

**0806670 [2010] RRTA 333 (6 May 2010)**

**DECISION RECORD**

**RRT CASE NUMBER:** 0806670

**DIAC REFERENCE(S):** CLF2005/32247 CLF2005/9805 CLF2007/38254  
CLF2008/88955

**COUNTRY OF REFERENCE:** Egypt

**TRIBUNAL MEMBER:** Linda Kirk

**DATE:** 6 May 2010

**PLACE OF DECISION:** Melbourne

**DECISION:** The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act being a person to whom Australia has protection obligations under the Refugees Convention.

## **STATEMENT OF DECISION AND REASONS**

### **APPLICATION FOR REVIEW**

1. This is an application for review of a decision made by a delegate of the Minister for Immigration and Citizenship to refuse to grant the applicant a Protection (Class XA) visa under s.65 of the *Migration Act 1958* (the Act).
2. The applicant, who claims to be a citizen of Egypt, first arrived in Australia [in] September 2004, departed [in] March 2006 and then returned to Australia [in] March 2006. He applied to the Department of Immigration and Citizenship for a Protection (Class XA) visa [in] May 2008. The delegate decided to refuse to grant the visa [in] September 2008 and notified the applicant of the decision and his review rights by letter dated [in] September 2008.
3. The delegate refused the visa application on the basis that the applicant is not a person to whom Australia has protection obligations under the Refugees Convention.
4. The applicant applied to the Tribunal [in] October 2008 for review of the delegate's decision.
5. The Tribunal finds that the delegate's decision is an RRT-reviewable decision under s.411(1)(c) of the Act. The Tribunal finds that the applicant has made a valid application for review under s.412 of the Act.

### **RELEVANT LAW**

6. Under s.65(1) a visa may be granted only if the decision maker is satisfied that the prescribed criteria for the visa have been satisfied. In general, the relevant criteria for the grant of a protection visa are those in force when the visa application was lodged although some statutory qualifications enacted since then may also be relevant.
7. Section 36(2)(a) of the Act provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia to whom the Minister is satisfied Australia has protection obligations under the 1951 Convention Relating to the Status of Refugees as amended by the 1967 Protocol Relating to the Status of Refugees (together, the Refugees Convention, or the Convention).
8. Further criteria for the grant of a Protection (Class XA) visa are set out in Part 866 of Schedule 2 to the Migration Regulations 1994.

### **Definition of 'refugee'**

9. Australia is a party to the Refugees Convention and generally speaking, has protection obligations to people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee as any person who:
  - owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.

10. The High Court has considered this definition in a number of cases, notably *Chan Yee Kin v MIEA* (1989) 169 CLR 379, *Applicant A v MIEA* (1997) 190 CLR 225, *MIEA v Guo* (1997) 191 CLR 559, *Chen Shi Hai v MIMA* (2000) 201 CLR 293, *MIMA v Haji Ibrahim* (2000) 204 CLR 1, *MIMA v Khawar* (2002) 210 CLR 1, *MIMA v Respondents S152/2003* (2004) 222 CLR 1 and *Applicant S v MIMA* (2004) 217 CLR 387.
11. Sections 91R and 91S of the Act qualify some aspects of Article 1A(2) for the purposes of the application of the Act and the regulations to a particular person.
12. There are four key elements to the Convention definition. First, an applicant must be outside his or her country.
13. Second, an applicant must fear persecution. Under s.91R(1) of the Act persecution must involve “serious harm” to the applicant (s.91R(1)(b)), and systematic and discriminatory conduct (s.91R(1)(c)). The expression “serious harm” includes, for example, a threat to life or liberty, significant physical harassment or ill-treatment, or significant economic hardship or denial of access to basic services or denial of capacity to earn a livelihood, where such hardship or denial threatens the applicant’s capacity to subsist: s.91R(2) of the Act. The High Court has explained that persecution may be directed against a person as an individual or as a member of a group. The persecution must have an official quality, in the sense that it is official, or officially tolerated or uncontrollable by the authorities of the country of nationality. However, the threat of harm need not be the product of government policy; it may be enough that the government has failed or is unable to protect the applicant from persecution.
14. Further, persecution implies an element of motivation on the part of those who persecute for the infliction of harm. People are persecuted for something perceived about them or attributed to them by their persecutors. However the motivation need not be one of enmity, malignity or other antipathy towards the victim on the part of the persecutor.
15. Third, the persecution which the applicant fears must be for one or more of the reasons enumerated in the Convention definition - race, religion, nationality, membership of a particular social group or political opinion. The phrase “for reasons of” serves to identify the motivation for the infliction of the persecution. The persecution feared need not be *solely* attributable to a Convention reason. However, persecution for multiple motivations will not satisfy the relevant test unless a Convention reason or reasons constitute at least the essential and significant motivation for the persecution feared: s.91R(1)(a) of the Act.
16. Fourth, an applicant’s fear of persecution for a Convention reason must be a “well-founded” fear. This adds an objective requirement to the requirement that an applicant must in fact hold such a fear. A person has a “well-founded fear” of persecution under the Convention if they have genuine fear founded upon a “real chance” of persecution for a Convention stipulated reason. A fear is well-founded where there is a real substantial basis for it but not if it is merely assumed or based on mere speculation. A “real chance” is one that is not remote or insubstantial or a far-fetched possibility. A person can have a well-founded fear of persecution even though the possibility of the persecution occurring is well below 50 per cent.
17. In addition, an applicant must be unable, or unwilling because of his or her fear, to avail himself or herself of the protection of his or her country or countries of nationality or, if

stateless, unable, or unwilling because of his or her fear, to return to his or her country of former habitual residence.

18. Whether an applicant is a person to whom Australia has protection obligations is to be assessed upon the facts as they exist when the decision is made and requires a consideration of the matter in relation to the reasonably foreseeable future.

## **CLAIMS AND EVIDENCE**

19. The Tribunal has before it the Department's and the Tribunal's file relating to the applicant. The Tribunal also has had regard to the material in these files as well as the material referred to in the delegate's decision, the audio recording of the first Tribunal hearing and other material available to it from a range of sources.

### **Background**

20. The applicant is a [age deleted: s.431(2)] year old male who was born in [City 1]/El Minia, Egypt on [date deleted: s.431(2)].
21. In his application for protection he claims that he is of Coptic Orthodox Christian ethnicity and Coptic Orthodox Christian religion. He claims to have commenced a defacto relationship in Australia in November 2006. He speaks, reads and writes Arabic and English. He claims to have lived at the same address in Egypt from birth until his departure from that country. He completed 16 years of education in Egypt and graduated from the Assiut University with a [Bachelor Degree] in 2001. He claims to have worked as a [occupation deleted: s.431(2)] in Egypt from graduation until his departure from that country in September 2004, apart from a period of time during which he completed military service.
22. The applicant was granted a class TU, subclass 570 (student) visa by the Australian Embassy in Cairo [in] August 2004. The visa was granted for a stay until [a date in] February 2005. The applicant departed Egypt [in] September 2004 and arrived in Australia [in] September 2004.
23. [In] September 2004 a further student visa was granted to the applicant with work limitations, valid until [a date in] February 2005.
24. [In] February 2005 the applicant lodged an application for a Protection (Class XA) visa which was refused by the Department [in] February 2005.
25. [In] March 2005 the applicant lodged an application for a class BR, subclass 134 (Skilled Matching) visa which was s.48 barred and deemed invalid.
26. [In] March 2005 the applicant applied to the Tribunal for a review of the decision.
27. [In] April 2005 the applicant lodged a further application for a class BR, subclass 134 (Skilled Matching) visa which was deemed invalid.
28. [In] September 2005 the Tribunal affirmed the decision not to grant a protection visa to the applicant.
29. [In] October 2005 the applicant lodged an appeal to the Federal Court in relation to the Tribunal's decision.

30. [In] December 2005 the applicant sought Ministerial Intervention but was deemed not to meet the guidelines.
31. The applicant was granted a Bridging B visa [in] February 2006 and departed Australia [in] March 2006, returning to Australia [in] March 2006. Departmental records indicated that the applicant travelled to Brunei.
32. [In] March 2006 the applicant lodged an application for a Skilled Independent Visa class BN, subclass 136 which was refused.
33. [In] February 2007 the judicial review was granted in favour of the Department.
34. [In] March 2007 the applicant sought Ministerial Intervention but was deemed not to meet the guidelines.
35. [In] May 2008 the applicant sought Ministerial Intervention which was deemed inappropriate to consider given that the applicant had lodged a second protection visa application [in] May 2008.

### **Application for Protection Visa**

36. In a statement accompanying his application for protection the applicant claimed that he was born into a Christian family in Egypt and when he was young he would get harassed by young Muslim kids who would fight with Christian children. He claimed that despite this harassment he did not stop attending church. He claimed that in 2002 he went to a nearby village where most of the villagers were Muslim to attend the opening of a new church. The Muslim villagers were angry that the church was opening and he heard a big bang so he ran to the door where he discovered that one of his friends was injured and other people were throwing stones at the church. His father told him to leave so they left and returned home. He claimed that since this incident he stopped going to church because he became scared at the increasing incidents of attacks on churches. He claimed that his fears would increase every time he heard about attacks on Christian homes, shops and churches. When he was at university, he feared attacks from Muslims because the city in which he was studying was full of hostility between Muslims and Christians.
37. The applicant claimed that in 2002 he joined the armed forces to complete his compulsory military service and faced the most difficult time of his life because he served under a Muslim soldier who hated Christians and would make the applicant do extra night service every single night. He claimed that one night when he refused to serve his night duty, this man took out his knife and tried to kill the applicant.
38. The applicant claimed that he was still under call from the Egyptian army and that he had received a few calls while he was in Australia to return to the army so he feared going back there in case this happened to him again.
39. [In] June 2008 the applicant provided the Department with a further submission restating his claimed fears of harm if he had to return to serve in the army and from Muslims in the community in Egypt because of his Coptic Orthodox religion. The applicant attached reports from the United States Department of State (*Country Reports on Human Rights Practices – Egypt – 2007* and *International Religious Freedom Report 2007-Egypt*), a report from a website (*persecution.com.au*) highlighting religious discrimination against Christians in

Egypt and several newspaper and internet articles relating to clashes between Christians and Muslims in Egypt for religious reasons. The applicant claimed that the police and other authorities in Egypt would not be able to protect him from the harm that he fears.

### **Delegate's Decision**

40. In a decision dated [in] September 2008 the delegate found that the applicant is not owed protection obligations for the purposes of section 36 of the *Migration Act* and criteria 866.221 of the Migration Regulations.
41. The delegate noted that the applicant had stated that he has completed his military service in Egypt. She found that there is an obligation for the applicant to be available for the Army Reserve for a period of nine years. The role of the Army Reserve is to support the Permanent Defence Force in the event of a military emergency. This is a law of general application and applies to both males and females, regardless of religion or ethnicity. The delegate found that as the obligation to serve in the Army Reserve only applies in the event of an emergency, she did not accept the applicant's claims that he will be persecuted by Muslims if he has to fulfil an obligation with the Army Reserve. She did not consider that there is a real chance that this will happen, nor that the applicant will face serious harm or mistreatment in Egypt by Muslims on the basis of his religion.
42. In relation to the applicant's claims that he fears persecution from Muslims and that his life will be in danger if he returns to Egypt, after considering country information produced by the US State Department, the delegate noted that although the Department had been made aware of isolated claims of torture by individuals, both Muslims and Coptic Christians, these claims have been unsubstantiated. The country information also states that there is no systematic state-sponsored persecution of Christians in Egypt.
43. The delegate noted that according to the applicant's protection visa application he resided at the same address from December 1979 to September 2004 and attended University from September 1996 to November 2001, obtaining a [Bachelor's degree] and was employed in this field from 2001 until September 2004. She noted that the applicant was able to obtain a passport and a visa for travel without any difficulties.
44. The delegate noted that the applicant has claimed that there is no state protection for Christians in Egypt but he had not made any specific claims that he had sought assistance in relation to the harassment he claims to have suffered. The country information indicated that the Egyptian government will take steps to ensure that Christians are protected if they are under threats of religious violence and the authorities have also prosecuted police who have failed to protect Christians from religious violence.
45. The delegate found that there is no evidence that the Egyptian state is unable or unwilling to protect its citizens and there is no evidence that the applicant has been denied police protection. She was satisfied that if the applicant needed state protection he would not be denied it for a Convention reason.
46. The delegate concluded that the applicant does not have a genuine fear of harm on the basis of his religion.

## **Application for Review**

47. [In] October 2008 the applicant lodged an application for review of the Department's decision.
48. The applicant provided the Tribunal with a copy of the submission he had made to the Department [in] June 2008 and a translated copy of a document addressed to him as "reserve soldier" to appear at a mobilisation centre [in] May 2007 for the purposes of reserve service. He also provided the following documents:
  - A Reuters report dated 22 September 2007 headed "Nine injured, 25 held after Egypt sectarian brawl" which discussed a brawl between Christians and Muslims in Alexandria. The report stated that the authorities had detained 8 Muslims and 17 Christians as a result of the brawl that started after a Christian man took a Muslim woman into his flat. The report also stated that "relations are generally good between Egyptian Muslims and the Christian minority, which accounts for up to 10 per cent of the population. But disputes over young women and building churches sometimes lead to sectarian violence".
  - A Reuters report dated 31 May 2008 headed "Egyptian Christians, Muslims clash, killing one" which discussed a clash over disputed land near a Christian monastery in central Egypt where one Muslim was killed in gunfire and 4 Christians were wounded. The report also stated that "Christians account for up to 10 per cent of the population of Egypt and relations between them and the Muslim majority are usually harmonious. Disputes, most commonly over land, religious buildings or young women, sometimes lead to violence. Fifteen people were injured and 35 detained last year in a nearby monastery in Minya province that also began over a land dispute".
  - Two photographs from the BBC website highlighting attacks on Christians and Christian churches.
  - News reports from *compassdirect.com* highlighting arrests of Christian activists in Egypt and attacks on Christians and their property.
  - A report on religious discrimination against Copts and other Christians in Egypt from *persecution.org*.
  - The previously provided 2007 reports on Human Rights Practices and Religious Freedom in Egypt from the United States Department of State.
49. The Tribunal has read and considered all of these documents prior to making its decision in this matter.
50. [In] November 2008 the applicant requested a postponement of a Tribunal hearing scheduled [later in] November 2008 in order to be able to translate some documents relating to his case. The Tribunal agreed to this postponement.

## **Tribunal Hearing**

51. The applicant appeared before the Tribunal [in] February 2009 by video conference from [Town 1] to give evidence and present arguments.

52. At the hearing the applicant stated that he had come to Australia to study English [in] September 2004 and had not returned to Egypt since that time. He had travelled to Malaysia for a short trip in March 2006 but had otherwise been in Australia since 2004. The applicant stated that he had first applied for protection in 2005 but that application had been rejected so he had applied again.
53. The Tribunal asked the applicant why he could not return to Egypt now or in the reasonably foreseeable future. He responded that he did not want to be there. When asked why he did not want to be there, the applicant stated that he did not feel safe there because he was a Coptic Orthodox Christian and they were in the minority in Egypt so he did not feel it was a safe environment in which to live.
54. The Tribunal stated that based on the available country information it appeared that the Coptic Orthodox Church was free to operate in Egypt, that nearly 10% of the population of Egypt belonged to that church and that Coptic Orthodox Christians appeared to be freely able to practice their religion in Egypt. The applicant responded by asking the Tribunal if that was all it had heard and if it had also heard other things.
55. The Tribunal asked the applicant to detail what problems he feared he would have if he returned to Egypt. He responded that churches had been attacked, shops had been destroyed, Christians had problems with the police and Christians were discriminated against in getting government jobs. He claimed that because you are a Christian you are cursed in Egypt.
56. The Tribunal stated to the applicant that based on the country information before it, the Tribunal was aware that there were significant tensions between Muslims and Christian groups in Egypt. He responded by stating that this was good to know.
57. The applicant was asked who he feared would harm him if he returned to Egypt. He responded that he feared harm from Muslims including moderate Muslims. When asked if he feared harm from Muslims in his local area, he stated that could be. When it was pointed out that he did not appear to fear harm from any of the authorities in Egypt, he stated that sometimes he could if he got under their hands one day.
58. The Tribunal pointed out to the applicant that his answers appeared to be very vague and general rather than being specific about who he fears harm from. He responded by asking the Tribunal whether it had read his files. He stated that there were events and problems in Egypt so he could not live in that sort of environment where churches and shops were being attacked. He asked the Tribunal if it would feel safe living next to a sexual predator or even a whole lot of sexual predators in the same area. He stated that people cannot live amongst criminals and claimed that the Muslims were even worse than criminals because they really hated Christians. He claimed he could not live around people who hated him because of his religion. He claimed that Muslims considered the killing of Christians to be a part of their faith.
59. The Tribunal attempted to summarise the country information before it in relation to sectarian division and violence in Egypt but the applicant continued to interrupt in an aggressive manner and became argumentative. The Tribunal asked the applicant to desist and allow it to proceed.
60. The Tribunal stated to the applicant that there were two distinct aspects to the country information, one which related to societal sectarian problems between Muslims and



Christians in Egypt and the other which related to the actions of the Egyptian state and authorities.

61. The Tribunal stated that based on available country information it was prepared to accept that there was a significant level of tension between Muslims and Christians in Egypt, that there were frequent attacks on Christians as a result of this tension and that it was possible that a Christian living in Egypt could get caught up in such attacks and suffer harm as a result of these attacks, many of which appeared to start because of relationships between young people of different religions. The applicant was asked to comment on this information and he stated that he broadly agreed with this summary and that it was good that the Tribunal understood this. The applicant agreed with the Tribunal that based on the country information that Christians were subject to some risk of harm from Muslims within the community in Egypt.
62. The Tribunal stated that it would therefore need to look at how the authorities in Egypt would respond to this feared violence, whether they would offer effective state protection to the applicant and whether they would deny this protection for any reason. The applicant responded that the authorities could not stop the violence because only 9% of the population were Christians and most of the authorities were Muslims so they would always favour Muslims over Christians in any dispute.
63. The Tribunal stated that based on country information where there were flares up, disputes and violent attacks between Muslims and Christians, the police appeared to react quickly and arrest the people involved irrespective of whether they were Muslim or Christian. The applicant responded that this does not stop the violence. The Tribunal stated that there was no requirement for the State to provide 100% protection to all of its citizens at all times and added that even in Australia it was impossible for the authorities to stop all criminal acts or all violence. The applicant responded that in Egypt there were masses of Muslims and they comprised the vast majority of the population so the police just could not stop them.
64. The Tribunal stated to the applicant that there was no country information before it to indicate that the police would deny him protection in any way if he sought such protection from them. He responded by saying that in actual fact not everyone was the same in Egypt. The Tribunal stated that the country information before it clearly indicated that the police did act and did arrest the perpetrators of attacks by Muslims on Christians in Egypt. The applicant responded that they were not successful in stopping the violence which had been going on for a very long time and added that it was not just extremist Muslims who harmed Christians. He claimed that even moderate Muslims would be fuelled by their leaders to hate and attack Christians and Jews so when they got the chance they would attack them. He stated that the Koran did not prohibit Muslims from attacking Christians.
65. The Tribunal stated that on the basis of the country information and on the applicant's evidence at the hearing it did not appear that he would be denied state protection from the harm that he fears if he sought such protection. The applicant responded by asking why such state protection had not been successful if it existed. He claimed that there was only one government in Egypt and it did not change frequently or become unstable like in some neighbouring countries, however he did not feel safe over there because he was a Christian.
66. The Tribunal stated that based on country information it appeared that millions of Christians were able to live in Egypt without being harmed or persecuted. The applicant responded that they just lived there and went to work but they were scared because the Muslims try to stop them and threaten their lives.

67. The Tribunal stated that based on country information it appeared that the Egyptian state had some discriminatory practices that discriminated against Christians, including in areas such as restricting or limiting the building of new churches and in providing preferential treatment for Muslims in obtaining government employment. However, the Tribunal stated that based on this information it did not appear that such discriminatory practices were of the nature or extent that would constitute serious harm that would constitute persecution for the purposes of the Convention or that would in any way threaten the ability of Christians to subsist in Egypt. The applicant responded that it was true that Muslims did not accept the building of new churches in their areas and stated that the state will not help but would instead place obstacles in the way of Christians. He claimed that most new churches were only built through international pressure and the Egyptian government did not like that sort of pressure.
68. The Tribunal stated that it appeared that there was nothing that the Egyptian state did that prohibited Coptic Orthodox Christians from practising their religion, obtaining a job or living in Egypt. The applicant agreed but stated that most Christians worked for other Christians and claimed that it was not safe in Egypt and you could not survive there without hate or tension. He claimed that most of the people who are harmed in Egypt are Christians and that if they complain to the police they are detained and tortured.
69. The Tribunal stated that based on available country information it did not appear that the police acted in a discriminatory manner against Christians but appeared to act quickly and effectively to keep the peace when incidents occurred in local communities between Christians and Muslims. The applicant stated that the DVD he had with him discussed the matter of a Christian who had been tortured by the police for being a Christian.
70. The Tribunal stated that it would allow the applicant time after the hearing to provide it with a copy of this DVD and highlighted that it had postponed a scheduled hearing in November to allow the applicant the time he had requested to provide more information, including this DVD. The applicant stated that he would have preferred to view the DVD with the Tribunal and offer comments about the DVD as it was playing. The Tribunal stated that it was happy for the applicant to either provide those comments at the hearing or to provide them in writing after the hearing. The applicant was reluctant to accept either of these suggestions and argued strongly that he wanted to play the DVD at the hearing, even though he was made aware that the facilities to do so were not available. The Tribunal highlighted the significant amount of time that the applicant had been given since November 2008 to provide any further material and stated that it would allow the applicant until [a date in] February 2009 to provide it with the DVD and any other materials or submissions he wished to provide.
71. The applicant indicated that he did not have anything else to say in relation to his application.

### **Post Hearing Correspondence**

72. [In] February 2009 the Tribunal received an Express Post envelope from the applicant containing a DVD. The Tribunal viewed the DVD, which is footage of approximately 10 seconds duration, and which shows a man claiming to have been harmed by the police. At the top right hand corner of the picture there is printed "UK Coptic Association".
73. [In] July 2009 the Tribunal wrote to the applicant advising him that the Tribunal Member was no longer available to review his case and that another Tribunal Member will complete the review.

## INDEPENDENT COUNTRY INFORMATION

### *Religious Freedom in Egypt*

74. Independent country information, for example, the *International Religious Freedom Report 2009*, by the Bureau of Democracy, Human Rights, and Labor, Egypt, of the U.S. Department of State, released on October 26, 2009 states *inter alia*:

The Constitution provides for freedom of belief and the practice of religious rites, although the Government places restrictions on these rights in practice. Islam is the official state religion, and the principles of Shari'a (Islamic law) are the primary source of legislation.

The status of respect for religious freedom by the Government declined somewhat during the reporting period, based on the failure to investigate and prosecute perpetrators of increased incidents of sectarian violence. However, there were some positive developments: actions by the courts and the Ministry of Interior that opened the door for the possibility that all of the country's Baha'is would eventually be issued national identification documents that contain a dash or the term "other" in the religious affiliation field. Also, the Court of Cassation granted a Coptic Christian mother custody of her two sons despite their father's conversion to Islam.

The Government continued to sponsor "reconciliation sessions" following sectarian attacks, which generally obviated the prosecution of perpetrators of crimes against Copts and precluded their recourse to the judicial system for restitution. This practice contributed to a climate of impunity that encouraged further assaults. Members of non-Muslim religious minorities officially recognized by the Government generally worship without harassment; however, Christians and members of the Baha'i Faith—which the Government does not recognize—face personal and collective discrimination in many areas. The Government detained members of Islamic religious minority groups, including Quranists and Shi'a.

The Government again failed to redress laws and governmental practices that discriminate against Christians, effectively allowing their discriminatory effects and their modeling effect on society to become further entrenched. On June 29, 2009, state security and police forces reportedly instigated a sectarian clash in Boshra, near Beni Suef, when they prevented Christians from praying in an unlicensed church. The Government again failed to prosecute perpetrators of crimes against Copts. For the second consecutive year, a court--while calling for legislative reform to achieve effective protection for freedom of religion and to confront the manipulation of religion--ruled against a convert from Islam to Christianity who had appealed for official recognition of his conversion on the basis of constitutional guarantees of freedom of religion. The Government's culling of the estimated 300,000 - 400,000 swine in the country had a severe economic impact on Coptic Christian families who rely on pigs and garbage scavenging for their primary income.

Governmental authorities detained and harassed some converts from Islam to Christianity and pressured them to revert to Islam. One convert told U.S. officials that government authorities had raped her. Another convert showed U.S. officials scars from physical abuse he said he had previously suffered in detention, and he subsequently reported further abuse that he said occurred during the reporting period. A court sentenced a Coptic priest to five years of hard labor for officiating at a wedding between

a Copt and a convert from Islam who allegedly presented false identification documentation.

There continued to be religious discrimination and sectarian tension in society during the period covered by this report, and the quasi-governmental National Council on Human Rights expressed concern in its fifth report, released in May 2009, over growing sectarian tension. For example, in November 2008 a mob in the Ain Shams district of Cairo attacked and burned an unlicensed Coptic church. In March 2009 a mob in an Upper Egyptian village in Sohag Governorate attacked and set fire to homes belonging to local Baha'is. A policeman who attempted to intervene was seriously injured.

The Ambassador, senior administration officials, and members of Congress continued to raise U.S. concerns about religious discrimination with senior government officials and directly with the Egyptian public. Specifically, embassy officers and other U.S. Department of State officials raised concerns with the Government about ongoing discrimination Christians face in building and maintaining church properties, official discrimination against Baha'is, and the Government's treatment of Muslim citizens who convert to other faiths.

### **Religious Demography**

The country has an area of 370,308 square miles and a population of 83 million, of whom almost 90 percent are Sunni Muslims. Shi'a Muslims constitute significantly less than 1 percent of the population. Estimates of the percentage of Christians ranged from 8 to 12 percent (6 to 10 million), the majority of whom belonged to the Coptic Orthodox Church. The country's Jewish community numbers approximately 125, mostly senior citizens.

Other Christian communities include the Armenian Apostolic, Catholic (Armenian, Chaldean, Greek, Melkite, Roman, and Syrian Catholic), Maronite, and Orthodox (Greek and Syrian) churches that range in size from several thousand to hundreds of thousands. A Protestant (known in Arabic as "ingili" or evangelical) community, established in the middle of the 19th century, includes 16 Protestant denominations (Presbyterian, Episcopal (Anglican), Baptist, Brethren, Open Brethren, Revival of Holiness (Nahdat al-Qadaasa), Faith (Al-Eyman), Church of God, Christian Model Church (Al-Mithaal Al-Masihi), Apostolic, Grace (An-Ni'ma), Pentecostal, Apostolic Grace, Church of Christ, Gospel Missionary (Al-Kiraaza bil Ingil), and the Message Church of Holland (Ar-Risaala)). There are also followers of the Seventh-day Adventist Church, which was granted legal status in the 1960s. There are 800 to 1,200 Jehovah's Witnesses and small numbers of Mormons, but the Government does not recognize either group. The number of Baha'is is estimated at 2,000 persons.

Christians are dispersed throughout the country, although the percentage of Christians is higher in Upper Egypt (the southern part of the country) and some sections of Cairo and Alexandria.

There are many foreign religious groups, especially Roman Catholics and Protestants, who have had a presence in the country for almost a century. These groups engaged in education, social, and development work.

*The International Religious Freedom Report 2009*, Bureau of Democracy, Human Rights, and Labor, Egypt, of the U.S. Department of State, October 26, 2009.

## *Treatment of Coptic Christians*

75. A number of newspaper reports and reports from other organisations detail the treatment of Coptic Christians:

***EGYPT: Christians arrested, shops looted in village Compass Direct, 21 November 2008 (CX214783)***

Funeral incident leads to disproportionate response from Muslim mobs, police.

ISTANBUL – Authorities in an Egyptian village arrested 50 Coptic Christians, whose shops were then looted, to pacify Muslims following violence that erupted on Nov. 4 over a Christian boy's unwitting break with custom.

Muslim villagers attacked the homes and shops of Coptic Christians in violence-prone Tayyiba, a town with 35,000 Christians and 10,000 Muslims, after 14-year-old Copt Mina William failed to dismount his donkey as a funeral procession passed.

William was watching the procession in Tayibba, 220 kilometers (137 miles) south of Cairo, with Nathan Yaccoub, also 14. William's failure to dismount violated a local custom of showing respect, Copts United reported, and members of the procession reportedly beat him before completing the procession. William suffered minor injuries.

After the funeral procession, the processional members began throwing stones at the homes of local Copts and attacking their shops before police broke up the crowd with tear gas.

A priest said members of the procession did not attack the youths for showing disrespect but as an excuse to lash out against the community's Christians for a previous episode of sectarian violence.

"These two children with the donkey didn't know about the traditions," said Father Metias Nasr, a Cairo-based priest with connections in areas south of the capital. "The Muslims there were angry about the last case of violence and wanted to create a new problem with these two children there."

When the violence began, police presence increased significantly in the city. But rather than quell the unrest, police reportedly made matters worse for the Christians. After breaking up the crowd, officers detained 50 Copts and 10 Muslims.

A source told Compass that police arrested a disproportionate amount of Christians to create a false sense of equanimity and to pressure the Christians into "reconciliation" with the attackers so the Copts would not prosecute them. The arrested Christians have since been released.

In the two weeks since the attacks and looting, the increased police force in the village has harassed Copts through intimidation, "fines" and racketeering. Police have taken an estimated \$50,000 from village Copts, the source said.

Once police lifted the curfew, Coptic shopkeepers returned to their stores to discover that they had been looted. Sources said the perpetrators were "supply inspectors," local government inspectors who do quality control checks on goods. They gained access by smashing locks and doors of the shops.

The sources said supply inspectors plundered grocery stores, a poultry shop, an electronics store and a pharmacy.

According to Coptic weekly Watani, looters stole nearly \$2,000 worth of goods from grocer Bishara Gayed. Another victim of the looting, an owner of a poultry shop who declined to give his name, blamed supply inspectors for running off with his stock.

A local clergyman condemned the violence.

“It is unreasonable that a mistake by some 14-year-old should lead to all that rampage,” a village Coptic priest known as Father Augustinus told Watani. “Something ought to be done to halt all this.”

### **Orphanage Bulldozed**

Numerous instances of sectarian violence have struck Tayyiba in the last few months.

Last month a Coptic Christian was killed over a dispute with a Muslim who wanted to buy his house. Violence escalated, resulting in damaged storefronts, 48 arrests and injuries sustained by three Christians and a Muslim.

Such quarrels typically arise from land ownership issues. A Coptic source told Compass that Christians in Tayyiba are generally wealthier than their Muslim counterparts, often leading to resentment.

Tayyiba was stable at press time, though the town is considered to be continually in danger of religious violence flaring. This situation is common throughout Egypt, Fr. Nasr told Compass.

“The village is like anywhere in Egypt,” he said. “In every place in Egypt we can say that in one minute everyone can be destroyed by fanatics, sometimes through the encouragement of security [forces].”

The Coptic Church has faced recent difficulties in other Egyptian cities, with government officials attempting to obstruct their religious activities. On Wednesday (Nov. 19), city officials in Lumbroso, Alexandria destroyed an unfinished but recently furnished Coptic orphanage owned by Abu-Seifein Church and worth 6 million Egyptian pounds (US\$1 million).

Officials claimed the building did not have a license, although church leaders said the demolition came on orders from the religiously zealous Islamic mayor. Ali Labib, former head of police and state security in Alexandria, in his two-year tenure as mayor has refused license applications for new church construction or rebuilding, said a Cairo-based Coptic priest who requested anonymity.

The priest said the orphanage was only able to obtain a license because it was issued before Labib’s tenure.

Islam is a growing presence in Egypt’s public sphere. While the government has attempted to crack down on extremists, Islamic civil groups that have drawn widespread support by offering cheap medical assistance and private lessons to school children include the Muslim Brotherhood, an Islamist organization with jihad in its credo that has been accused of violence.

The Muslim Brotherhood is well regarded by the average Egyptian, who equates the government with autocracy, corruption and repression, author and intellectual Tarek Heggy reportedly said. Over the last four decades, the Muslim Brotherhood has introduced its brand of fundamentalist Islam into Egyptian schools, mosques and media, he added.

Egypt's ethnic Christians, known as Copts, belong to the Orthodox Church and number 12 million among the country's 79 million inhabitants. There are smaller groups of Catholics and Protestants.

***EGYPT: Copts the victims of Islamisation says prize-winning Egyptian author, Adnkronos International Press News Agency (AKI), 10 November, 2008. (CX213984)***

Otranto – Coptic Christians, women and other minorities are paying the price of increasing Islamisation in Egyptian society, leading author and intellectual, Tarek Heggy, has told Adnkronos International (AKI). The fundamentalist opposition Muslim Brotherhood was one of the groups responsible and was indoctrinating young people through its welfare work, Heggy said.

"I believe the major problem for the Copts in Egypt is related to the overall cultural environment. The more radical society becomes, the worse the situation gets. This is also true for Bahaiis," Heggy said, referring to a smaller religious minority in Egypt which now numbers only a few hundred people.

Heggy was speaking in the southern Italian coastal town of Otranto where he was awarded the prestigious 2008 Grinzane Terra D'Otranto prize for dialogue, tolerance, solidarity and integration.

Copts - who form some 10 percent of Egypt's population and the largest Christian community in the Middle East - have been the target of periodic attacks by Muslim hardliners in recent years.

The Islamisation of education in recent decades is a major cause of an intolerant mindset that has developed in Egypt, which the Muslim Brotherhood has helped create under the guise of aid to local communities, Heggy argued.

"The Muslim Brotherhood is well regarded by the average Egyptian, who equates the government with autocracy, corruption and repression," Heggy said.

"The group is seen as less corrupt and more supportive of people, and serving them in the real arena of need – health and education."

The Muslim Brotherhood gives extensive aid to local communities, including medical assistance and private lessons for school children for a symbolic fee - a major draw for poor Egyptians, many of whom view the group positively.

A trip to a regular dentist costs 12 euros – half a teacher's monthly wage – while there are 80 children in an average class in state schools, Heggy said.

"The Egyptian government is handling the Muslim Brotherhood as a security issue alone," he said.

"But it is a cultural, social, political, educational, religious and economic problem."

A leading oil industry strategist and former CEO of petroleum giant Shell, Heggy has written more than 20 books including five in English. Democracy, tolerance, and women's rights feature in his works on Egypt and the Middle East .

He advocates self-criticism and sweeping reforms in the region, including the reform of school curricula.

The fundamentalist Wahabi influence has penetrated education in Egypt, where Arab literature, poetry and plays have been replaced with sacred Islamic texts in schools, Heggy said.

Up until the 1960s, Egypt was a truly Mediterranean society, but this has been gradually replaced by an Arab/Bedouin culture.

Besides schools, mosques and the country's media – radio and TV – have also been Islamised, he said.

“The four entities that have most influence on people have also been influenced by anti-secular cultures,” Heggy stated.

Egypt's 1971 Constitution defines Islam as the state religion and Islam as the main source of law.

“The Coptic problem is that of pressure on a minority, intolerance towards others and a lack of acceptance of pluralism. The more Egypt is influenced by the Wahabi interpretation of Islam, the worse it is for the Copts,” said Heggy.

Heggy last year published a controversial essay ‘If I were a Copt’ which highlighted the injustices Copts face in Egypt.

Copts have for over 50 years been barred from holding key administrative and political posts in Egypt. The Al-Azhar University in Cairo does not admit Copts to any of its faculties.

Apart from a donation made by Egypt's former president Gamal Abdel Nasser to the Cathedral of San Marco in Abbaseya, the Egyptian state has not financed any church since 1952. Copts also have difficulty in obtaining licences to build churches.

“There can be no solution to the problem in isolation from Egyptian society. When there is a reasonable degree of freedom in Egyptian society, there will be a reasonable degree of freedom for Copts.”

President Hosni Mubarak's successor will be the key to Egypt's future, according to Heggy. "It needs a competent leader who can bring about economic and social progress and improve the living conditions of women and men.”

He said the country's gross domestic product per capita is 1,200 dollars and 25 percent of the population is unemployed with joblessness concentrated in the 20-40 age group.

...

***EGYPT: Rights group says sectarian violence on the rise, Daily News Egypt, 27 October, 2008 (CX213268) by Sarah Carr***



CAIRO: Rights group the Egyptian Initiative for Personal Rights (EIPR) says that the geographical scope of sectarian violence in Egypt increased between July and September 2008.

EIPR describes these incidents, as well as violations of religious freedom, in the form of interference by security bodies and discrimination on the basis of religious belief, in its third quarterly report on freedom of religion and belief in Egypt, issued Monday.

Eight incidents of violence of a sectarian character are listed in the report, all of which involved clashes between Muslims and Christians.

In Naga Hamadi, Qena, a dispute which broke out after a Muslim man objected to a Christian parking his car in front of the Muslim man's home escalated into a fight involving a group of Muslims who broke into the Christian man's house and physically attacked his family.

Eyewitnesses and the victims of the attacks told EIPR researchers that the police had tarried in arriving at the incident — even though the police station is located nearby, and despite the fact that they had notified police as soon as the dispute broke out.

In addition, the victims of the attack say that they were pressured by the police into withdrawing the criminal charges they brought against their assailants: two of the injured Copts were detained in order to pressure the family into signing a reconciliation agreement.

The report adds that police forced the Christian family to hold their daughter's wedding (scheduled for the day following the attack) despite the fact that they wanted to postpone it.

Security reportedly held two members of the Christian family at the police station in a bid to impose a reconciliation settlement and abandon legal charges. Holding the wedding, one EIPR researcher told Daily News Egypt, was a symptom of that coercion.

Rights groups allege that sectarian tension in Egypt is inflamed by the police response to such incidents, which they say is often slow and inadequate.

The use of "reconciliation sessions" in response to such incidents rather than a criminal legal process — even where Christians have suffered physical injury or damage to their property giving rise to a legitimate legal claim — both encourages further acts of violence and leads to a feeling of vulnerability within Egypt's Coptic community, rights groups say.

On Oct. 8, EIPR reported on a sectarian incident in Samalut, Minya, which left one person dead and four injured.

In its press statement, EIPR urged "officials and church leaders to give due consideration to the rights of the victims and guarantee perpetrators do not escape punishment under the guise of reconciliation."

Interference by state security bodies resulted in three violations listed in the third part of the report.

The report refers to newspaper reports claiming that security bodies in Upper Egypt rejected applications made by the Imams of mosques requesting that they be allowed to hold the e'tekaaf (when worshippers retreat in mosques during Ramadan) and tahaggod prayers (which begin at night and last until dawn).

According to independent daily Al-Dostour, the Imams were told “these are acts which lead to large gatherings of people and transmission of Salafi ideology to them.”

Security bodies continued to prevent church custodians from renovating church buildings. The report describes the physical assault by a policeman of two women in the village of Dashasha, Beni Suef, while they were attempting to carry sand into the church in order to repair its water-damaged floor.

Security bodies have prevented the renovation of the church, which was built in 1895, for 11 years, according to church officials.

The report points out that incidents such as this occur despite the fact that under presidential decree 391 issued in 2005, churches may be renovated without prior permission: all that is required is that the church official notify in writing the relevant body in the governorate.

Legal developments mentioned in the report include the administrative detention of a Christian youth, Emad Adib Attiya Suleiman, because of his “involvement in a romantic relationship with a Muslim female.” The detention order says that the purpose of Suleiman’s detention was to “act as a deterrent.”

Under emergency law in force in Egypt since 1981, administrative authorities have the power to detain individuals “who pose a threat to security and public order”— a power which activists say is frequently abused in order to circumvent judicial guarantees and detain political opponents of the regime and others without a legitimate reason.

As EIPR points out, the emergency law does not permit the use of administrative detention as a deterrent.

In September the Alexandria Appeals Court awarded custody of 14-year-old twin boys Andrew and Mario to their father, a Christian convert to Islam, in preference to their Christian mother.

This, EIPR says, is despite the fact that reports by psychologists and sociologists presented to the court had stressed the necessity of the boys staying with their mother.

The report’s final section lists reports concerning freedom of religion in Egypt produced by both Egyptian and international bodies during the period covered by the report.

It refers to the US State Department’s 2008 report on religious freedom throughout the world (issued in September) which stated that religious freedom in Egypt “declined” between July 2007 and 2008.

Egypt’s Foreign Ministry had issued a press statement repudiating the US report at the time of its release.

According to the extract of the statement included in EIPR’s report, the US report contained “wrong and disorderly data, constituting an interference in matters which

concern no-one except the Egyptian government and Egyptian society. It is inappropriate that foreign elements forcibly involve themselves with affairs at the core of internal Egyptian affairs."

***EGYPT: In Egypt, Muslim-Christian divide seems wider, International Herald Tribune, The (IHT) www.ihf.com, 2 August, 2008, (CX207035) by Michael Slackman***

CAIRO: A monastery was ransacked in January. In May, monks there were kidnapped, whipped and beaten and ordered to spit on the cross. Christian-owned jewelry stores were robbed over the summer. The rash of violence was so bad that one prominent Egyptian writer worried it had become "open season" on the nation's Christians.

Does Egypt face a sectarian problem?

Not according to its security officials, who insist that each dispute represents a "singular incident" tied to something other than faith. In the case of the monastery and the monks, officials said the conflict was essentially a land dispute between the church and local residents.

"Every incident has to be seen within its proper framework; you study an incident as an incident," said an Interior Ministry spokesman who grew furious at the suggestion that Egyptians were in conflict because of their differing faiths. It is customary for security officials not to have their names revealed publicly.

"An incident is an incident, and a crime is a crime," he said.

But the Egyptian security apparatus is increasingly alone in its insistence.

As more and more conflicts pile up and as the tensions of daily life increase, many people in Egypt and around the region said the problem of sectarian clashes had become more urgent. They said that ordinary conflicts had become more bitterly sectarian as religious identity had become more prominent among Muslims and Christians alike.

"It is as if there is a struggle - each against the other - and it creates a sectarian atmosphere," said Gamal Assaad, a former member of Parliament who is a Coptic intellectual and a writer. "This tense atmosphere makes people ready to explode at any point if they are subjected to any amount of instigation or incitement."

Egypt is the most populous Arab country, with about 80 million people. About 10 percent are Coptic Christians.

For most of Egypt's Copts, the major flare-ups - the attack on the Abu Fana Monastery or riots in 2005 in Alexandria - are faraway episodes that serve only to confirm a growing alienation from larger society. For most, the tension is more personal, a fear that a son or daughter will fall in love with a Muslim or of being derided as "coftes," which means "fifth column."

"We keep to ourselves," said Kamel Nadi, 24, a Copt who runs a small shop in the Shubra neighborhood of Cairo "Muslims can't say it, but it's clear they don't accept us. Here no one can speak the truth on this issue, so everybody's feelings are kept inside."

For Egypt, sectarian tensions are complicated because they are connected to many other challenges burdening the nation, including crushing inflation and high unemployment among the young.

Many Egyptians around Cairo and in the south said that conflicts often arose over everyday matters - a dispute between farmers, an argument between students - but that once sparked, they deteriorated into sectarian name-calling, sometimes worse. That is partly because religious identity is paramount now, more important than a common citizenship, Assaad said.

Egypt is an authoritarian state held in line by a vast internal security force, about twice the size of the army. Certain topics are out of bounds. People know it is taboo to say openly that a sectarian problem exists. So they are cautious.

"We feel pressure, maybe not all the time, but we do," said Ashraf Halim, 45, a grocery store owner in the Shubra neighborhood in Cairo "We have liberty of speech, and religion, but it's as if somebody was telling us at the same time, 'Don't speak and don't practice your religion.' "

Halim's grocery is next to a hair salon with the word "Allah" atop the storefront in large Arabic letters. He responds in his own small way, with a picture of St. George on his dairy cooler.

"Me, I try to keep a certain distance from Muslims," said Halim. "We have simple relations: I give you this, you give me this. That's it. They don't want more than that, either."

The underlying tension in Egypt flares periodically around the country. There were riots when word spread of a Coptic play supposedly denigrating the Prophet Muhammad and again over plans to expand a church. The state treated each case as a security problem.

But the violence at the ancient Abu Fana Monastery in May elevated events to a new level. In a recent follow-up report, the National Council for Human Rights described the atmosphere in Egypt as an "overcharged sectarian environment" and chided the state, saying it "turns a blind eye to such incidents" and was "only content to send security forces after clashes catch fire."

Frustrated by the official posture of denial, a small group of Egyptian bloggers decided in January 2007 to try to bring Muslims and Christians together to talk. The group, which calls itself Together Before God, began with about 20 members of both faiths.

They posted an Internet survey to gauge Muslims' and Christians' ideas about each other and received about 5,000 responses. Two-thirds were from Muslims, the rest from Christians.

The survey showed profound misunderstanding on both sides, said Sherif Abdel Aziz, 36, a co-founder of the group. Some Muslims declared that Coptic priests wore black to mourn the Arab invasion of Egypt in the seventh century. Some Christians believed that the Koran ordered Muslims to kill all Christians.

Did the group discover a sectarian problem? Absolutely, and it was compounded by the lack of frank public discussion, Abdel Aziz said.

"The religious discourse has to change from both sides because it incites hatred, even if it does so indirectly, increasing fanaticism from both sides," Abdel Aziz said.

Mona el-Naggar contributed reporting from Cairo and Upper Egypt, and Nadim Audi from Cairo.

76. A report entitled *Muslim Attack Injures 23 Coptic Christians*, which is available at <http://www.christianpost.com/article/20100313/muslim-attack-injures-23-coptic-christians/>, was published on 13 March 2010 by the *Christian Post*. It includes the following:

Twenty-three Coptic Christians were injured by Muslim extremists Friday after an attack on a church community center, said an Egyptian Bishop.

The attack occurred after a sermon by a radical sheikh and lasted 10 hours before security forces put a stop to it, said Bishop Bejemy to The Associated Press on Saturday. The group of young Muslim men threw firebombs at the Coptic center and at nearby homes in Marsa Matruh, a seaport city in northern Egypt.

According to Egyptian officials, assailants were angry about a new fence erected around the center.

The attack on Copts in Marsa Matruh took place the same day the U.S. Commission on International Religious Freedom issued a statement condemning the Egyptian justice system for not prosecuting violence against Copts.

An Egyptian judge recently acquitted four Muslim men of the murder of a Coptic man. USCIRF called it "the latest example in a growing pattern of instances where individuals have not been brought to justice after committing violent acts against Christians and their property."

Coptic Christian Farouk Attallah was murdered on Oct. 19, 2009. Attallah's Christian son was involved in a romantic relationship with a Muslim girl. The Muslim men planned to murder the son, but when they could not find him they killed his father. Despite reported witnesses, the court said there was insufficient evidence and acquitted the men.

"This is one of more than a dozen incidents USCIRF has followed in the last year or so in which Coptic Christians have been the targets of violence," said USCIRF Chair Leonard Leo, who led a USCIRF fact-finding delegation to Egypt in January. "This upsurge in violence and the failure to prosecute those responsible fosters a growing climate of impunity."

### ***Egyptian authorities and their treatment of Christians***

77. The US Department of State's *International Religious Freedom Report 2008* expressed concern about the behavior of Egypt's police force in dealing with Christians, noting that, "[a]ccording to some observers, police responses to some incidents of sectarian violence were slow". The report lists a number of the incidents of concern in which members of Egypt's Coptic Christian community have been allegedly subject to discriminatory mistreatment by Egyptian police in recent years. Copts associated with Muslims who have converted to Christianity are said to be particularly at risk. Examples follow:

On May 31, 2008, police located within 1 mile of the Abu Fana Monastery in Upper Egypt reportedly took 3 hours to respond to a request for help when a monk's cell at the monastery was under attack. The armed assault resulted in the death of one Muslim Bedouin villager, multiple injuries, including gunshot wounds, to monks, the kidnapping and abuse of several monks, and looting and damages estimated at more than 1,000,000 Egyptian pounds. Three

monks abducted from the monastery were reportedly rescued by security services (see Societal Abuses and Discrimination).

...On July 15, 2007, a female convert from Islam to Christianity, Shaimaa Muhammad al-Sayed, was rescued by police while being beaten in public by attackers and arrested following police verification that she was the daughter of one of the attackers who claimed that she was a convert to Christianity and that he had previously filed a missing persons report on her. She was found to be in possession of a falsified identity card listing her religion as Christianity and reportedly held on charges of falsifying a government document. The Office of Prosecutor General, Supreme State Security Prosecution, in Cairo ordered her release on July 22, 2007, and confiscated both her original identity card and the counterfeit one. According to credible reports, after her release, her father beat her in front of the police station.

...On August 8, 2007, police detained Adel Fawzi Faltas Hanna, a retired doctor and president of the Middle East Christian Association's (MECA) Egyptian branch, and Peter Ezzat Hanna, a photographer for MECA and the Copts United Web site. The authorities investigated the two men's activities, on charges including allegedly denigrating Islam and disturbing the public order. On July 7, 2007, Nader Fawzi, in his capacity as president of MECA, had filed a lawsuit naming President Mubarak and five senior ministers as defendants, accusing the Government of failing to properly investigate the al-Kosheh incident of January 1-3, 2000, in which 21 Copts were killed, others wounded, and Copt properties destroyed, and concerning which the perpetrators were not brought to justice and no indemnity to the victims or their families was paid. Also, near the time of the arrests, the MECA had publicly indicated its support of Muhammad Higazy, who had announced that he was suing the Government for the right to have his conversion to Christianity indicated on his civil documents.

The police also raided the Cairo homes of Adel Fawzi and Peter Ezzat and reportedly confiscated several copies of a MECA publication, *The Persecuted: The Story of the Coptic Nation*. On November 4, authorities released Adel Fawzi and Peter Ezzat following 3 months in detention. On November 5, authorities arrested three other MECA affiliates, whom authorities also investigated for a variety of charges, including denigrating Islam. On December 26, 2007, authorities released the three men without charges.

...While there are no legal restrictions on the conversion of non-Muslims to Islam, there were occasional reports that police persecuted converts from Islam to Christianity.

In April 2005 State Security authorities detained Bahaa Al-Accad, a citizen who was born Muslim but who reportedly converted to Christianity. Accad was initially held at Tora Prison, south of Cairo. After a court ordered Accad's release from detention in August 2006, State Security authorities deliberately ignored the ruling, eventually transferring him to Wadi el-Natroun Prison, located 60 miles north of Cairo along the highway to Alexandria. On April 28, 2007, the authorities released Accad after he had spent almost 2 years in prison without being formally charged with any crime.

The security services reportedly maintain regular and sometimes hostile surveillance of Muslim-born citizens who are suspected of having converted to Christianity.

...On November 22, 2007, police detained Siham Ibrahim Muhammad Hassan al-Sharqawi, a Muslim convert to Christianity, on the outskirts of Qena, 300 miles south of Cairo, who had been in hiding since 2003. She was interrogated for 4 days and released.

In August 2007 authorities investigated seven Copt employees of the MOI in fraud and bribery cases in connection with re-converts to Christianity. The investigation was reportedly ongoing at the end of the reporting period.

...On December 12, 2007, Esna police placed two Copts in detention after they were attacked by a group of Muslim men, reportedly because they were thought to have been involved with a Muslim woman. The two men, Bishoi Ishaq and Michael Milad, were placed in custody for “security reasons” and released after 15 days in detention (US Department of State 2008, *International Religious Freedom Report 2008*, 19 September)

78. Christian advocacy websites frequently report incidents in which it is alleged that members of Egypt’s Coptic Christian communities have been subject to discriminatory mistreatment by police:

- On 3 August 2009 the US Copts website carried a report which claimed that police in Upper Egypt had failed to adequately respond to an “eruption of sectarian violence in Egypt’s Minya province continued last week as local Christians again faced harsh reprisals from Muslims for trying to convert a building into a worship facility” According to this report: “officers investigating complaints from Muslim villagers about two crosses Shehata had installed on the outside of the building took him to the local police station. After questioning, they released him with orders to return the next morning. At that time two policemen escorted him to the main prison in Minya, where he was held without charge until Saturday afternoon” (Elliott, R. 2009, ‘Violence Again Erupts in Upper Egypt over Quest for Worship Site’, US Copts website, 3 August <http://www.copts.com/english1/index.php/2009/08/03/violence-again-erupts-in-upper-egypt-over-quest-for-worship-site/> – Accessed 18 August 2009 –).
- On 18 July 2009 the US Copts website carried a report by the *Assyrian International News Agency* which related claims that police in Upper Egypt had facilitated the abduction of two Coptic Christian women who were being forced to convert to Islam (‘Egyptian Security Refuses to Return Abducted Christian Coptic Girl’ 2009, US Copts website, source: *AINA*, 18 July <http://www.copts.com/english1/index.php/2009/07/18/egyptian-security-refuses-to-return-abducted-christian-coptic-girl/> – Accessed 18 August 2009 –).
- On 30 January 2009 the US Copts website carried a *Compass Direct* report which claimed that Egyptian police had stage “a brutal raid on six Christian brothers and their café because they had opened for business during Ramadan”. The report alleges that: “13 police officers raided the café in Port Sa’id, a city in Egypt’s Nile delta, overturning tables, breaking chairs and smashing glasses” and beating “the brothers with sticks, leaving two with broken arms and a third needing 11 stitches for a head wound” (‘Egypt: Christians Sent To Prison After Brutal Police Raid’ 2009, US Copts website, source: *Compass Direct*, 30 January <http://www.copts.com/english1/index.php/2009/01/30/egypt-christians-sent-to-prison-after-brutal-police-raid/> – Accessed 18 August 2009).
- On 3 December 2008 the US Copts website carried a reported on claims that “Two Coptic Christians wrongfully arrested for killing a Muslim during the May 31 attack on Abu Fana monastery in Egypt have been tortured and sent to a detention camp so authorities could try to extract a false confession”. The lawyer of the detained men has reportedly argued that: “Security forces are detaining the brothers to blackmail the Coptic Church into testifying that the attack against Abu Fana monastery in Mallawi, Upper Egypt, was not religiously motivated” (‘Egypt: Two Copts Wrongly Detained, Tortured’ 2008, US Copts website, 3 December <http://www.copts.com/english1/index.php/2008/12/03/egypt-two-copts-wrongly-detained-tortured/> – Accessed 18 August 2009).
- On 22 February 2007 the United Copts website carried a *Compass Direct* report which claimed that: “Police detained Christian families in Upper Egypt and forced them to deny arson attacks on their homes during a spate of anti-Christian violence” (‘Egypt Detains Copts after Anti-Christian Attack’ 2007, United Copts website, source: *Compass Direct*, 22 February

[http://www.unitedcopts.org/index.php?option=com\\_content&task=view&id=828&Itemid=83](http://www.unitedcopts.org/index.php?option=com_content&task=view&id=828&Itemid=83)  
– Accessed 18 August 2009).

79. In January 2007 the Research Directorate of the Immigration and Refugee Board of Canada received advice on the situation of Egypt's Coptic Christian communities from "a Senior Fellow at the Center for Religious Freedom". According to this source, Egypt's Coptic Christian communities are subject to: "abusive and discriminatory practices of local police and security forces".

The Copts, while usually having some freedom of worship, are threatened in varying degrees by terrorism from extreme Islamic groups, by the abusive and discriminatory practices of local police and security forces, by the frequent refusal of security officials to defend them or to prosecute those who have attacked them, and by systematically discriminatory and restrictive Egyptian Government policies.

...At the local level, police may ignore, acquiesce, be complicit with, support, or even be members of radical groups. (Mohammed Atef, who many reports say was the military chief of Osama bin Laden's Al Qaeda, was formerly an Egyptian policeman). Consequently the police may attack Christians themselves, or provide cover for those who do. In other cases the police may be intimidated into inaction by radicals, who may outnumber and outgun them. In other cases the police may simply be incompetent. Consequently Copts who are attacked often receive little help, and sometimes further repression, from police (Immigration and Refugee Board of Canada 2007, *EGY102385.E – Egypt: Treatment of Christians, including Coptic Christians, and availability of state protection (March 2004 – January 2007)*, 26 February 2007 [http://www2.irb-cisr.gc.ca/en/research/rir/index\\_e.htm?action=record.viewrec&gotorec=450925](http://www2.irb-cisr.gc.ca/en/research/rir/index_e.htm?action=record.viewrec&gotorec=450925) – Accessed 18 August 2009).

## **FINDINGS AND REASONS**

### **Country of Nationality**

80. On the basis of the applicant's passport, a copy of which is included in the Departmental file, the delegate accepted and the Tribunal accepts that the applicant is a citizen of Egypt and is outside his country of nationality. Accordingly, for the purposes of the Refugees Convention, the Tribunal has assessed the applicant's claims against Egypt as his country of nationality.

### **Assessment of Claims and Evidence**

81. The applicant claims that he does not want to return to Egypt because he does not feel safe there because he is a Coptic Christian and they are the minority in Egypt. He fears harm from non-State actors being Muslims in his community, and from State actors being Muslim soldiers if he is required to serve in the Army Reserve. He claims that the authorities in Egypt, including the police, cannot protect him from the harm he fears.
82. The Tribunal accepts that in certain circumstances, Coptic Christians in Egypt can face discrimination and even more serious harassment and harm, depending on individual circumstances. However, each case involving protection claims by a Coptic Christian must be considered on its own merits.

### **Credibility Generally**

83. The mere fact that a person claims fear of persecution for a particular reason does not establish either the genuineness of the asserted fear, that it is "well-founded", or that it is for



the reason claimed. It remains for the applicant to satisfy the Tribunal that all of the statutory elements are made out: *MIEA v Guo & Anor* (1997) 191 CLR 559 at 596. Although the concept of onus of proof is not appropriate to administrative inquiries and decision-making (*Yao-Jing Li v MIMA* (1997) 74 FCR 275 at 288), the relevant facts of the individual case will have to be supplied by the applicant himself or herself, in as much detail as is necessary to enable the examiner to establish the relevant facts. A decision-maker is not required to make the applicant's case for him or her: *Prasad v MIEA* (1985) 6 FCR 155 at 169-70; *Luu & Anor v Renevier* (1989) 91 ALR 39 at 45. Nor is the Tribunal required to accept uncritically any and all the allegations made by an applicant: *Randhawa v MILGEA* (1994) 52 FCR 437 at 451.

### ***Well-founded fear of persecution***

#### *Real Chance of Serious Harm Capable of Amounting to Persecution*

84. The Tribunal accepts the applicant's evidence that he is an Egyptian citizen who is a practicing Coptic Christian who was previously living in [City 1]/El Minia, Egypt before he came to Australia in September 2004 to study English.
85. The Tribunal accepts the applicant's evidence that when he was young he was harassed by non-State actors being young Muslim children who would fight with the Christian children. It further accepts that in 2002 the church he attended was attacked and following this incident he stopped going to church because he was afraid at the increasing incidence of these attacks.
86. The Tribunal accepts the applicant's evidence that while he was at university he feared attacks from Muslims (non-State actors) because there was a great deal of hostility between Muslims and Christians.
87. The Tribunal also accepts the applicant's evidence that he is still under call from the Egyptian army and that since he has been in Australia he has received a few calls to return to the army and he fears that if he is required to do so he will face continued harassment from State actors being Muslim soldiers.
88. The applicant does not claim to have fled Egypt out of a fear of being persecuted for reason of being a member of the Coptic Christian minority. Whereas he has claimed that he feared harm by virtue of his Coptic Christian religion, it is clear from the evidence before the Tribunal that the applicant came to Australia with the intention of studying and improving his skills. He does not claim to have left Egypt out of a fear of Convention-related persecution, specifically for reason of his religion.
89. The applicant claims that he now does not wish to return to Egypt out of fear of Convention-related persecution.
90. The Tribunal accepts that the applicant is a Coptic Christian and there are reports before the Tribunal, for example those cited in paragraphs 75-76 above, that Coptic Christians can be mistreated in Egypt by non-State actors, including Muslims within the community.
91. The Tribunal accepts that the applicant has been harassed by Muslims from a young age and that in 2002 he stopped attending church because he was scared at the increasing incidents of attacks on Christian churches.

92. The Tribunal further accepts that when he was completing his military service he was harassed and, on one occasion threatened, by the Muslim soldier under whom he served.
93. The Tribunal accepts the country information, referred to in paragraphs 75-76 above, that sectarian violence appears to be increasing in Egypt and that violence has been directly recently against Christian Copts.
94. The Tribunal accepts, based on the country information referred to above in paragraphs 75-79, that discrimination and mistreatment against Coptic Christians by Muslims and the Egyptian authorities, including the police, is not uncommon.
95. The Tribunal accepts that the applicant has in the past suffered harassment from State and non-State Muslim actors including when he was completing his military service. It finds that the claimed incidents considered singly or cumulatively is sufficiently serious as to amount to persecution in a Convention sense.
96. On the evidence before it, the Tribunal is satisfied that the applicant has suffered persecution within the meaning of the Convention in the past in Egypt. It has considered whether there is a real chance he will be persecuted if he returns to Egypt in the foreseeable future.
97. On the basis of past events and country information referred to in paragraphs 74-79 above, the Tribunal is satisfied that there is a real chance that the applicant will be persecuted if he returns to Egypt, now or in the reasonably foreseeable future.
98. The country information shows that the Egyptian laws clearly discriminate against various groups including Christians, and that the legal position is reflected in the discriminatory and sometimes persecutory attitude of government officials against Coptic Christians in Egypt. The 2009 US State Department Report Religious Freedom reports on Egypt issued on 26 October 2009 and available at <http://www.state.gov/g/drl/rls/irf/2009/127346.htm> states that “[t]he status of respect for religious freedom by the Government declined somewhat during the reporting period, based on the failure to investigate and prosecute perpetrators of increased incidents of sectarian violence”.
99. As the Tribunal has found, for the reasons stated above, that the harm the applicant fears is from the State, the Tribunal is further satisfied that State protection will not be available to the applicant in the circumstances.

#### *Convention Nexus*

100. From the applicant’s claims, which the Tribunal has already indicated it accepts, and from the country information available to the Tribunal, it is evident that the essential and significant reason why the applicant faces a real chance of persecution in Egypt is the Convention reason of his religion as a Coptic Christian, and the Tribunal finds accordingly.
101. The Tribunal concludes that the applicants’ unwillingness to seek protection from those authorities is therefore justified for the purposes of Article 1A(2).
102. As the Tribunal is satisfied that the applicant has a well founded fear of persecution for a Convention reason from State actors, it has not considered it necessary to consider the applicant’s claims further in relation to non-State actors.

103. The Tribunal is satisfied that there is a real chance that the applicant will experience serious harm amounting to persecution for the purposes of s91R(2) in the reasonably foreseeable future if he returns to Egypt.

#### *Conclusion on Persecution*

104. The Tribunal finds that the applicant has been subjected to harassment in the past for reason of his religion from both State and non-State actors. In light of the country information referred to in paragraphs 74-79 above, the Tribunal finds that there is a real chance that the applicant may experience harassment from State and non-State actors for reason of his religion if he returns to Egypt in the foreseeable future. It is satisfied on the evidence before it that there is a real chance that the applicant will be persecuted within the meaning of the Convention if he returns to Egypt.

105. In conclusion, the Tribunal finds that the applicant faces a real chance of persecution if he returns to Egypt in the reasonably foreseeable future, for the Convention reason of his religion, Christianity, which for the purposes of s.91R(1)(a) is the essential and significant reason for the harm feared.

#### **Relocation**

106. It is possible, in the view of the Tribunal, that the applicant could avoid the harm feared if he were to relocate within Egypt, keep a low profile and not affiliate himself with the Coptic Church in the area of his relocation.

107. The High Court has now confirmed as a general proposition that, depending on the circumstances of the particular case, it may be reasonable for an applicant to relocate in their country to a region where, objectively, there is no appreciable risk of the occurrence of the feared persecution: *SZATV v MIAC* (2007) 233 CLR 18; *SZFDV v MIAC* (2007) 233 CLR 51. Thus, in determining whether an applicant is a person to whom Australia has protection obligations, it may be necessary to consider whether the applicant might reasonably relocate to a region within their country, free of the risk of persecution.

108. However, in *Appellant S395 of 2002 v Minister for Immigration and Multicultural Affairs* (2003) 216 CLR 473, McHugh and Kirby JJ made the following observation at [40]:

... persecution does not cease to be persecution for the purpose of the Convention because those persecuted can eliminate the harm by taking avoiding action within the country of nationality. The Convention would give no protection from persecution for reasons of religion or political opinion if it was a condition of protection that the person affected must take steps - reasonable or otherwise - to avoid offending the wishes of the persecutors. Nor would it give protection to membership of many a "particular social group" if it were a condition of protection that its members hide their membership or modify some attribute or characteristic of the group to avoid persecution. Similarly, it would often fail to give protection to people who are persecuted for reasons of race or nationality if it was a condition of protection that they should take steps to conceal their race or nationality.

109. The applicant clearly has a strong affiliation to the Coptic Church. The Tribunal acknowledges that Egypt is a heavily populated country with large cities with substantial Coptic Christian communities. However, the Tribunal accepts that the applicant could be traced in even a large city through his affiliation with the Coptic church. The Tribunal cannot be satisfied that the applicant would be safe from harm anywhere in Egypt.

110. On the basis of the evidence before it, including the country information set out above in paragraphs 74-79, the Tribunal finds that there has been a history of discrimination against Coptic Christians by state authorities throughout Egypt, and a widespread failure to provide state protection to Coptic Christians. For this reason, the Tribunal is satisfied that there is an appreciable risk that the applicant may not be able to access adequate state protection anywhere in Egypt, on the basis of his religion. The Tribunal finds that the applicant would not reasonably be able to relocate to another region within Egypt.
111. The Tribunal is of the view that by requiring the applicant to eschew any involvement with the Coptic Church in order to minimise his chances of being detected would amount to a persecutory curtailment of his right to religious expression. Just as the Court in *Appellant S395* found that it was erroneous for the Tribunal to assume that the homosexual applicant could simply return to Bangladesh and avoid persecution by behaving discreetly, the Tribunal finds that it would be similarly erroneous to expect the applicant in the present case to suppress his religious views in order to minimise his chances of being found in Egypt.
112. The country information referred to in paragraphs 74-79 above suggests that Coptic Christians are experiencing problems throughout Egypt. The Tribunal is satisfied that in the present case the risk of Convention persecution exists in the country as a whole, and that relocation within Egypt would not necessarily eliminate the risk that the applicant faces, even if it were reasonably open to him.

### **Safe Third Country**

113. There is no evidence before the Tribunal to suggest that the applicant has the right to enter and reside in any safe third country for the purposes of s.36(3) or of Article 1E of the Convention.
114. In light of all the evidence before it, the Tribunal is satisfied that any conduct engaged in by the applicant in Australia has been otherwise than for the purpose of strengthening his claim to be a refugee within the meaning of the Refugees Convention as amended by the Refugees Protocol. On this basis, the Tribunal finds that it is not obliged to disregard the applicant's conduct in Australia in accordance with the provisions of section 91R(3) of the Act.

### **CONCLUSIONS**

115. The Tribunal is satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention. Therefore the applicant satisfies the criterion set out in s.36(2)(a) for a protection visa and will be entitled to a visa provided he satisfies the remaining criteria

### **DECISION**

116. The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act being a person to whom Australia has protection obligations under the Refugees Convention.

I certify that this decision contains no information which might identify the applicant or any relative or dependant of the applicant or that is the subject of a direction pursuant to section 440 of the *Migration Act 1958*.

Sealing Officer's I.D. *AGIBSO*