



Clerical Democracy

Rights-based perspective on the statute for the election
of the Pope of Alexandria and the Patriarch of
the Holy See of St. Mark

Clerical Democracy

Rights-based perspective on the statute for the election of the Pope of Alexandria and the Patriarch of the Holy See of St. Mark

Ishak Ibrahim

The report is issued by: Economic and Social Justice Unit

March 2015

Designed by: Mohamed Gaber

Egyptian Initiative for Personal Rights

14 Al Saraya Al Kobra St. First floor, flat number 4, Garden City, Cairo,

Telephone & fax: +(202) 27960197 - 27960158

www.eipr.org - info@eipr.org



All printing and publication rights reserved. This report may be redistributed with attribution for non-profit purposes under Creative Commons license.

www.creativecommons.org/licenses/by-nc/3.0

This commentary is developed by Ishak Ibrahim, the researcher at Freedom of Religion and Belief program, and reviewed by Amr Abd-Al Rahman the Manager of Civil Liberties unit at Egyptian Initiative for Personal Rights.

Introduction:

The Coptic Orthodox Church announced on 20 February 2014 that the Holy Synod, the highest religious authority in the church, had approved new bylaws for the election of the Pope of Alexandria and the Patriarch of the Holy See of St. Mark in an exceptional meeting headed by Pope Tawadros II and attended by 86 archbishops and bishops. The current statute has been in effect since 1957 and has been the object of severe criticism from within and outside the church for its inclusion of discriminatory provisions that bar broad segments of ordinary lay Copts from participation in the selection of the patriarch and render the election process meaningless.

Father Thomas, the assistant secretary of the synod, said in a press conference after the meeting, “Realizing its responsibility as it drafts future statutes with a progressive, forward-looking view, the church understands the importance of drafting bylaws that keep pace with changes in the country and the world.” He added, “We are trying to present a flexible, pragmatic idea for drafting the statute. The pope has begun to put in place different statutes, whether for ecclesiastical councils or priest and bishop councils. The statute for the papal elections is a continuation of a complete system for the election of the patriarch, which the church will present to the president for his approval.”¹

The statute is the first legal text Egyptian churches have written that draws on Article 3 of the constitutional amendments approved in a referendum in January.² It is thus an important indicator of how church leaders will interpret Article 3, which bears on several pieces of legislation that regulate Christians’ relations with the church and state, most significantly, personal status laws for Christians and Jews. The church took this step amid ambiguity about the application of the constitutional text. Statements from some clerics indicate that they interpret the article to mean that they themselves hold sole responsibility for drafting legislation that concerns Christians, even without the input of Christian citizens themselves.

1- Al-Kiraza, a journal issued by the Coptic Orthodox Church, 28 Feb. 2014.

2- Article 3 states, “The principles of the religious laws of Egyptian Christians and Jews are the principal source of legislation regulating their personal status affairs, religious affairs and the selection of their spiritual leaders.”

In contrast, the Supreme Constitutional Court’s interpretation of Article 2, which states that Islamic law is the principal source of legislation, can be applied to Article 3 as well. According to the SCC, the article is addressed to the legislative authority, not the judicial or executive authority or the religious establishment. This understanding is affirmed by Father Rafael, the secretary of the Holy Synod. Commenting on the approved statute, Rafael said, “Article 3 of the constitution states that Christians have the right to choose their religious leaders. There was a faction within the synod that believes that we need not give it to the president for his approval and that its adoption by the synod is sufficient, but another faction supported forwarding it to him solely for approval.”³

These different readings of Article 3 explain why the church seeks to have the statute issued directly through the president. The statute was drafted, discussed and approved by the Holy Synod prior to the election of a parliament to avoid contentious discussions over the statute in the legislature and foreclose any means of influence over its content. In so doing, church leaders attempted to avoid addressing the possible interpretations of Article 3 and the church’s role in drafting laws and statutes that touch on Christians’ religious rights; the church also sought to avoid a broad public debate during which the statute might be criticized and closely examined.

Church leaders seem to have failed, however, given conflicting new reports about the submission of the bylaws to the president. According to some news reports, confirmed by church sources to the researcher, the church submitted the statute to the office of the presidency in May, for approval by then-President Adli Mansour. It was given a number in the registry of the Office of the Presidency, but, unexpectedly for church leaders, the presidency sent the text back to the church for the revision of some terms that were inconsistent with the constitution; the church has not officially denied this. Judge Ali Awad, the then-president’s constitutional and legal advisor, objected to some provisions in the statute and asked church leaders to amend them because they were unconstitutional.

The statute sets forth the manner in which the head of the biggest church in Egypt and the Middle East⁴—which extends to numerous countries around the world—will be selected, thus having ramifications for the relationship between Copts and their official religious establishment and between Copts, church leaders, and the state. In the past, these overlapping relationships have ranged from mutual understanding to conflict, with the relationship between the state ruler and the Pope constituting part of the equation.

3- Father Rafael, the bishop of central Cairo and the secretary of the Holy Synod, in an interview on “Fi al-Nur,” broadcast on the Coptic CTV station, <<http://www.youtube.com/watch?v=xJlJleqGeibE>>.

4- Following the First Council of Nicaea, the first ecumenical council in the world, convened in 325, the mandate of the patriarch of Alexandria covered Egypt, Sudan, Libya and Ethiopia. With time, some churches broke away and became independent, and the patriarch assumed responsibility for Orthodox Coptic churches in Egypt and all over the world, founded following the waves of Egyptian emigration starting in the 1960s.

This is reinforced by the fact that the church in Christianity constitutes a genuine partnership between the clergy and the laity; the Pope is not only responsible for liturgy, but for church administration, personal status matters, economic and productive ventures, schools, and credit enterprises overseen by the church.

In addition, over the past decades, state institutions have dealt with Coptic citizens through the church and its leaders. The pope thus plays both a national and political role given the areas in which the church, in coordination and conjunction with the state, acts as a stand-in for Coptic citizens.

This equation began to change after the revolution of 25 January 2011; the expansion of the public sphere allowed Coptic leaders to play their role as citizens with equal rights and duties through various civil society entities, such as parties, syndicates, NGOs and more. This trend, however, ran up against the desire of various transitional administrations—whether the Supreme Council of the Armed Forces (SCAF) or the administration of the elected President Morsi—to perpetuate the equation whereby the church represents the larger Coptic community. With the second transitional period, the balance of power once again shifted to the church and the pope. As the religious establishment again came to the forefront in defending freedom of belief and religion and Coptic citizens' right to non-discrimination, these forces also champion their own views of the content and limits of these liberties and rights, though less than in the era of deposed President Mubarak, at least thus far. That the meeting convened by the armed forces on 3 July 2013 to depose President Mohamed Morsi was attended by Pope Tawadros II and Grand Sheikh of al-Azhar Ahmed Tayyib is illustrative of the nature of the relationship between the current presidency and government and the religious establishment, further exemplified by the selection of church officials to represent Copts in the constituent assembly that amended the 2012 constitution.

Keeping in mind these considerations, the election or selection of the patriarch of the Orthodox Church is not a matter of significance only to the clergy. It is rather a public, national Christian affair that necessitates the provision of a set of rights and standards to ensure the independence of the religious establishment and preclude attempts by outside parties or a higher authority to intervene in internal decision making. At the same time, it should prevent the church from playing an authoritarian roles for its members, which ultimately preserves freedom of religion and belief, one of the foremost civil rights enshrined in international human rights conventions and successive Egyptian constitutions.

Several questions present themselves in this context. Does the statute guarantee the independence of the religious establishment, both for the clergy and the laity? Did church leaders issue the statute in a democratic way?

What sort of input did representatives of Coptic citizens have in drafting the law and discussing its provisions prior to its adoption by the Holy Synod? Does the statute entail any discrimination against Coptic citizens?

This commentary on the proposed statute attempts to answer these questions looking at the climate in which the papal election bylaws were produced and making observations about the provisions of the statute, while excluding purely religious arguments and evidence, whether those that support or impeach the statute.

Generally speaking, the proposed statute contravenes the church's declared position that the rule in scripture is that the flock chooses the shepherd. As a rule, everyone participates in the selection—man or woman, young or old, engineer or construction laborer, rich or poor, for the election process is not conditional on profession. In addition, the statute violates several rights principles enshrined in international human rights law. Namely, it entails flagrant discrimination against members of a religious group in the exercise of their religious freedoms and their right to choose their spiritual leaders, as will be explored below. The statute distinguishes electors from candidates and discriminates against electors. Although human rights law affirms the right of individuals to comply with religious rules in private matters,⁵ we will attempt to demonstrate in this commentary that the statute's discriminatory provisions are not based on any clear religious text or historical precedent. Rather, the discrimination depends on a vague constitutional provision that leaves the election of spiritual leaders of adherents of revealed religions to the members of these minorities in accordance with their religious laws. Yet, the constitutional article does not set forth a mechanism for this selection or indicate whether it means that the church is authorized to determine the rules for the selection process.

5- The most prominent example is paragraph 4 of Article 18 of the International Covenant on Civil and Political Rights, which covers freedom of thought and conscience and religious liberties. The paragraph affirms the right of parents and legal guardians to raise their children or custodial charges in accordance with their own religious beliefs without state interference. Yet, General Comment 22, issued by the Committee on Civil and Political Rights, notes in paragraph 10 that this provision may not be used to undermine the other elements of the right set forth in the first three paragraphs of Article 18 or to infringe other provisions of the covenant, including, of course, the right to non-discrimination.

The election of the patriarch: a history of conflict over democracy within the church

Prior to the 20th century, the Coptic Orthodox Church did not maintain a written legal statute governing the selection of the pope⁶ that was approved by state rulers. In previous centuries, from the time that Christianity entered Egypt in 58 CE down to the present day, numerous selection mechanisms were used. St. Mark, who introduced Christianity to Egypt and established the Church of Alexandria, selected Anianus as the archbishop, along with three priests and seven deacons, telling them to choose a righteous man if the archbishop (the patriarch) died, consecrate him by laying their hands upon him, and install him in the archbishop's place.⁷

In the early centuries, it was customary to choose a disciple of St. Mark and consider the recommendation of previous patriarchs in consultation with the Christian populace. Later patriarchs were often chosen from among the directors of the Catechetical School of Alexandria, which was renowned for its defense of the Christian faith and its fight against heresy. When the fortunes of the academy waned, the church selected the pope from among monks, and in some cases, the patriarch was selected from among several candidates using a ballot.⁸

The founding patriarchs firmly established the Biblical principle that the people had the right to choose their pastors. The community had a stake in the selection; thus when one person opposed the selection of the archbishop, his consecration would be deferred to examine the nature of the objection.

6- In the Coptic Church, "pope" is synonymous with chief bishop and patriarch. In the early decades of the church, the bishop undertook the care of the church with the help of priests and deacons. As Christianity spread and the number of adherents increased, the patriarch ordained bishops for small geographic areas. Hence the patriarch was the chief bishop. For more details on this point, see Stephen Davis and Magdi Girgis, *Babawat Misr: al-babawiya al-Qibtiya al-mubakkira*, National Center for Translation, first edition, 2013.

7- The word bishop comes from Greek, the language in which the Gospels were written, and means overseer or watcher. The bishop is the senior priest who oversees the administration of a diocese, which may be comprised of one or more cities. The bishop oversees the area churches and administers their affairs. He has the right to ordain priests.

8- Deacon Kamil Salih Nakhla, *Tarikh al-batarika*, pt. 3, Maktabat Dayr al-Suriyan al-Amir, third ed., 2011.

The selection was made by representatives of the laity and the clergy, although there was no laic representative body officially recognized by the governing authorities. Of course, this rule was breached on numerous occasions, when kings and rulers denied and deposed patriarchs during times of sectarian persecution or when various Muslim rulers appointed and removed popes following their own interests and whims.⁹

In 1855, Khedive Said abolished the *jizya*, or the head tax levied on non-Muslims, and three years later allowed Copts to join the army. This constituted a qualitative leap in relations between the ruling authority and Copts, eliminating some aspects of discrimination against them. Another manifestation of this new trend was the institution of Coptic representation in representative councils and the adoption of laws allowing Copt to regulate their religious affairs and personal status matters. This gave rise to a prolonged conflict between the Christian clergy and the laity over the role of the lay community in the administration of church affairs and property. The conflict crystallized around two specific statutes: the first governing the purview of the Congregation Council (also known as the Lay Council) and the other governing the selection of the Coptic Orthodox pope.

After the death of Demetrius II, the 111th pope, on 18 January 1870, the papacy remained vacant for four years and nine months as the government failed to issue a decree ordaining his successor. Father Morqos, the archbishop of Beheira at the time, was chosen to manage church affairs. During this period, he met with the Coptic laity and representatives and they decided to establish the General Congregation Council to help clerics administer non-spiritual church affairs. The Ottoman Porte issued an edict in 1872 establishing the council, and the next year another edict was issued containing the council bylaws, which gave the council authority over such matters as the regulation of church accounts, the management of endowments, and supervision of the administration of schools, poor aid, personal status matters, and the ordination of priests. The first Congregation Council was comprised of 12 members and 12 alternates, established by government decree in January 1874.

As the papacy remained vacant, the emperor of Ethiopia, which is under the ecclesiastical jurisdiction of the Egyptian Coptic Church, sought out the Russian consul, asking him to intervene with the Ottoman Porte to encourage the consecration of a new pontiff. The Ottoman sultan subsequently urged Khedive Ismail to install a pope.¹⁰ In 1875, Kyrillos V was selected as Demetrius's successor. The new patriarch believed the powers of the Congregation Council usurped his own authorities and dissolved the council. Botros Ghali, then minister

9- For more details on the state rulers' influence over the selection of the patriarch, see "al-Ta'thir al-siyasi 'ala intikhab wa 'amal al-batarika li-kanisat al-Iskandariya hatta al-qarn al-thalith 'ashar," a study presented by Azir Lami to the College of Humanities and Theology, part of the Coptic Catholic Patriarchate, 1995.

10- Ibid.

of justice, reinstated the council and on 13 March 1883, a khedival order was issued to that effect. With time, the conflict between the laity and the clergy grew. Pope Kyrillos V refused to reinstate the council without amending the bylaws governing it to eliminate those prerogatives he believed restricted his own powers—for example, the council's responsibility for monitoring church monasteries, churches, and schools, ordering their accounts, managing schools, the printing house, and poor aid, monitoring churches and their priests and monks in monasteries, and setting financial allocations for their operation. The Congregation Council also functioned as a personal status court for Christians, adjudicating disputes of marriage, divorce, custody, bequests, and related cases. Pope Kyrillos V met with archbishops, bishops, and several priests, to the exclusion of any lay Christians, and ruled that no lay member of the community could intervene in church matters.

When the pope refused to call elections for the Congregation Council, Botros Ghali, in his capacity as a deputy in the Umma Council, called the elections, which took place in May 1883. Botros Ghali was elected as an officer, and the government recognized the legality of the elections. When the council's term expired in 1891, the secretary of the council asked the pope to call for new elections, insofar as he was the head of the council, but Kyrillos refused, instead writing to the government that the council contravened the law and church traditions. In response, Botros Ghali convened a meeting in which he asked the government to intervene to force the patriarch to allow the council to function. The council itself devised a compromise to end the crisis: monastery endowments would remain under the patriarch's oversight, and the monasteries would retain the surplus revenues from their lands. The council would have no relationship to the office of the patriarch, and the patriarch would have the right to appoint one-third of council members.

When Pope Kyrillos V refused to engage with the Congregation Council, a government decree was issued in 1892 abolishing his power to manage the community's affairs. The pope himself was exiled to the Baramos Monastery at the behest of Botros Ghali. On 4 February 1893, Khedive Tawfiq issued a decree reinstating the pope after an agreement to reconstitute the Congregation Council while giving the pope religious and financial administrative authority over monastery endowments; the decree also created a committee that would operate parallel to the elected council.

When Kyrillos V died in 1927, new Coptic political and social forces emerged that determined the tenor of the conflict between advocates of reform and Kyrillos's followers in the period from 1929 to 1959. The fiercest conflict was between the educated Coptic elite, which held emancipatory ideas, and the conservative clergy, and the struggle over the papal throne was one arena where this conflict played out. Father Yoannis, leading the conservative faction, persuaded the archbishops and bishops on the Congregation Council, appointed by the

previous pope, to resign, preventing the council from convening a legal quorum. A committee of three experts was then formed to draft the bylaws for the selection of the patriarch, two of them close to the conservatives.

Subsequently, 120 members of the Coptic elite, following an invitation from Suriyal Girgis, a member of the reformist camp, met on 16 December 1927; the attendees included eight members of the upper house of parliament and 24 members of the lower house. The participants focused on the need to elect a patriarch. Father Yohanna Salama nominated himself and was elected. The resolution was sent to the interior minister on 18 December 1927 but later withdrawn amid fears of a schism in the church, especially concerns among Coptic public opinion that the church would have two patriarchs, one official and another civil or popular.¹¹

Amid this climate, there was an urgent need to codify a new mechanism for the selection of the pope. Several new statutes were drafted in 1928, all containing clear provisions for conditions for candidacy, an assembly of electors, and selection procedures, but the Congregation Council and the Holy Synod could not agree on a compromise text. There were three powerful forces that influenced the conflict over papal elections. The first force was Copts themselves, divided into two factions, the first being Kyrillos's conservative followers and supporters and the second being the Congregation Council and reformists within the church. The second force was King Fouad, who stated an express desire to see an archbishop accede to the papal throne. The king issued an edict appointing Yoannis as acting pope for six months, later extended to September 1928. The third force was comprised of outside parties, most prominently the emperor of Ethiopia. The country was awaiting the consecration of an archbishop, since the patriarch of Alexandria was responsible for appointing and ordaining Ethiopian bishops. Leaders of foreign missions and their relationship with English colonial commanders in Egypt also played a role.

Amid the rising conflict between laic reformers and the clergy, members of the Holy Synod met and ruled that archbishops would be eligible for papal office. On 1 December 1928, King Fouad issued a royal edict setting forth the conditions for the selection of the patriarch, allowing archbishops and bishops to be nominated to the office, contrary to Coptic Orthodox traditions. The edict also determined the 96 electors, divided into three cohorts: current and former ministers, members of parliament, and several wealthy individuals chosen by the king himself. The date of the election was scheduled for 8 December.

It was clear that the composition of the electors would work to the benefit of the acting patriarch, Yoannis, who was supported by King Fouad and the conservative forces led by members of the Holy Synod. Yoannis was

11- Suleiman Shafiq, *al-Aqbat min lahut al-tahrir ila maydan al-tahrir*, al-Mahrousa Center, 2014.

indeed elected patriarch among five candidates, among them Archpriest Yohanna Salama, and on 9 December 1928, a royal edict was issued appointing him church patriarch.

Pope Yoannis died on 21 July 1942, again sparking calls for a new election statute that would return to church traditions and involve popular participation in the selection of the patriarch. This time, various forces managed to draft new bylaws for the papal elections, issued as Royal Edict 37/1942 on 7 December 1942. One of the most positive aspects of the new statute was that it defined electors by category or cohort and permitted no political or religious authority to select the names of actual electors. The statute gave the right to vote to all government employees, members of district councils, white-collar professionals such as doctors and engineers, the heads of Coptic charitable associations, and the owners of Coptic newspapers.

The statute stated that electors could vote for only one candidate and could not vote for a person whose name was not included on the candidate list. The winner would be the person who received an absolute majority of votes. If no one won a majority another election would take place in a week between the candidates who won the most votes in the first round.¹²

Father Macarius, the archbishop of Assyout who was supported by the Congregation Council and the reformists, was elected patriarch in February 1944. During his enthronement in the St. Mark's Cathedral, located in the Azbakiya neighborhood of Cairo, his supporters chanted, "Long live Pope Macarius, the successor of Father Kyrillos, the father of reform." Some of them also pulled down photos of the two previous conservative patriarchs, Kyrillos V and Yoannis XIX, from the papal salon.

The new patriarch began supporting the demands for reform advanced in previous years by sending Dr. Ibrahim Fahmi al-Minawi, the secretary of the Congregation Council, a letter on 22 February 1944 in which he stated, "A special administration shall be created in the patriarchate for the monastery endowments, managed by the General Congregation Council. Its task shall be to conduct an immediate inventory of monastic property and to hold to account current overseers who administer them. Overseers shall be appointed and dismissed by myself, pursuant to the recommendation of the Congregation Council."

Archbishops and bishops objected and held a meeting of the Holy Synod to which the pope was not invited. Condemning the letter and ruling it a violation of church laws, they invalidated it. When the pope refused to respond to their demand, the archbishops held a meeting headed by the archbishop of Sohag, in which they objected to the Congregation Council's usurpation of church authority. They threatened to escalate measures

12- The Official Gazette, no. 220, 7 Dec. 1942.

against the pope if he continued his support for the body. Amid the severe conflict, Macarius went into seclusion on 7 September 1944 at the Father Bola Tarka Monastery, leaving the seat of the patriarchate. He returned following the intercession of Prime Minister Ahmed Maher and stayed until his death on 31 August 1945.

Pope Yousab was elected under the same bylaws and consecrated on 14 May 1946, after pledging to the secretary of the General Congregation Council to restore the council's prerogatives under Law 19/1927. He also pledged to do without the services of one of one of his retinue, Malak Girgis, who was tainted by suspicions of corruption. Girgis imposed a "tax" on churches and monasteries and interfered in the appointment of clerics. A group known as the Coptic Nation, led by lawyer Ibrahim Hilal, abducted the pope and confined him to a monastery, after first forcing him to sign a document abdicating.¹³ The security authorities arrested members of the group and reinstated the pope, but on 5 September 1955, the Holy Synod removed Yousab from his position and the patriarchate, and formed a tripartite committee to administer the church, citing reasons related to the squandering of church funds and "taking evil persons as counselors."

The exiled patriarch died on 13 November 1956, spurring a renewed conflict over the election bylaws. The Apostolic See remained vacant for three years, further aided by the fact that Gamal Abd al-Nasser was no fan of democratic elections. Several conservative archbishops, working in conjunction with Minister of Supply Kamal Ramzi, drafted a statute to disqualify young monks from papal candidacy who had received some education before joining the brotherhood over the last two years. Those disqualified included some who had declared their candidacy, such as Antonius al-Suriyani (later Pope Shenouda III), Father Matta al-Maskin, and Father Gregorius, the bishop of theological studies.

With the republican decree of 3 November 1957, new election bylaws were issued, which remain in effect to this day. This statute set the minimum age of candidacy at over 40 to exclude young candidates and required at least 15 years of monastic service to exclude Matta al-Maskin. The number of electors was reduced from several thousand to 662, 223 of them clerics and the remaining number lay Christians, although most of them selected by bishops. The bylaws also gave archbishops and bishops the right to nominate themselves. A new

13- Ibrahim Fahmi Hilal, a young Christian lawyer, founded the Coptic Nation on 11 Sep. 1952 to offer religious services and spread Christian teachings and the Coptic language. The group enjoyed a close relationship with church leaders, including Pope Yousab. The Egyptian government dissolved the association on 24 Apr. 1954 after accusing it of stoking civil strife between Christians and Muslims, based on a letter signed by the patriarch. When Hilal asked the pope about the letter, the latter said his servant had sent it. He was asked to send another letter stating this to the government, but the pope refused. In July of the same year, five members of the Coptic Nation sneaked into the patriarchate in Clot Bey and forced the pope to sign a document abdicating his position. The pope was then taken to a monastery in Misr al-Qadima while the group released the statement. Police forces managed to enter the church and arrest them. They were later released after Pope Yousab withdrew his complaint following pressure from the Holy Synod. It was rumored that some members of the synod knew of and sanctioned the abduction.

provision was added on the altar ballot that wholly undermined the popular basis of the papal selection: it would not longer be enough for the winning candidate to receive a majority of votes, even an overwhelming majority. Instead, the altar ballot would be conducted among three candidates who received the most votes.¹⁴ [Just an observation: it might be a good idea to put a footnote in this graf explaining what the altar ballot is. Not everyone will know and it's only incidentally explained much later in the paper]

Ethiopian Emperor Haile Selassie pressured Abd al-Nasser to expedite the election of the patriarch. The elections were held in 1959, with 468 electors voting. The altar ballot resulted in the selection of Kyrillos VI as patriarch. Given the good relationship between the president and the patriarch, the role of the General Congregation Council was marginalized, first with the abolition of the confessional courts and the transfer of their prerogatives to the personal status courts for non-Muslims and later with the issuance of a decree in 1960 establishing the Coptic Orthodox Endowment Agency. In the final years of Pope Kyrillos VI's tenure, he obtained a government decree dissolving the Congregation Council.¹⁵ [But the congregation council exists today, right? This is confusing. Was the council in just that one form dissolved? Or was the whole idea abolished and then later revived?]

When Kyrillos VI died on 9 March 1971, the bylaws were amended to abolish the role of the Congregation Council in papal nominations, endorsements, and other obsolete elements of the old bylaws. Elections were held under the 1957 amended bylaws on 20 Oct. 1971, bringing in Shenouda III as patriarch, the general bishop for Christian education.

In the last year's of Shenouda's patriarchate, Coptic voices rose demanding a revision of the election statute and a fulfillment of promises previously made by the pope, who had scathingly criticized the statute before becoming patriarch, putting him in conflict with his predecessor, Kyrillos VI. As a bishop, Shenouda elaborated his opinion of the bylaws in several articles in *al-Kiraza*, including an article in 1965 titled, "The People Have the Right to Choose Their Shepherd." He wrote, "People have the right to choose the person in whom they believe and have confidence. God himself loves freedom and does not compel a person against his will nor guide him despite himself, even to goodness. God, out of His inordinate esteem for freedom, gave us the freedom to break His commandments. The people, not only the clergy, have the right to choose, in furtherance of an important principle. You choose, we perform."

14- William Suleiman, "al-Turath al-kanasi al-Qibti fi ikhtiyar al-jalis 'ala kursi al-qiddis Murqus al-rasul," *al-Talia*, Aug. 1971.

15- *Ibid.*

The election of the pope was the subject of some discussion at the conference of the laity in 2008 and 2009, where a proposed election statute was drafted and later submitted by the conference coordinators to Pope Shenouda III. Having changed his position since ascending the papal throne, Shenouda said in one of his sermons that democracy did not mean that every person had the right to elect the patriarch—senior ecclesiastical positions, especially the patriarchate, could not be left to the general public because they do not know the prerogatives of the religious leader or the teachings of the Bible and can be swayed by a strong speech “and other things I’m embarrassed to speak of.” He said that the bylaws had not been amended because he feared it would be stigmatized as a statute that had been tailor-made for a specific purpose.¹⁶

Pope Shenouda III died in extraordinary circumstances, during Egypt’s first transitional period and amid all the difficulties and challenges facing both the nation and the church. The country was under the administration of the SCAF, led by Field Marshal Mohamed Hussein Tantawi. The People’s Assembly had an Islamist majority that did little to reassure religious minorities. There were competing factions within the church, and bishops with the papal court had much influence due to their manifold relationships with the security apparatus. Meanwhile, Coptic youth took part in numerous protest activities as part of the Egyptian revolution and broke the pattern of blind obedience to Coptic clerics.

A total of 88 members of the Holy Synod (comprised of 112 archbishops and bishops), as well as eight other members who had given proxies their vote, met and decided to preserve the 1957 statute despite its problematic aspects, while allowing new interpretations of some provisions to facilitate its application. The Holy Synod ostensibly based its decision on a desire to avoid a prolonged selection process and preclude any crises that might affect the church’s image in the eyes of the state and Christians. They synod added that any change to the statute required a new presidential decree, a long and arduous process, especially given “unpropitious political conditions.”¹⁷

Acting patriarch Father Bakhomius received an endorsement to amend the statute in the first year of the new papacy from the three papal candidates who reached the altar-ballot stage. The current pope, Tawadros II, was chosen on 2 November 2012, becoming the 118th patriarch of the Coptic Orthodox Church.

16- Shenouda’s weekly sermon, Wed., 4 Nov. 2009, at the St. Mark’s Cathedral in Abbasiya.

17- Acting patriarch Father Bakhomius in an interview with Watani, 1 Apr. 2012.

The new bylaws: no dialogue, discrimination codified

Church leaders pursued a non-democratic path to draft, discuss, and adopt the bylaws. A small number of clerics and laymen wrote the statute, after which it was submitted to the Holy Synod for discussion and approval. The statute was not put up for community-wide discussion through various Coptic civic organizations, and the wider Coptic laity was not given an opportunity to participate in crafting the statute or opining on its features. Legal experts were not canvassed for their opinion of the statute's content and its consistency with international human rights conventions and the Egyptian constitution, and the previous efforts of various bodies and individuals were disregarded, among them a draft statute proposed by the laity.

According to the process announced by the church, only two bodies were responsible for writing and approving the statute. The first was the nomination committee, comprised of nine bishops and nine lay members of the General Congregation Council and the Coptic Endowment Agency, headed by Father Bakhomius, the archbishop of Beheira and the former acting patriarch. The Holy Synod announced the formation of this committee on 27 March 2012, to supervise the election of the new pope following the death of Pope Shenouda III.

After the election of Tawadros II in November 2012, the committee continued to operate, pursuant to a prior agreement, working on amending the statute for the papal elections. It met several times and submitted a preliminary draft of the amendments to the secretary of the Holy Synod, who in turn forwarded it to members of the synod to solicit their opinion. After a consensus was reached, the draft and comments were returned to the nomination committee, which discussed the changes and then submitted a revised statute.

The second party involved in drafting the statute was the Holy Synod, which convened an extraordinary session on 20 February 2014 to approve the new bylaws. An electronic vote was held on each article, with 88 archbishops and bishops in attendance out of 112; eight members were absent and gave their vote to proxies.

This process is illustrative of the competition that has existed for more than 140 years—since 1870, to be precise, as examined in part above—over the limits of the clergy’s authority over the church as a massive institution that plays not only a religious role, but a social and developmental one as well, and is linked to the fact that the church has legal personhood and representation in state institutions and numerous international bodies. An issue in this competition is the role of ordinary Copts as fundamental stakeholders in the management of this institution and decision-making within it, and the related issue of identifying the person(s) responsible for writing the bylaws in whose framework the church functions.

In this regard, it is worth quoting remarks by Father Rafael, the secretary of the Holy Synod, made in an interview with CTV, subsidiary to the Coptic Church, on the participation of laypeople in the drafting of the statute: “We must understand that according to the rules of the church and the bylaws of the Holy Synod, the sole party responsible for lawmaking and codification in the church is the Holy Synod,” he said. “We may be guided by their [lay] opinions, but the responsible party before God is the Holy Synod. The church is democratic only in administrative things. In terms of doctrine and heritage, it is responsible.”¹⁸

Father Rafael added as a note of caution, “If people vote on something wrong, we’d be obliged to listen to them.”

Provisions of the statute

The statute adopted by the synod contains 32 articles in six chapters. It regulates the declaration of the vacancy of the papal throne, the appointment of an acting patriarch and his authorities, the formation of a high committee to elect the pope, papal candidacy, electors, election procedures, and the announcement of the new pope.

The first and second articles state that the selection of Christian religious leaders is a religious matter for Orthodox Copts and that the presidential decree approves the selection made in the public altar ballot among three candidates elected by the clergy and representatives of the Coptic people. The language differs from that of the 1957 statute, which states that the pope is appointed by presidential decree.

Article 18 of the 1957 statute states, “...a presidential decree shall be issued for the appointment of the patriarch, and the acting patriarch shall consecrate him in accordance with church traditions.” In contrast, the corresponding article in the new statute (Article 25) states, “...a presidential decree shall be issued for the approval of the selection of the patriarch. The acting patriarch and the archbishops and bishops of the church shall consecrate and enthrone him on the specified day according to church traditions.”

18- Ibid.

The nature of the presidential decree has changed between the two versions. Whereas previously it was an administrative decree with some measure of force and entailed the president's direct intervention in the elections, as the person with the power to appoint, in the new statute, the president's task is merely to approve, a formal measure. Keeping in mind Article 3 of the constitution, the bylaws adopted by the Holy Synod entail more independence for the religious institution to select its leaders, removed from the direct intervention of state institutions.

One example of the impact of the legal formulation of the relationship between the presidential decree and the independence of the Christian religious establishment is seen in the experience of Copts and church leaders from September 1981 to January 1984. On 2 September 1981, President Anwar al-Sadat issued a decree repealing his previous decree appointing Shenouda as the Coptic patriarch and formed a committee of five bishops to perform the papal tasks, putting Shenouda under house arrest in a monastery. Following the murder of Sadat and Hosni Mubarak's assumption to the presidency, most of those imprisoned by Sadat's notorious arrest orders were released, but Shenouda remained exiled from the St. Mark's Cathedral and unable to fulfill his religious office throughout this period. Pope Shenouda filed suit with the Court of Administrative Justice seeking the repeal of Sadat's decree on the grounds of lack of jurisdiction and because it contravened all norms and customs observed since the emergence of Christianity in Egypt and the entrance of Islam. The court denied the suit while also abolishing the papal committee, citing several reasons, among them that the statute for the election of the pope specified that he was to be appointed by republican decree.¹⁹

The new bylaws give a committee composed of the secretary of the Holy Synod and the two archbishops and bishops with seniority of ordination with the power to convene a meeting of the synod to take expedited measures pending the election of an acting patriarch to officially represent the church and supervise it in the event of a papal vacancy, whereas the 1957 statute vested this power with the most senior ordained archbishop. The new statute specifies the way in which the acting patriarch is selected and defines his prerogatives in a way that forestalls his ability to take any measures that would change the composition of the Holy Synod or the division of dioceses.

The bylaws create a supreme committee for the election of the pope to act as a liaison between the Holy Synod and the subcommittees created by the high committee to oversee the candidacy process, the registration of the electors, and the election process. The high committee has the authority to issue decrees and regulations. Under the 1957 statute, the Holy Synod forms a committee of 19 members, eight of them archbishops and bishops and the other eight laypersons nominated by the General Congregation Council and the Coptic Endowment

19- Ruling issued by the Court of Administrative Justice on 12 Apr. 1984 in case no. 934/63JY, circuit for individual and agency disputes.

Agency. The new bylaws specify that 10 percent of the membership of the high committee, to be presided over by the acting patriarch, must come from Holy Synod and a corresponding percentage from former and current members of the General Congregation Council, former and current members of the Alexandrian Congregation Council, and current and former members of the board of the Coptic Endowment Agency.

Stages in the papal elections

The statute provides for the papal election in three stages, with each stage requiring different conditions of candidates and electors.

Stage one: candidacy applications and disqualifications by the high committee

Article 8 of the new bylaws sets forth the conditions and qualifications for papal candidacy. The statute tends to restrict and narrow the right of candidacy and imposes restrictions not only on potential candidates, but their families as well. Some of the language is vague and ambiguous and some provisions are open to several interpretations or refer to extraordinary conditions whose nature is not specified.

The 1957 bylaws set forth just three conditions for papal candidates. These are all preserved in the new bylaws, although their language is changed to further restrict the right of candidacy, and three new conditions are added.

Condition one: nationality and religious identity

Like the old statute, the new bylaws restrict candidacy to Coptic Orthodox Egyptians, but they add another restriction: both parents of potential candidates be Orthodox Copts. This provision may deny candidacy to persons who meet all other conditions and requirements, punishing them for their parents' religious identity.

Condition two: ecclesiastical rank and title

This condition was amended to bar a segment of Holy Synod members from candidacy. The old form was maintained which limits candidacy to those belonging to closed monastic orders who have never been married, whether monk or general bishop, and meet all the conditions set forth in church laws and traditions. The new statute adds a prohibition of candidacy for archbishops and diocesan bishops except in cases of the utmost necessity and in accordance with church laws.

This article references a long-standing dispute over the right of candidacy for bishops and archbishops—a disagreement not only among the laity but among the clergy as well. There are, roughly speaking, two factions. The first supports papal eligibility for archbishops and bishops for several reasons. There are historical precedents, as several bishops and archbishops were selected as pope, especially in the first half of the 20th century. Moreover, the office of patriarch requires experience, and most bishops have acquired administrative and pastoral experience in the course of their work. Finally, the will of the electors cannot be denied, and in the period between 1928 and 1959, three diocesan bishops became patriarchs: Father Yoannis, the metropolitan archbishop of Beheira; Father Macarius, the metropolitan archbishop of Assyout; and Father Yousab, the metropolitan archbishop of Gerga.

The second faction believes that bishops should not be eligible for the papacy for religious reasons. Bishops can be ordained only once under church tradition, and a move from a bishopric to the patriarchate is not considered a promotion, but rather an advancement among equals. This faction also fears that bishops will be subject to the influence of their aides and retinue on their decisions and counselors.²⁰

According to statements from several members of the Holy Synod and the synod secretary, this condition was among the most hotly contested. The synod ultimately sought out a middle position that permits candidacy for general bishops and limits candidacy for archbishops and diocesan bishops to cases of utmost necessity, provided it is consistent with church law.

Yet, this latter provision is vague and open to numerous interpretations depending on the attitude of the Holy Synod at any particular time. What are the standards that determine a state of utmost necessity? And who is responsible for determining it? Is it the person who seeks candidacy, the Holy Synod, or the will of the electors? And which church laws exactly? How is consistency determined? The bylaws do not answer these questions, and they further restrict papal candidacy for members of the Holy Synod.

Condition three: age and duration of monastic service

The new statute amends the age limits for candidacy and set a maximum age, while maintaining the 1957 statute's requirement for monastic service. The new bylaws require candidates to be at least 45 years old, instead of the previous 40 years old, and also state that candidates may be no older than 65 at the time the patriarchal throne becomes vacant. Candidates must have been part of a monastic order for at least 15 years.

20- Op. cit. [which reference does this refer to? Not the court ruling?]

Condition four: reputation

The new statute adds a provision requiring candidates and their families to have a record of good repute in and out of the church. It thus allows a potential candidate to be penalized and lose his eligibility due to questions about a member of his family. Punishing a person for the acts of another who happens to be related to him is illegal and does not comport with human rights values. It also allows spurious charges to be brought against candidates, especially since the term “record of good repute” is undefined. Who issues such records and for whom?

Condition five: candidate’s vision

The new statute adds another condition not found in the 1957 bylaws requiring that candidates not support trends alien to the essence of the Coptic Orthodox Church, whether these are deviant doctrines or trends not approved by church consensus. This condition is vague and overly broad and could be used to disqualify reformist trends in favor of conservatives in the Holy Synod.

Condition six: former candidates

A third new condition adopted by the Holy Synod prohibits previous papal candidates from a second candidacy, ostensibly due to fears that the elections will come to resemble political electoral battles that involve methods to mobilize and influence electors that are anathema to church teachings. This was also a controversial condition, as some members of the Holy Synod believe that it denies candidacy to qualified persons.

The bylaws also specify several qualifications that are not in the 1957 statute. They require candidates to hold a university degree, have familiarity with technology and modern communication methods, and speak Arabic and Coptic and have a familiarity with one other foreign language. Additionally, candidates must have profound knowledge of Orthodox canon sciences and laws and teach them faithfully.

Persons who meet these conditions file the necessary papers after obtaining the signed endorsement of archbishops, bishops, or abbots who comprise 10 percent of members of the Holy Synod or 20 percent of current and former members of the General Congregation Council, the Alexandrian Congregation Council, and the board of the Coptic Orthodox Endowment Agency; endorsements must state the reasons for candidacy. The new statute thus increases the number of endorsements required for candidates, up from six members of the Holy Synod or 12 members of the Congregation Council and the Coptic Endowment Agency board in the 1957 statute.

The high committee considers applications and announces a list of endorsed candidates whose applications were accepted. Challenges to the list may be lodged within ten days, provided the contestant is registered on the list of electors; the challenge must state cause and be supported by documentation.

The high committee examines challenges and holds a secret ballot to prepare the final list of papal candidates from among the list of endorsed candidates. The final list must include at least five names and no more than seven. The committee then sets the date of elections, the altar ballot, and the date of consecration and enthronement.

With the announcement of the candidate list, the first phase of the papal elections is concluded. In this phase, the list of endorsees is pruned, and the right of Copts to contest the list is limited to registered electors. The right of electors to freely and directly chose the patriarch from among the endorsed candidates is also restricted, as the disqualification of endorsed candidates is left to members of the high committee, whose decisions are binding and not subject to appeal.

Stage two: engineering the electoral body

Before turning to the electors in the proposed statute, we should address the most significant criticisms of the 1957 statute concerning the cohorts with the right to vote and the conditions for their inclusion among the electors, since it entailed discrimination on the basis of social status, class, and occupation. The 1957 bylaws give clerics the power to choose the lay electors, which strengthened the clergy's control over electors. In addition, the 1957 bylaws give Coptic newspaper owners, chief editors, and editors of dailies the right to vote on the condition that they are members of the Journalists Syndicate.

One of the conditions in the 1957 bylaws stated that electors must be a current or former employee with the Egyptian government or agencies with an annual salary of at least LE480; an employee with a bank, company, or commercial business or the equivalent with an annual salary of at least LE600; or a person who pays at least LE100 annually in income tax. In the latter case, the elector must be literate.

The new statute calls for the high committee to form two subcommittees: the first is the elector registration committee, responsible for receiving registration applications, examining them, and preparing and announcing the final list, while the second committee accepts and considers challenges from electors who are not included on the final list.

The statute also sets more general conditions on electors, requiring them to hold an academic degree, though it exempts priests, monks, and nuns. This condition denies a broad swathe of Coptic Christians, especially the elderly, the chance to participate in the elections and sets priests, monks, and nuns apart from other Christians.

The larger issue is the composition of the electorate. Article 15 divides the electors into three categories.

The first category is those persons with the right to vote due to their religious office; it includes:

1. Archbishops and bishops of the Coptic Orthodox Church in Egypt and abroad and all members of the Holy Synod.
2. Archbishops, bishops, and delegates of orthodox churches bound to the Coptic Orthodox Church by agreements that provide for their participation in papal elections.
3. All priests of monasteries and the Holy See of St. Mark who were ordained prior to the death of the patriarch, in and out of Egypt.
4. Abbesses of convents and 10 percent of the nuns of every convent of the Coptic Orthodox Church recognized by the Holy Synod, in and out of Egypt, including representatives and trustees. The nuns are to be chosen based on seniority of consecration. In the event of an odd number of nuns, the number shall be rounded up.

The second category includes those persons with a relationship to service and teaching in the Orthodox Church, including:

5. Twelve members in service in each specialized general bishopric, such as the Services and Youth Bishops, as well as general bishops.
6. Professors in accredited Orthodox seminaries and theological institutes in and out of Egypt.
7. A number of representatives from each diocese equivalent to the number of non-monastic priests, at least 12 members, with due regard shown to include representation for members of church councils, service trustees, Christian journals and satellite channels, youth, and women.
8. The board of the Choristers Guild subordinate to the papal diocese.
9. All male votaries in all dioceses consecrated prior to the pope's death.
10. The General Committee of Female Votaries, female votaries of Cairo and Alexandria, and the trustee of female votaries for each diocese.²¹
11. Current and former members and deputies of the General Congregation Council, current and former members of the Congregation Sub-councils in each diocese in and out of Egypt, and current and former members of the board of the Coptic Endowment Agency. In dioceses that do not have a congregation council, the bishop shall choose five laypeople on the diocese council, if it exists.

21- In Orthodox teachings, votaries are virgins or widows devoted to religious service and unencumbered by familial obligations. They are ordained as deacons to help the bishop or priest in various church services, especially social services for women and children. A canon law statute regulates the acceptance of consecrated women, their teachings, and their roles in the church.

Note that the bylaws give the religious leaders of archbishoprics and bishoprics the power to choose diocese representatives for the diocese under paragraphs 5 and 7, without setting forth clear, specific standards for selection or providing for gender representation.

The third category includes persons with the right to vote based on their state office or their occupational or professional position, including:

12. Current and former ministers, governors, and members of parliamentary bodies.
13. Civil servants and public-sector employees at the rank of at least underminister; members of judicial bodies at the rank of at least senior judge; members of the armed forces and police at the rank of at least major general; members of the diplomatic corps at the rank of ambassador; and university professors. This item includes current and former members of these bodies.
14. The chief editors of officially licensed printed newspapers and the chairs of Christian television channels.
15. Former and current members of the board of professional syndicates, the chambers of commerce and tourism, and the industrial federations.

It is not clear why the Holy Synod included these categories in the electorate to the exclusion of others, but the bylaws entail discrimination on the basis of political and executive office. The statute affirms participation by members of parliamentary bodies, ministers, and governors while also distinguishing civil servants from private-sector employees, thus making government work a criterion for selection. Even within government service, the bylaws discriminate on the basis of professional attainment, allowing underministers to participate in the elections, but barring other civil servants. The same is true of members of judicial bodies, the armed forces, the police, the diplomatic corps, and the university.

The statute entails discrimination on the basis of occupation, allowing the heads of newspapers and Christian television stations to vote to the exclusion of other professions. It also allows current and past members of the boards of professional syndicates and chambers of commerce to register on the list of electors for no clear reason.

The bylaws entail gender discrimination as well, giving the right to vote to all male votaries in all dioceses with no numerical or administrative ceiling but limiting it to the General Committee of Female Votaries, female votaries of Cairo and Alexandria, and the trustee of female votaries in each diocese.

These are the classes of people with the right to register as electors. As regards conditions for electors, one of

the most important changes in the statute is the omission of the condition of nationality from the 1957 bylaws, which required electors to be Egyptian. This is a positive step insofar as there are non-Egyptian bishops and a great many church members who were born and raised outside of Egypt in the second or third generation of the Coptic diaspora and thus hold foreign citizenship. In fact, one bishop in the Holy Synod was barred from voting in the papal elections of 2012 because he does not hold Egyptian citizenship. The new bylaws also lower the minimum age of electors to 25 from 35. Nevertheless, the new statute does entail discrimination on the basis of education, requiring electors to hold an academic degree, although it exempts priests, monks, and nuns from this.

On election procedures

There are three problematic aspects of election procedures in this phase.

Firstly, under the bylaws, the election is valid regardless of the number of electors present; in other words, no quorum is required. This means that in theory a minority of electors could choose the pope if a majority boycotted the elections or prevented them from reaching the voting stations. The higher the quorum required—at least above half—the more expressive the result will be of the will of all the electors rather than a subset of them. This is even more important since the electors themselves are representatives for all Copts and number only a few thousand.

Secondly, the statute allows electors to give their vote to another person using an official proxy, which contravenes democratic principles. Empowering one person to vote in another's stead undermines the value of democracy, allows one to shirk the responsibility to choose, and affects the secrecy of the ballot and thus, the elector's decision.

Thirdly, electors may select the names of up to three papal candidates.

Stage three: the altar ballot

The altar ballot includes the three candidates who receive the most votes in the second stage and takes place in accordance with church rules and traditions in a mass held by the Holy Synod, presided over by the acting patriarch or his deputy. The final stage in the papal selection, the altar ballot was and remains a controversial measure among both the clergy and the laity.

Of the 118 patriarchs of the Coptic church, only 11, or less than 7 percent, have been chosen using the altar ballot, including the last three popes. It has never been used more than three times in one century. The altar ballot was first used in 777 after the death of Pope Mina I. After the church was without a patriarch for two days, 100 monks were chosen and disqualifying rounds were held until just three remained. The ballot was held in the altar—hence, the name. Four ballots are taken, with the name of one candidate inscribed on each ballot, followed by the expression, “In the name of Jesus Christ, the Son of God.” If the fourth ballot, left blank, is chosen, it means that God is not satisfied with the candidates and the procedures are repeated. This process brought Yoannis IV to the papal throne, the 48th patriarch.

After the death of Athanasius III, one faction in Cairo nominated Father Gabriel as patriarch while another supported Yoannis Ibn Abi Said. The two parties were at loggerheads while bishops rallied around one camp or the other. It was decided to resolve the situation through the altar ballot. Gabriel’s name was chosen, but Yoannis and his supporters contested it and it was invalidated. Yoannis then became Pope Yoannis VI on 1 January 1262. He served for six years and nine months before retiring to his monastery, whereupon Gabriel assumed the papacy from 985 to 987. Gabriel was removed and Yoannis reinstated by order of the sultan in 987; Gabriel died during Yoannis’s second tenure as patriarch. During this period, the church had two orthodox popes at the same time.²²

Some researchers believe the altar ballot was included in the 1957 bylaws due to the political climate after the 1952 revolution, when it was seen as inappropriate that the president of the republic be chosen by referendum while the pope was elected.²³ All three times the altar ballot has been applied under the 1957 statute, the winner has not been the person who garnered the most votes from electors. Pope Shenouda and Pope Tawadros both came in second among the electors, while Pope Kyrollis VI polled third.

In his book *The Inevitability of Advancement in Ecclesiastical Work*, Father Bafnotius, the bishop of Samalout and a member of the current Holy Synod, describes the altar ballot as a silly idea that has no basis in Christian. “The foolish idea of the altar ballot—bringing in a child to randomly choose one of the ballots—has no spiritual, ecclesiastical basis. In fact, it falls in the realm of frivolity, a lottery of chance and happenstance. There is no canonical, ecclesiastical basis for this heresy because it does not rely on genuine conviction of faith.”²⁴

22- Kamil Salih Nakhla.

23- Ibid.

24- Hatmyat al-nuhud bil-‘amal al-kanasi, Maktabat al-Muhibba, 2007.

Conclusion

1. The proposed statute preserves the spirit of the 1957 statute with no radical changes. It renders the elections a purely formal process, increasing the role of the clergy at the expense of the Christian laity. Democracy is not realized simply by adopting the term as a byword or even by complying with its purely procedural aspects. It is realized when its principles and values are implemented on the ground, first and foremost the right of participation and free choice without pressure, influence, or interests.

2. The statute was drafted without representation of divergent opinions. Father Bakhomius, the acting patriarch in 2012, extended the work of the papal election committee to writing the bylaws, while members of the Holy Synod produced the final draft in consultation with a few legalists close to church leaders, without putting the statute up for public debate or discussion among the laity. For example, the opinion of the congregation councils was not solicited despite their relationship with the Holy Synod.

3. The bylaws formally expand the voter base by increasing the number of electors in the papal elections, but the statute renders this meaningless. The increase is effected from above, channeled through authority figures. Bishops or archbishops chose the electors in their districts, and it is natural for electors to vote for the candidate approved by the cleric, which harms the electoral process. In addition, priests are subordinate to bishops both ecclesiastically and financially and will therefore be subject to influence by their religious leaders. In short, most of the electorate is subject to the influence of archbishops and bishops. Moreover, the bylaws give the clergy the right to select both papal candidates and electors.

4. According to Christian teachings, members of the church are equal without regard to race, gender, or social class, but the statute entails various forms of discrimination on the basis of gender, profession, occupational rank, and syndicate membership. Nor does the statute include guarantees for appropriate gender and categorical representation for men, women, youth, and others.

As such, the statute contravenes the church's declared position that the Biblical precept is that the flock chooses its shepherd and that everyone can participate in the selection—man or women, youth or elder, engineer or

construction worker, rich or poor, for elections are not conditional on one's profession. It also contravenes several principles enshrined in international human rights law, entailing flagrant discrimination between the members of one religious group. This discrimination is based on a vague constitutional text that vests the power to choose religious leaders with the adherents of that religious minority in accordance with their own laws. But the constitutional text does not set forth a mechanism for exercising this choice or state whether the church is the body authorized to determine the rules governing the selection process. In turn, an interpretation of Article 3 of the constitution, on which this statute is based, is required, similar to the Supreme Constitutional Court's interpretation of Article 2 of the 1971 constitution. That interpretation limited the right to apply the principles of Islamic law to members of elected legislative bodies, which played a significant role in alleviating the onus of this discriminatory provision. Pending an interpretation of Article 3, we believe that the church has arrogated to itself fundamental legislative prerogatives, which sets a worrying precedent.