requires a joint meeting of the People's Assembly and the Shura Council to elect the members of the Constituent Committee.

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