

Asylum and Immigration Tribunal

MG (Christians, including Coptic Christians) Sudan CG [2006] UKAIT 00047

THE IMMIGRATION ACTS

Heard at Field House
On 14 March 2006
Prepared 15 March 2006

Determination Promulgated
On 20 April 2006
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Before

Mr H J E Latter - Senior Immigration Judge
Mr P D King, TD – Senior Immigration Judge
Mrs A J F Cross De Chavannes

Between

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr B Lams of Counsel

For the Respondent: Mr L Parker, Home Office Presenting Officer

Christians in Sudan are not for that reason alone at risk of persecution but some Christians (and in particular members of proselytising evangelical churches or Coptic Christians) may be in a more vulnerable position and in the light of their particular circumstances may be at real risk of persecution on account of their religion. This determination replaces TM (Persecution – Christians- Individual – General) Sudan CG [2002] UKIAT 04849 as country guidance.

DETERMINATION AND REASONS

1. This is the reconsideration of an appeal against a decision made on 3 February 2004 to remove the appellant as an illegal entrant following the refusal of his claim for asylum. The appeal was originally heard by an Adjudicator, Mr M L Dineen, on 24 June 2004. He dismissed the appeal

on both asylum and human rights grounds. Permission to appeal to the Immigration Appeal Tribunal was granted on 2 December 2004. By virtue of transitional provisions, the appeal proceeds as a reconsideration.

2. Following a hearing on 10 October 2005 the Tribunal (the President) held that there was a material error of law. The President set out his reasons as follows:
 - “1. This was an appeal by a citizen of Sudan from the decision of Mr M L Dineen sitting at Hatton Cross. This determination was promulgated on 20 July 2004. The asylum and human rights appeals were dismissed.
 2. The case was heard in the block list on 10 October 2005. It was clear no reasons were given for the view that Coptic Christians, as this appellant was, would not face persecution. The parties agree that the matter was right for reconsideration. It was indicated that it was likely to be a country guidance case.
 3. It was agreed that credibility findings would stand. All legal issues contended on the grounds of appeal are arguable.”
3. The reconsideration was transferred for further hearing on the issue of whether the appeal should be allowed or dismissed.

Background

4. The Adjudicator accepted the appellant's account of events in Sudan and at the first stage of the reconsideration it was accepted that those credibility findings should stand. The factual background to the claim can briefly be summarised as follows. The appellant was born in Khartoum in February 1979 and is a Coptic Christian. At the time of the military coup in Sudan in 1989 he was at school. A campaign against Christians was started in the media and this affected the appellant as both his teachers and fellow pupils became hostile towards him. He was given low grades and when he asked why, he was told that his father's religion, Christianity, was wrong and that if he converted to Islam, they would help him. At the beginning of 1990 the appellant was obliged to attend Islamic religion classes. Although his father moved him to another school, this was no better than the previous one.
5. In 1995 the appellant's father was arrested and detained. The appellant did not know the reason save that it was connected to a problem his father had with the authorities relating to his supermarket business. His father was detained for at least two weeks and badly ill-treated. When he was released from detention he was covered in blood and his face was badly swollen. On the advice of their family doctor he was taken to hospital but when hospital officials discovered how the injuries had been incurred, they refused to treat him and said that he should be taken to a private hospital. On the way there, the appellant's father died. The appellant completed his secondary education in 1998 and wished to go to

university but was unable to do so unless he served three months with the Popular Defence Force (PDF). He did not wish to do this because it involved the risk of having to fight against the Christian rebels in the south of Sudan. He also feared that as a Christian he would be put at risk by being sent across uncleared minefields.

6. The appellant started to work in his parents' supermarket in March 1999. This had been run by his mother since the death of his father. The appellant took over the management at the end of 1999. His mother told him that they had to pay 40,000 Sudanese pounds to two security policemen when they came to the shop. This was euphemistically called tea money but in reality was protection money. His mother told him that if they did not pay the security police they would fabricate a false allegation against them. There was no option but to pay and this happened every month. In March 2002 the appellant paid the 40,000 Sudanese pounds to two security police but they also took food items totalling 20,000 Sudanese pounds. Later they returned asking the appellant to buy a quantity of tinned food from them. He said that he would be willing to do so if they gave him the official purchase invoices required by law. When he checked the tins he noted that the expiry dates for the food had passed. He said he could not buy the food because he did not want to have problems with the taxation department. Their response was to attack and insult him. They took down icons of the Virgin Mary and St. George from the wall of the shop, threw them to the floor and stamped on them. They ordered him to close the shop and forced him to go with them.
7. The appellant was taken into detention. He was slapped around the face and called an atheist and a halabi. This treatment was repeated at intervals some fifteen or twenty times during the afternoon. Later the same afternoon the two men who had arrested him returned and said this was a lesson for him and that he was to tell every Copt he knew to understand that they were slaves in an Islamic country and they were their masters. The appellant was then released.
8. In May 2003 the appellant spent an evening with friends in a Coptic club in the Alamarat area of Khartoum. After midnight he saw a woman who was trying to start her car. He knew her as she was one of his Coptic neighbours. He offered her a lift home. Their car was stopped by police who despite the appellant's explanation slapped him and said that he was attempting adultery and this was an offence. They were both arrested. The girl was eventually allowed to call her brother. He arrived later with a friend, a police major, and paid a bribe of 50,000 Sudanese pounds to the policeman on duty to have them released.
9. The appellant decided at this stage that he should leave Sudan. He tried to obtain passports for himself and his mother but he could not obtain them as he had not served with the PDF. In December 2003 the appellant was told by a neighbour that his mother had been arrested following an argument with a police major at her place of work. The appellant went to the police station in Omdurman. He was detained as

soon as he enquired about his mother. He was kicked and abused. Later he was taken to another police station and then to a detention centre where he was detained for five days. During this period he was subjected to degrading physical and sexual abuse. The appellant was threatened with not seeing his mother again unless he converted to Islam. He was warned that if he did convert and reverted to Christianity, he would be at risk of death as an apostate. He was told this by a police major who he later learned was the person his mother had had the argument with at her place of work which had led to her arrest.

10. Due to the intervention of the appellant's uncle who contacted an army colonel, a bribe of 5 million Sudanese pounds was paid to secure their release. An agent was engaged to make the arrangements for the appellant and his mother to leave Sudan. They left from Khartoum Airport and flew to a third country. They were then hidden in a lorry which crossed the channel by ferry.
11. The appellant claimed asylum on 23 December 2003. His claim was refused for the reasons set out in the respondent's decision letter dated 30 January 2004. A number of credibility issues were raised but these are no longer in issue, it being agreed at the hearing of the first stage of the reconsideration that the Adjudicator's credibility findings should stand. An appeal by the appellant's mother following her unsuccessful claim was heard at Hatton Cross on 5 July 2004 and allowed. The issue was not explored before us as to why appeals relating to two family members with common issues of fact were heard separately and we make no comment on that, save to emphasise the desirability of linked appeals being heard together where the requirements of rule 20 of the Procedure Rules 2005 are met.

The Hearing before this Tribunal

12. At the hearing before this Tribunal, the appellant put in two bundles of documents, 1A indexed and paginated 1-81 and 2A indexed and paginated 1- 88. Mr Lams also produced extracts from the US Department of State Reports for 2002, 2003 and 2006. He indicated that he wished to put in evidence a UNHCR Report 2006 and a further short report from Mr Peter Verney in addition to the reports already produced (see paragraph 14 below). The respondent relies on a bundle R indexed and paginated 1-58 together with the COIS Report for Sudan of October 2005. At the hearing Mr Parker sought to put in four further documents (2R) including a COI request dated 3 March 2006 and an ESPAC Report posted on 6 June 2002. Mr Lams objected to the production of these reports on the basis that they raised controversial matters which he would not be able to deal with without an adjournment. Mr Parker objected to extracts of the US State Department Reports being provided as opposed to full copies of the reports.
13. We were not satisfied that there was any justification for an adjournment of this hearing. The original appeal was heard in June 2004 and further

directions in respect of this reconsideration were given on 10 October 2005 when it was held that there was a material error of law in the original determination. The two documents objected to by Mr Lams were produced on the day of the hearing in contravention of the directions requiring five days notice. We were satisfied that the right course was to exclude those documents from evidence and also not to permit the further report from Mr Verney also produced on the day of the hearing to be put in evidence. Mr Lams accepted that the extracts he had produced from the US State Department Reports were not to be read in isolation and that the whole report should be put in evidence.

Evidence of Mr Peter Verney: (i) Reports

14. Mr Verney's reports are dated 28 May 2004 (1A 49-63) and 6 March 2006 (2A 1-15). His professional background is set out at page 2 of both reports (1A 50 and 2A 2). In his first report he sets out a brief history of the current government in Sudan which took power in 1989. Before that, religious persecution in his view was generally waning and not state directed. However, the present regime was widely acknowledged, by religiously neutral organisations, to be practising religious persecution. There was a background level of harassment which had often risen to intolerable levels. It was his view that discrimination together with much day-to-day harassment created a background against which further extremes of abuse could be perpetrated with impunity on selected individuals with the full approval of the regime. General hindrance and petty harassment of Christians could easily develop into the persecution of particular unfortunate individuals. Individual Christians might become targets for deliberate victimisation by the regime's security agents with the approval and encouragement of the state security apparatus.
15. In every neighbourhood there was a popular committee of those loyal to the regime whose primary task was monitoring suspicious activity and enforcing the regime's aims. In practice this had amounted to spying on dissident Muslims and using the power of office to destroy Christian businesses. The small northern Christian community, unlike the larger Christian community in the south which had been directly embroiled in the country's civil war, had generally been prosperous and had avoided confrontation with the Islamic authorities. However, Christian-owned businesses had been subjected to harassment through government controls on licences, taxes and inspections. Many Christian businessmen, mainly from the Coptic community had fled the country even when massive losses on currency exchange precluded the resumption of activities abroad. Coptic people often found it impossible to avoid identification as Copts. The regime was glad of the departure from Sudan of certain groups of people including northern Christians whose businesses may have been seized. On the assumption that the account related by the appellant was true, it was Mr Verney's view that there was a risk that he would be detained and subjected to hostile and abusive treatment on return. In the event of being allowed to re-enter the country without immediate hindrance or detention, he would

nonetheless be liable to surveillance and be vulnerable to a variety of subsequent unacceptable abuses. The greatest threat would be from actions by the security forces including extrajudicial detention in clandestine "ghost houses" and the accompanying unaccountable violence which could be carried out with impunity by security officers.

16. In his second report Mr Verney says that the appellant's experiences as a young Coptic Christian reflect key aspects of the Sudanese government's Islamisation policy and the range of methods commonly employed. The appellant had exactly the background likely to attract adverse attention from the authorities. The regime's implicit, ultimate intention was to force Coptic Christians to leave and take over their resources. It was the view of contacts Mr Verney had with the Sudan Council of Churches that a process of attrition was still being conducted against members of the Coptic Church.
17. The report goes on to describe the Coptic Christians as a long established but vulnerable religious community whose leadership has long adopted a non-confrontational position as regards the government and has not officially publicised its experience. Nonetheless they have been targeted by the current regime in a process of attrition. The report also deals with the peace agreement of January 2005 and expresses the view that the balance of power in northern Sudan has not been significantly altered. The security apparatus remains unchanged, with the same personnel, premises and behaviour. The dwindling and vulnerable Coptic Christian community continues to face persistent harassment from the authorities which in certain individual cases develops into full blown persecution. Mr Verney repeats his view that the appellant would find himself in a very dangerous situation if returned to Sudan under the present regime.

(ii) Oral Evidence

18. In his oral evidence Mr Verney adopted his reports. He confirmed that he had lived and worked in Sudan for twelve years from 1977. So far as sourcing his materials were concerned, he had used contacts with both Sudanese and non-Sudanese experts. Many of his sources had asked for anonymity because of the sensitivity of the political situation in Darfur and Khartoum. A distinction could properly be drawn between Coptic Christians and the Christians in southern Sudan. The Coptic community were quite isolated. They had taken a quiescent, quietist, non-confrontational approach towards the authorities. Generally they were educated and skilled and had filled an administrative role. They did not have much connection socially or in terms of religious solidarity with the Christians in the south. They were treated by Arabs with suspicion and as irrelevant by people in the south.
19. Coptic Christians had been subjected to a war of attrition. They were easily picked off because of their strategy of "not rocking the boat". The local security police might well profit from what was in effect a protection racket. Once a bribe was paid, the pressure continued.

Generally the Coptic community had been fleeing in dribs and drabs from Sudan.

20. The peace agreement was not as comprehensive as suggested. It had failed in its task of making unity attractive. Following the death of John Garang, the southern leader who became Vice President following the peace agreement, the southern Sudanese believed that there had been foul play whereas Muslim leaders called for a Jihad. The security apparatus of the hardline group in power since 1989 was still in place. There was very little source for encouragement that the situation would improve. The Sudanese government had become more sophisticated in the way it intimidated people. Ostensible freedom of worship was allowed. It was not Mr Verney's view that any returning Coptic Christian would be at risk but many were potentially vulnerable, particularly individuals and families who had attracted adverse attention from the authorities. This could happen when an individual was perceived as weak and susceptible to bribery. There was a highly antagonistic atmosphere towards Coptic Christians. A small incident might lead to harassment but it could then lead to a cascade of consequences.
21. In cross-examination Mr Verney made it clear that he had not been asked to interview the appellant. He only interviewed appellants when circumstances required him to or where it was necessary. There was a sense in which the Coptic community was unlike other communities as it was likely to sit on evidence and not come forward. The authorities had been engaged in a drive to remove Christians from positions of seniority. This was widely recorded and in his view was beyond dispute. The person he had spoken to on the Sudan Council of Churches was not a Coptic Christian. Mr Verney accepted that the Sudanese authorities showed different levels of interest in different Christian groups. The government was keen to stamp on some of the newer evangelistic Protestant churches. They were hostile to proselytising, evangelical churches. There had also been significant problems for mainstream churches but not on the same level. Coptic Christians were treated in a third and different way and had come under extreme pressure. No other group was likely to face a similar challenge.
22. There had been a small Jewish community but the last synagogue was closed in 1983 and so far as Mr Verney was aware the last Jewish Sudanese left about five years previously. Coptic Christians tended to do well financially and this in turn drew attention to them. The southern Sudanese Christians were a different group who had taken up arms and fought back against the Khartoum authorities. The Coptic Christians had no means of retaliation or guarding their own ground. They often bent over backwards not to give offence or to get into trouble. Mr Verney accepted that the risks were random and arbitrary in the sense that there would be a targeting of individuals perceived to be weak or annoying. It could be something entirely trivial which brought an individual to the attention of the authorities or it could be their wealth or position. One unfortunate encounter might lead to a chain of events amounting to persecution. He accepted that prejudice had existed before 1989 but

generally Sudanese Muslims had been tolerant towards those of other faiths although there had been some antagonism. The problem now was that petty bullies were being given position and free rein.

23. In re-examination Mr Verney gave the example of a pharmacist who had been accused falsely of having out-of-date medicines. This illustrated a system of moving in on Coptic businessmen. It was unlikely that the appellant could escape attention if he returned. It may be that he would be allowed through the airport but there would be a risk of a later raid by the police. He accepted that not all Copts would be picked up but there was an increased risk for Copts.

The Submissions

24. Mr Parker submitted that there was no evidence to support a contention that Christians were generally at risk in Sudan. There were a substantial number of Christians in that country. He referred to the figures in the extract from the World Christian Encyclopaedia at R28. It was clear from the background evidence that missionaries were allowed to operate in the south. There may be an undercurrent of hostility towards non-Muslims which may show itself in harassment and ill-treatment. The Coptic Church had been established in Sudan for a long time and there was little evidence of a specific campaign against it. A different picture appeared from the US State Department Report and at best the evidence was tangential. Even if the appellant was at risk in the north in the light of what had happened to him in the past, there appeared to be no good reason why he could not relocate in the south. The events which triggered ill-treatment appeared to be based on economics rather than religious hostility.
25. Mr Lams submitted that the evidence from Mr Verney taken with the background evidence indicated that Coptic Christians were vulnerable to persecution. Any individual Coptic Christian was at risk of such targeting. There was a real risk of being the victim of arbitrary state power. In such circumstances there could not be a sufficiency of protection. The evidence showed that it was not just a question of the behaviour of lone, rogue police officers but of endemic behaviour indicating a state sponsored course of conduct. There was a difference in degree between the evidence of Mr Verney and other parts of the background evidence such as the US State Department Reports. He referred us to *Drrias*, [1997] EWCA Civ 1181, a judgment of the Court of Appeal (Civil Division) where Thorpe LJ said that in relation to the evidence adduced before a special adjudicator in relation to a claim of religious persecution by a Coptic Christian the evidence was all one way and was corroborative of the appellant's oral evidence. Mr Lams submitted that nothing had changed for the better since *Drrias*. What had happened to the appellant illustrated the risk to Coptic Christians.

The Law

26. We remind ourselves that the appellant is entitled to asylum if owing to a well-founded fear of being persecuted for a Convention reason he is outside Sudan and is unable or, owing to such fear, is unwilling to avail himself of the protection of the Sudanese authorities. The onus is on him to show that there is a reasonable degree of likelihood that he will be at such risk on return. The phrases "reasonable chance", "serious possibility" and "substantial grounds for thinking" have been approved as ways of appropriately expressing the degree of risk but the test is essentially whether there is a real risk of persecution: *Sivakumaran* [1988] Imm AR 147 and *Kacaj* [2001] Imm AR 213. A similar test applies to the assessment of a claim under article 3.

Assessment of the Background Evidence

27. The general background relating to freedom of religion is dealt with in the COIS Report for October 2005, paragraphs 6.67-80. The Interim National Constitution signed on 9 July 2005 provides for religious rights to be respected. The report in fact only sets out the draft dated 16 March 2005 as final texts were not available at that stage. However, the report goes on to give examples of the abuse and restriction of religious freedom at paragraphs 6.71-76. It refers to various sources describing the restriction of activities of non-Muslims and at paragraphs 6.77-85 to reports of forced religious conversions. According to the US State Department Report of 2005 the government continues to place many restrictions on non-Muslims, non-Arab Muslims and Muslims from tribes or sects not affiliated with the ruling party. In general non-Muslims are allowed to worship freely in their places of worship but the authorities continue to restrict the activities of Christians and followers of traditional indigenous beliefs. There were reports that security forces harassed and at times threatened to use violence against people on the basis of their religious beliefs and activities but it was unclear whether the harassment was for religious or political reasons. Muslims could proselytise freely in government controlled areas but non-Muslims were forbidden to proselytise.
28. As to the general human rights background, the report confirms that the Sudanese government's record remains poor and there continue to be numerous problems. Security forces continue to torture, beat and harass suspected political opponents and others. Arbitrary arrest and detention continues to be used. In the US Department of State International Religious Freedom Report for 2005 there is a reference to small but long established populations of Greek Orthodox and Coptic Right Christians mainly around Khartoum and northern cities. The once 25,000 Greek community has been reduced to approximately 500. The Coptic community estimated that its numbers in the past were between 400,000-500,000 but many, mainly for economic reasons had left the country or converted to Islam. The report says that government officials have attended church services at Easter and Christmas to show solidarity and to address non-Muslims. The government ostensibly expressed a

policy of religious tolerance. However, non-Muslims as well as non-Arab Muslims continued to express concern that they were treated as second class citizens and were discriminated against in religious matters such as the issue of permits and the building of churches and also with respect to jobs and other societal relations. This report confirms that missionaries continue to operate in the south, running relief operations, medical clinics and churches. Christian workers including priests and teachers like almost all visitors have experienced long delays in getting visas.

29. Following the signing of the peace accord there were expressions of optimism that the peace agreement would bring changes. An article in Christianity Today August 2004 at 2A 85, said that the peace deal could finally bring a fresh start for southerners, many of whom have been persecuted for their faith. It referred to southern Christians displaced in the north being able to return home and practise their faith without any hurdles and government curtailments. This hope is reflected in the WWL: Countries Where the Situation Improved Report (2R1) which said that last year reported on the new hope Christians in Sudan cherished with the signing of the peace deal by the government and SPLA rebel leaders to end more than twenty years of civil war. In 2004 there were less incidents of violence against Christians as far as we can verify, compared to earlier years. In 2005 this trend seemed to continue, with no confirmed reports of Christians being killed for their faith and fewer incidents reported, such as physical assaults and kidnappings. We should also note the present situation in Darfur which, although not of direct relevance to the issues in this appeal, is evidence of the Sudanese authorities' attitude towards those of the same ethnicity as the rebel groups in Darfur. The Aegis Reports at 2A 51-77 provide strong evidence of an attempt to impose rule by one ethnic group in Darfur by systematically excluding those perceived as being of African origin.

The Coptic Church in Sudan

30. According to the World Christian Encyclopaedia at R27-36, there have been Coptic Christians in Nubia since the fourth century. In Mr Verney's report at 1A 61 he refers to the Copts moving in to Sudan in the sixth century to escape periods of oppression in Egypt. Under Islamic rule they became subject to the code of Dhimma which offered protection whilst giving them second class citizenship. Subsequently their proficiency in business and administration made them a privileged minority. The return of militant Islam in Sudan, particularly after the introduction of Islamic law in September 1983, led to a new phase of oppressive treatment of non-Muslims. There has been a concerted effort to encourage them to leave the country and Copts have been dismissed from the civil service and judiciary. Before 1989 it was relatively easy for Copts to obtain Sudanese nationality by birth or naturalisation but there are now reports of difficulties. The possible recruitment of Copts into the regime's PDF militia for the jihad in the south has pitched them into a war against their co-religionists in the south. Coptic businesses have been subjected to suffer harassment through government controls and

many Coptic businessmen have fled the country even when this has led to a massive loss through currency exchange regulations.

31. In 1995 there were less than 200,000 members of the Coptic Christian community in Sudan according to Mr Verney and this broadly tallies with the figures given in the World Christian Encyclopaedia. Their advanced literacy and numeracy has meant that their role has been more significant than their numbers would suggest. They have adopted a non-confrontational role in an overwhelmingly Muslim society. This, coupled with their light skin colour, has helped them to avoid the worst excesses of religious and racial discrimination but in recent years they have been harassed and intimidated by the present regime. They have common roots with the original Christian missionaries in Sudan but tend to be overlooked in the debate on religious persecution which focuses on the Christians in southern Sudan.

Evaluation of the Evidence

32. We accept that Mr Verney is an expert on whose evidence we can rely. He was employed in Sudan from 1977 to 1989 in various capacities including working as a refugee project monitor and as a field officer. He is the editor of Sudan Update and we note that he was commissioned as a special adviser on Darfur to assist the House of Commons International Development Committee and Overseas Development Institute. He clearly has a wide knowledge of Sudan and writes and speaks with authority. We accept his evidence about the attitude of the Sudanese authorities towards Coptic Christians and the pressures on that community. We accept that it is a vulnerable religious community which has maintained a distinctive identity from the other Christian churches and is also identifiable by its social and professional background. To this extent they have become a quite isolated community although many are prosperous and educated, fulfilling responsible positions in administrative bodies and the civil service.
33. We accept that the position of some members of the Coptic community has worsened since the present regime came to power in 1989 with its narrower view of Islam than that of the majority of the Muslim population in Sudan. We find that there is a real risk of persecution for those members of the Coptic community who for whatever reason have become the object of adverse attention from the authorities including the local security police. The attention may be motivated by malice or greed leading to extortion from business owners as in the appellant's case. As Mr Verney said, the initial trigger may be something petty but the risk is that it leads to consequences of mounting severity. When this happens to an individual Copt, there is no one to whom he can turn for protection. The Sudanese authorities are complicit in this ill-treatment or turn a blind eye to it to the extent that the individual may be deprived of effective protection. The Coptic community, having adopted a low profile, in any event is a small community with no ability to provide its

own members with protection. This leaves the individual without recourse to any form of protection.

34. Mr Verney accepted that although the Coptic community was vulnerable, he would not say that all returning Copts would for that reason alone be at real risk of persecution. We agree with this analysis. It cannot be said and has not been contended that Christians per se are at risk in Sudan. They form about 16% of the overall population and, even taking into account the religious aspect to the civil war between the north and south it cannot be said, in the light of the present evidence particularly following the peace agreement, that being a Christian per se brings with it a real risk of persecution.
35. Similarly, a Coptic Christian is not for that reason only at real risk of persecution. Even though the numbers are relatively small and concentrated in northern Sudanese towns, the evidence does not support a conclusion that Coptic Christians generally are at risk. Many Coptic Christians are in a position to flourish within Sudanese society and their long-standing association with the area can work to their advantage. They remain, however, vulnerable to exploitation and do not have a strong voice or the kind of solidarity exhibited by Christians in the south. There is evidence which we accept of an increasing lack of tolerance towards the Coptic Church and a real risk that individuals who come to the attention of the authorities may find themselves the victims of serious ill-treatment but the nature and extent of that risk depends upon the individual's background and circumstances. The recent history of the behaviour of the authorities towards Coptic Christians has contributed to a general process of attrition affecting the Coptic community.
36. We accept Mr Verney's evidence that distinctions can be drawn between the attitude of the Sudanese authorities towards different groups of Christians. We accept that they are openly hostile to proselytising evangelical churches. Members of mainstream churches may also, in the light of their own individual circumstances, find themselves at risk of persecution. The risk is greater for members of the Coptic Church in the light of their isolated position in society and their particular vulnerability not being part of a larger group able to deter persecution or to provide any remedy.

Summary of our Findings on the Risks for Christians in Sudan

37. We were not referred in submissions to *TM (Persecution–Christians–Individual– General)* Sudan CG [2002] UKIAT 04849. This dealt with a claim by a Roman Catholic. The Tribunal reached the conclusion in paragraph 22 of its determination that the evidence did not show that Christians were targeted per se as a group for treatment amounting to persecution but it accepted that at times harassment and discrimination against individual Christians in Sudan might amount to persecution. We reach the same conclusion in the light of the evidence before us. We therefore confirm that being a Christian in Sudan does not without more

give rise to a real risk of persecution. However, the evidence does confirm that some Christians are in a more vulnerable position than others. Each case will need a careful examination on its own particular facts including an assessment of whether there is in reality a connection between the ill-treatment complained of and a Convention reason. The motivation for the acts of persecution will need to be carefully considered.

38. The Sudanese authorities are particularly hostile to members of proselytising evangelical churches. Coptic Christians are also vulnerable because of their isolated position in society and because of a less tolerant attitude from the present authorities towards them. A Coptic Christian who comes to the adverse attention of the authorities for any reason may well find himself at real risk of persecution on account of his religion but we emphasise again that each case must depend on its own facts.
39. We are not satisfied on the evidence before us that the peace agreement has had any immediate effect to alleviate problems which some Coptic Christians may face. It may be that the situation will settle in Sudan and that the authorities will take a more tolerant attitude towards religious minorities but we are not satisfied that this is the position at present. The same security apparatus is in place in the north following the peace agreement and whatever its effect in the south, we accept Mr Verney's evidence that as yet there has been little if any discernable effect on the human rights position in the north.

The Position of the Appellant

40. The appellant's account of events in Sudan was found to be credible. It clearly fits in with the kind of behaviour described by Mr Verney in his reports. It was his view that in the light of past events, the appellant would be at real risk on return of further adverse attention from the authorities. We agree with this assessment of the risk on return. In the light of what had happened in the past we are satisfied that there is a real risk of repetition. There is no basis for a finding that circumstances have changed in such a way since the appellant left Sudan so as to reduce or minimise the risk to the appellant. Mr Parker sought to argue that internal flight would be open to the appellant in the south. However, that issue was not raised in the Secretary of State's decision letter or at the hearing before the Adjudicator and was only raised before us in submissions. We were not prepared to permit this point to be argued at such a late stage. There was no exploration in the evidence as to whether internal relocation would as a matter of practical reality be available to the appellant.
41. The issue was also raised at the hearing of whether there might be a risk arising from the fact that the appellant would be returning to Sudan after a period of one year. We have not heard evidence on that issue and did

not find it necessary to do so in order to reach a decision on whether the appellant in his particular circumstances would be at risk on return. We are not in apposition to make any findings on that issue. We were referred to Court of Appeal's judgments in *Drrias*. That case looked at the position as at the time of the hearing before the special adjudicator in 1996. The Court of Appeal held that she was entitled to find that the appellant would be at real risk of persecution. The use of this case as an authority on the current position in Sudan is relatively limited as the evidence is a decade out of date. We have sought to review the position in the light of the current evidence.

Decision

42. The original Tribunal made a material error of law. Having reviewed the evidence before us, we allow this appeal on both asylum and human rights grounds.

H J E Latter
Senior Immigration Judge

APPENDIX

Cases, expert reports and background material before the Tribunal

Cases

TM (Persecution – Christians – Individual – General) Sudan CG [2002]
UKIAT 04849

Drrias [1997] EWCA Civ 1181

AE (Relocation – Darfur – Khartoum an option) Sudan CG [2005] UKAIT
00101

LM (Relocation – Khartoum – AE reaffirmed) Sudan [2005] UKAIT 00114

Expert Reports

Report of Peter Verney dated 28 May 2004 and further report dated 6 March 2006, confirmed and updated by his oral evidence

Background material

COIS Sudan Country report October 2005

US Department of State country reports 2002, 2003, 2004, 2005, 2006.

US Department of State International Religious Freedom Report 2004, 2005

Amnesty International annual report 2005 Sudan

Human rights watch report Sudan January 2006

Aegis Trust Reports October 2005:

‘Naming the crisis: policy implications’

‘Darfur and the ideology of Sudan’

‘Systematic actions amounting to genocide’

‘Security’

‘Ending impunity’

‘Conclusions and recommendations’

Status of religious freedom in Sudan November 2005

Freedom for Sudanese Faith – Christianity Today magazine August 2004

Extract World Christian Encyclopaedia OUP 2001

OGN Sudan 13 December 2005

WWL: Countries where the situation improved. Open Doors International 2006

International Affairs regional concerns – Sudan 2004
