

1111909 [2012] RRTA 224 (2 April 2012)

DECISION RECORD

RRT CASE NUMBER:	1111909
DIAC REFERENCE(S):	CLF2010/158274
COUNTRY OF REFERENCE:	Egypt
TRIBUNAL MEMBER:	Patricia Leehy
DATE:	2 April 2012
PLACE OF DECISION:	Sydney
DECISION:	The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act.

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, arrived in Australia on [date deleted under s.431(2) of the *Migration Act 1958* as this information may identify the applicant] April 2009 and applied to the Department of Immigration and Citizenship for the visa [in] November 2010. The delegate decided to refuse to grant the visa [in] November 2011 and notified the applicant of the decision.
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] November 2011 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. The criteria for a protection visa are set out in s.36 of the Act and Part 866 of Schedule 2 to the Migration Regulations 1994 (the Regulations). An applicant for the visa must meet one of the alternative criteria in s.36(2)(a), (aa), (b), or (c). That is, the applicant is either a person to whom 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), or on other 'complementary protection' grounds, or is a member of the same family unit as a person to whom Australia has protection obligations under s.36(2) and that person holds a protection visa.

Refugee criterion

7. Section 36(2)(a) 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 Refugees Convention.
8. 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.

9. 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, *Applicant S v MIMA* (2004) 217 CLR 387, *Appellant S395/2002 v MIMA* (2003) 216 CLR 473, *SZATV v MIAC* (2007) 233 CLR 18 and *SZFDV v MIAC* (2007) 233 CLR 51.
10. 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.
11. There are four key elements to the Convention definition. First, an applicant must be outside his or her country.
12. 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.
13. 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.
14. 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.
15. 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 being persecuted 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.

16. 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. The expression 'the protection of that country' in the second limb of Article 1A(2) is concerned with external or diplomatic protection extended to citizens abroad. Internal protection is nevertheless relevant to the first limb of the definition, in particular to whether a fear is well-founded and whether the conduct giving rise to the fear is persecution.
17. 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.

Complementary protection criterion

18. If a person is found not to meet the refugee criterion in s.36(2)(a), he or she may nevertheless meet the criteria for the grant of a protection visa if he or she is a non-citizen in Australia to whom the Minister is satisfied Australia has protection obligations because the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to a receiving country, there is a real risk that he or she will suffer significant harm: s.36(2)(aa) ('the complementary protection criterion').
19. 'Significant harm' for these purposes is exhaustively defined in s.36(2A): s.5(1). A person will suffer significant harm if he or she will be arbitrarily deprived of their life; or the death penalty will be carried out on the person; or the person will be subjected to torture; or to cruel or inhuman treatment or punishment; or to degrading treatment or punishment. 'Cruel or inhuman treatment or punishment', 'degrading treatment or punishment', and 'torture', are further defined in s.5(1) of the Act.
20. There are certain circumstances in which there is taken not to be a real risk that an applicant will suffer significant harm in a country. These arise where it would be reasonable for the applicant to relocate to an area of the country where there would not be a real risk that the applicant will suffer significant harm; where the applicant could obtain, from an authority of the country, protection such that there would not be a real risk that the applicant will suffer significant harm; or where the real risk is one faced by the population of the country generally and is not faced by the applicant personally: s.36(2B) of the Act.

CLAIMS AND EVIDENCE

21. The Tribunal has before it the Department's file relating to the applicant. The Tribunal also has had regard to the material referred to in the delegate's decision, and other material available to it from a range of sources.
22. The applicant appeared before the Tribunal [in] March 2012 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Arabic and English languages. The applicant was represented in relation to the review by his registered migration agent.

23. According to his Protection Visa application, the applicant is a single man who was born in Cairo on [date deleted: s.431(2)]. He says he is Christian. He says that his parents and two [siblings] are resident in Egypt. He came to Australia on a Student Visa granted [in] March 2009. The applicant says that he lived from January 2000 to April 2009 when he came to Australia in [Suburb 1], Cairo. He gained a Bachelor [degree] in Cairo in 2005. He says that from January 2006 to April 2009 he was a tour leader with [name deleted: s431(2)] in Cairo. The applicant attached a certified copy of his Egyptian passport, issued [in] February 2006, to his application.
24. The applicant submitted a Statutory Declaration of his claims with his Protection Visa application. He says in the statement that he is claiming persecution on the Convention ground of religion. He says that he was born into the Coptic Orthodox faith and while in Egypt was a parishioner at [Church 2] located at [Suburb 1] in Egypt. He says that since the age of 15 he has been an active member of his Church, involving himself in such activities as the Church's Youth Group. His church in Egypt had a committee which collected and distributed Bibles and money to the poor, sick and underprivileged. Donations were also used for the restoration of Christian churches. He was an active member of the committee responsible for the distribution of gifts and the collection of donations since he was 20.
25. The applicant says that during Christmas and Easter he and other members of the Church committee used to distribute mainly food gifts to the poor, both Christian and Muslim. They sometimes left a Bible to those who wanted to accept them, as well as pictures of Christian Saints and Jesus and Mary. Many Muslims they visited were glad to receive these gifts.
26. The Muslim Brotherhood denounces such activities as posing a threat to Muslim society. Local Sheiks have repeatedly warned against accepting gifts from Christians. A number of the applicant's co-religionists involved in these activities have been attacked. Their church was bombed about [some time] prior to the applicant's statement and there were serious injuries to some parishioners. The authorities have not effectively investigated the incident. The church continues to receive threats of further attacks. Parishioners, including the applicant's family members, fear for their safety and have cut down on church attendance to avoid harm.
27. The local priest told his parishioners that their Church was singled out because of its activities in spreading the gospel and Christian charity. The church is a designated pilgrimage destination to many Christians and Muslims.
28. The applicant in Australia is a parishioner at [Church 3]. He also regularly attend [Church 4] and participates in the street outreach organised by the [Church 1]. The applicant is committed to the church because of its activism in preaching the gospel and highlighting the plight of Christians in Egypt. His commitment compels him to preach the gospel, and he intends to continue doing so no matter what adversity he faces. He is aware that preaching the gospel in Egypt is dangerous, but his religious convictions compel him to do so. The applicant also participates in street rallies and regularly watches Al Hayat Television hosted by Fr Zakaria. He cannot rely on the protection of the Egyptian authorities.
29. [In] October 2011 the applicant's adviser wrote to the Department submitting that the political situation in Egypt is highly fluid, but there is little evidence of improvement in protection for Copts. He submits that the security situation has deteriorated markedly since

the fall of Mubarak, and that religious violence has increased. He refers to the US Commission on International Religious Freedom's reports on the failure of the state in Egypt to protect Christians from attacks, and its recommendation that Egypt be designated a "country of particular concern" The adviser submits that the applicant would be unable to obtain state protection if persecuted by Muslims because of his proselytising, and that he would suffer serious mistreatment if he were to be arrested and detained because he would be perceived as trying to convert Muslims and cause social discord. The adviser attached various relevant news reports on the situation in Egypt.

30. The applicant was interviewed by an officer of the Department [in] October 2011. Documents on the applicant's file appear to have been submitted at the interview. The documents are: a letter of support from [name deleted: s. 431(2)] dated [October] 2011 stating that the applicant goes to church several times a week, is studying to preach, goes door to door preaching, and hands out religious leaflets at train stations and shopping centres; similar letters from [names deleted: s.431(2)]; a letter dated [October] 2011 from V Rev Fr [name deleted: s.431(2)], Parish Priest of [Church 3], stating that he has known the applicant for over two years since he became a member of the Congregation, and that he is a valuable participant in the Church, carrying out missionary and other services; a letter from [Father C], Parish Priest of [church deleted: s. 431(2)] [Suburb 1], stating that the applicant carried out extensive evangelical and preaching activities and was involved in many Church activities and services; a letter dated [October] 2011 from Rev Father [name deleted: s.431(2)], Parish Priest and university chaplain, stating that he has known the applicant since his arrival in Australia, believes him to be a dedicated and devout Christian, and that he engaged in missionary work in Egypt and in Australia; a letter dated [August] 2011 from Pastor [name deleted: s.431(2)], of [Church 4], stating that the applicant attends church meetings regularly and that he knows him to be a great Christian; a letter dated [February] 2011 from [name deleted: s.431(2)], Managing Director [name deleted: s. 431(2)], stating that the applicant has done voluntary work at different events for [name deleted: s. 431(2)], such as selling tickets and looking after the security of guests; a letter dated [February] 2011 addressed to the Minister by the [name deleted: s.431(2)], on behalf of [name deleted: s.431(2)], Bishop of the Coptic Orthodox [Diocese] and affiliated Regions, stating that the applicant is an active member of [Church 3]; photos of the applicant apparently handing out leaflets to people at a railway station, apparently inside church, and at demonstrations; receipts for donations to the Coptic Church. Also attached was what was described at the interview as the applicant's schedule for preaching in [specific] suburbs.
31. A summary of the evidence given by the applicant at his interview appears below:
 - The applicant's father is employed by the government as an [inspector] ; his mother is [in the education sector] in [Suburb 1]; the family continues to live at the address given by the applicant in [Suburb 1];
 - The applicant grew up in a Coptic Orthodox family; he lives in [Suburb 1] where [Church 2] is [located]; [specific church details deleted: s.431(2)];
 - The applicant has been brought up by his parents to be very religious and abide by Christian values; since the age of 15 the applicant has been active in the church youth committee; the applicant's role was to knock on doors to find out why young people were not attending church; the applicants' goal is to go out to people and find out what they know about God and the Bible; the Bible in St Matthew

verse 10 encourages going out to preach to people, especially the poor and underprivileged;

- The applicant liked his role preaching to people about Christianity; the law in Egypt is against this; there is a verse in the Koran which says you are allowed to kill people who are not believers; but preaching is the applicant's life; he referred at his interview to a number of verses from the gospels in support of the requirement for preaching the gospel;
- The applicant said he distributed food and other things to poor Christian families; later they were asked why donations were not given to people of other faiths, so they tried to distribute to everyone;
- When asked whether he was ever threatened in the course of his preaching or distributing alms to the poor, the applicant said preaching is not an easy task; you face many difficulties and assaults;
- The applicant's church specialised in preaching and is well known for this by Islamists; they see that they preach and give donations to people; they believe that they are trying to convert people from Islam; the Islamists kept sending threats to the church to stop the preaching; they threatened to burn the church; the Sheikh was telling the Muslims not to accept anything from the infidel; people became fearful of coming to church;
- The applicant said that many of his colleagues were exposed to beatings and humiliation, but nothing happened to him apart from verbal abuse;
- The applicant's church was bombed [some time] after he came to Australia; the applicant came to Australia because his father wanted him to stop preaching; he is the only son; his father said he had to stop preaching or go elsewhere; he prepared all the applicant's papers to come to Australia;
- The applicant was asked why he involved himself in the [Church 4] since its religious beliefs were different from those of the Copts; he said that it made no difference to him; he found a lot of people at [Church 4] who were active in preaching by knocking on doors and distributing pamphlets; the applicant however remains Coptic Orthodox;
- The applicant was asked about his previous reference to his church being attacked; he said that a lot of people were injured at the church and he then went to his current adviser;
- It was put to the applicant that the interviewing officer had found a reference to an attack on [Church 2] after he arrived in Australia which said that there were no injuries in the church attack; the applicant said that they conceal things; it was put to him that the report was published by the US State Department; he then said that in Egypt it is alleged that the Americans or the Israelis are responsible for all the problems;
- The applicant said that he was persecuted everywhere because he is a Christian and has a Christian name;

- The applicant was asked whether he would support any political party in Egypt in the elections; he said that he could not support any of the Islamic parties;
- The applicant said that if he returned to Egypt he would be killed just for being Christian;
- The applicant was asked why he did not apply for protection when he first came to Australia; he said that when he came he had no-one in Australia; he had to wait to find out about the country; he said that by seeking protection he was seen to be abusing the government in Egypt; he was concerned about harming his family; the people at the church advised him to apply for protection;
- The applicant first went to see [Mr A]; [Mr A] told the applicant he had applied for protection on his behalf but had not done so; the applicant complained about [Mr A] to MARA; the applicant was advised that [Mr A] had been deregistered; this was 8 months before he lodged his Protection Visa application with his current adviser, [name deleted: s.431(2)].

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32. The applicant provided no additional information with his review application to the Tribunal.
33. [In] March 2012 the applicant's adviser made a submission to the Tribunal. He says in his submission that the applicant as a committed Christian is obliged to preach to all men. He says that independent evidence confirms hostility towards active Christians is prevalent throughout the country, and that there continues to be violence against Christians unchecked by the authorities. The adviser submits that the applicant cannot be selective about who he preaches to. The adviser submits that it would not be a viable proposition for the applicant to relocate or restrict his preaching activities to Christians only. He says: "The independent evidence supports the notion that members of the Evangelical Church in Egypt have had to significantly curtail their outreach activity (limiting preaching to Christians), merely to avoid violent repercussions from Islamists and the authorities."
34. [In] March 2012 the applicant's adviser submitted a psychologist's report from [Dr B] and a letter from [Church 5] in [Suburb 1]. The report from [Dr B] dated [February] 2012 states that the applicant is under his care for his psychological condition. [Dr B] does not provide a clinical diagnosis, but says that the applicant is nervous, very emotional and has "great fear for his life". He says that he is receiving stress management treatment as well as "psycho-education, cognitive behaviour therapy, counselling and relaxation and support therapy." [Dr B] says that the applicant first attended every two weeks then every four weeks. He does not state when the applicant first saw him. [Dr B] describes what the applicant had reported to him about his experiences in Egypt, essentially what he claimed in his Protection Visa application.
35. The letter signed by Rev [name deleted; s.431(2)], the Parish Priest of [Church 5] [Suburb 1], is dated [December] 2011. In his letter Father [name deleted; s.431(2)] states that the applicant is a "servant known to us, and because of his wide preaching work he was subjected to numerous threats and serious problems. This is a certificate by us to that effect, without the Church bearing any responsibility."

36. The applicant attended a hearing with his adviser. [Father D], who is based at the Coptic Church at [place deleted: s.431(2)] [Suburb 6], also gave evidence at the hearing. He was in Egypt most recently in November and December 2011.
37. It was put to the applicant that he had come to Australia on a Student Visa, and he was asked whether he was still a student. He said that he was not. He stopped studying [some time] after he came to Australia, because that was not the reason he came to Australia. It was put to the applicant that it appeared from Departmental records that he had been sent a non-compliance notice [in] September 2010. When this was explained to the applicant, he said that he had never received anything about his Student Visa from the Department.
38. The applicant was asked what he feared if he returned to Egypt and said that he had been wanted by the Muslim Brotherhood and that they want to kill him. When asked to give more detail about who specifically would kill him, he became very voluble about Shari'a law saying that this states that Christians should be killed. It was put to the applicant that on the basis of the country information available to the Tribunal it did not accept that there was a real chance that he would be persecuted in Egypt simply because he is Christian. It was put to him that there are estimated to be 6 to 10 million Christians in Egypt, and it is apparent from the country information that only a tiny proportion of this total has been seriously harmed. It was also put to the applicant that on the basis of the country information before it, the Tribunal did not accept that the Muslim Brotherhood in particular targets individuals simply for being Coptic Christians. The adviser asked for and was granted a brief adjournment.
39. After the adjournment, the applicant was asked whether part of his treatment by the psychologist included taking medication. He said that he was not taking medication but had been found to be diabetic.
40. The applicant was then asked again what he feared if he returned to Egypt. He said that he was an active preacher. Anyone who saw him preaching to people could hurt him. It was against the law to preach. It was put to him that the information available to the Tribunal indicate that it was not illegal to proselytise. The applicant said it is contrary to Shari'a law.
41. The applicant confirmed that his parents and two [siblings], one of whom is married, the other in [their] final year at school, live in [Suburb 1, Cairo]. All the family is Coptic and his parents were born into the Coptic Christian faith. They all attend the church of [Church 2] [Suburb 1]. The applicant is in regular contact with his family and spoke to them a week ago. They were very saddened by the death of Pope Shenouda. The applicant was asked whether in the past three months any member of his family has been harmed. He said that his parents were not harmed because they are old. His [siblings] had not been harmed. The Islamists are not interested in them. They all attend church regularly, but they are fearful.
42. The applicant said that though his immediate family members have not been hurt, other relatives and friends have been. He mentioned the bomb outside the church. It was put to the applicant that the bomb he referred to was a small bomb which did not appear to cause any casualties, according to the available country information. He was given a copy of the [report] of a small bomb detonated outside the church in [2009] which caused no casualties. He said that he had heard about a bomb which caused a lot more damage. It was put to him that the Tribunal was unable to find any record of this, and that it was unlikely that any event of this kind affecting a very popular [church], would go unreported. The applicant said that though he had not been there, he had been told about it.

43. It was put to the applicant that he had said at his interview with an officer from the Department that he had not been harmed in Egypt, apart from receiving verbal abuse. He said that he had not been properly interpreted at his interview, and he wrote down two points in the interview recording where the interpretation had been inaccurate. He said that he had had stones thrown at him and had been verbally abused. He was asked when he was the victim of stone-throwing. He said that it was in the last six months before he came to Australia. Extremist Muslims threw stones at him. He was preaching in [Town 7], a very poor area, which contained both Muslim and Christian residents. He would take donations to people there, sometimes donations of money, and he would sometimes leave a Bible. He would talk to people about Christianity. On the occasion he mentioned, he was coming out a house and was confronted by a group of men shouting "Christian infidel!" and "You want to convert these poor Muslims to Christianity!" The applicant said that he was on his own preaching at the time. He was asked whether he had been hurt by the stones, which he described as about the size of his hand. He said that he was injured on his body, but not on his face. He did not seek medical treatment. When asked whether this was the only occasion on which stones had been thrown at him, the applicant said that it happened frequently. He was also threatened. He found out that the Islamists had found out what church he was from and asked questions about him at the church.
44. The applicant was asked how long he was preaching. He said that he was preaching from when he was about [20]. His problems with Muslim extremists did not start then, because he used to go out with other people from the church. However in the last year or 18 months before he came to Australia he used to go out and preach on his own. The problems started gradually. People would start recognising him from previous visits to their areas.
45. It was put to the applicant that if the worst thing that had happened to him in Egypt was what he had described, the Tribunal did not accept that this was serious enough as to amount to persecution in a Convention sense. He said that they could have killed him.
46. The applicant was asked why the priest at [Suburb 1], Father [name deleted: s.431(2)], said different things in the two letters which had been submitted. Only in the second letter did the priest mention problems encountered by the applicant. He was asked why this was so. The applicant said that after his application had been rejected, he asked [Father C] to write more specifically about the problems he faced. It was put to him that even then very little detail had been given. The applicant said that the Coptic priests have to be very careful what they say.
47. The applicant was asked whether he wanted to say anything further about his religious activities in Egypt. He said that he did not. He was asked whether he wished to say anything further about the harm he suffered there. He said that the sheik in the local mosque told the congregation not to let Christian preachers into their homes. The sheik said: "They are infidels. They do black magic". The sheik threatened the church. The applicant was asked whether the sheik named him personally. He said that he did not.
48. The applicant was asked whether he told his parents about being struck with stones. He said that he did not. But he had told [Father C] and [Father C] had told his father. His father told him to stop the preaching. [Father C] also tried to make him stop. The applicant said that he could not do this because he felt personally responsible for the poor people he preached to.
49. It was put to the applicant that he needed to be aware that the Migration Act required the Tribunal to disregard any activities he had entered into in Australia if the activities were

undertaken to strengthen his claims to protection. It was put to him that it appeared strange to the Tribunal that he had gone to [Church 4] and become active on behalf of that church when he was a Coptic Christian and the [Church 4] was not Coptic.

50. The applicant said that when he was at university in [City 8] he went with a group including Egyptian and Iranian students to that church. He started going there because these other students took him there soon after he arrived in 2009. At that time he did not know much about the location of Coptic churches. He had been referred to a Coptic church by his priest in Egypt, but it was too far away for him. The applicant says that he still preaches and he hands out pamphlets. He submitted a number of pamphlets, some of which he said were from the Coptic church. He said that he goes about twice a week to preach. He hands out pamphlets at train stations and talks to people. The applicant submitted a number of photos which included some of him talking to people and handing out pamphlets.
51. When asked what other activities he had undertaken in Australia, he said that he had gone to demonstrations on 19 January 2010 (following the Nag Hammadi incident), 19 January 2011 (following the incident at the Two Saints church) and on 23 October 2011. He said that he organised [a number of tasks] at these demonstrations on behalf of the [Coptic church]. Some of the photos, which are machine dated on the back, show the applicant and others at demonstrations.
52. The applicant said that he was also a volunteer at [name deleted: s.431(2)]. He helped sell tickets to events organised by [name deleted: s.431(2)] and he also helped with security. When asked what this involved, he said that he provided security when [a certain speaker] was last in [Australia] He spent 4-6 hours standing beside him and walking with him at [Church 4].
53. The applicant was given a list of Coptic priests at [church deleted: s. 431(2)][Church 2] at [Suburb 1], downloaded from the church's website. He said that he knew most of the priests listed, and that [Father E] was the head of the priests at the church. However his own confessor was [Father C], who is identified on the website as Father [name deleted: s.431(2)].
54. The applicant was asked whether he wished to mention any other religious activities in Australia that he thought important for the Tribunal to consider. He said that [Church 3] runs sessions on various topics, and he himself has been attending training on preaching every Wednesday night at the church.
55. It was put to the applicant that there had been a delay of some 18 months after he arrived in Australia before he lodged a Protection Visa application. It was explained that this could indicate to the Tribunal that he was not in fear of persecution when he arrived in Australia. The applicant said that it took some while for him to apply for protection. He did not want to slander Egypt, because this is considered a serious matter there where they can charge you with a crime for doing this. It was also the case that he could cause problems for his family in Egypt.
56. It was put to him that nevertheless he decided to apply for protection using the agent [Mr A]. He said that this was so, and submitted two receipts which he said had been issued by [Mr A]. One was dated [May] 2010 and was for a payment of \$1000, the other was for [August] 2010, and was for \$500. It was put to the applicant that these receipts indicated that it was over a year before he approached [Mr A]. He said that he had had conversations with the agent for a

while before this. However, it was the case that it was a few months before he approached the migration agent.

57. It was put to the applicant that even when he decided not to use [Mr A], it had apparently taken several months for him to approach his current agent, [name deleted: s.431(2)]. He said that this was so. When asked again about his reasons for delaying, the applicant said that he was concerned about applying for protection especially for this family.
58. [Father D] gave evidence. He said that last year he went to Italy with a youth group sponsored by the Coptic church. He then went to Egypt. The reason that he went was because the church has been approached by many asylum seekers in Australia, and the Church did not want to put itself into a false position in the case of those who might not be genuine. [Father D] said that he interviewed some 70 people in various areas in Egypt, including the applicant's father and the applicant's priest, [Father C], at [Church 2] in [Suburb 1]. He interviewed all the family members in churches.
59. The witness said that the applicant's father had told him that the applicant was very stubborn. He said that the applicant would serve the church in poor areas. This was confirmed by [Father C]. He was told that the applicant used to visit both poor Christians and Muslims and try to help them both financially and spiritually. It is forbidden to openly preach to Muslims, but they would give out Bibles.
60. The witness said that Salafists began to gain control over the poor areas after the revolution in Egypt. They would tell Muslims not to deal with Christians at all. They would say that the Bible has magic spells in it. The Salafists had started to target people who visited the poor areas. He was told that in [Suburb 1] the Salafists had a car which was full of explosives, and this was designed to warn Christians off.
61. The witness said that he was told by [Father C] that before Christmas 2011 they used to have huge services attended by 12000-13000 people, but now they have moved the services to other churches. They have closed [Church 2] for renovations, but it was to keep the people safe.
62. [Father C] had told the witness that he had told the applicant to stop his preaching, but the applicant would not stop, and got into trouble. He said that the applicant's father had also told him to stop preaching, but when he would not do so, his father pushed him into coming to Australia. [Father D] said that he felt the applicant's father was very genuine. He was extremely distressed about the applicant.
63. The witness was asked whether he thought the situation had changed recently in Egypt. He said that prior to going at the end of 2011, he had last been in Egypt in 2007. Things had changed enormously since then. There is an obvious presence of Salafists in the streets, in distinctive dress and beards. Now almost every woman is wearing a veil in the streets, where previously this had not been the case. The witness said that in 2007 everything seemed normal, but in December 2011 the situation is very bad, especially in Cairo and Upper Egypt, though the trouble is spreading. The extremists are trying to choke the country and they are targeting Christians, especially those who are active in church activities. When asked how [Suburb 1] compared with other places, the witness said that [Suburb 1] and [Town 7] are worse than other places, as is old Cairo.

64. The witness said that he is aware that the applicant serves in the Coptic church in [place deleted: s. 431(2)]. He said that he himself is currently based at [a] Coptic church in [Suburb 6], but he is also familiar with [Church 3] and [church deleted: s.431(2)]. the witness said that he was aware that the applicant gave out brochures on Christianity to people. It is easy to do this in Australia and it is not against the law. If the applicant did this kind of thing in Egypt, the witness said that “they would eat him alive.”
65. When asked whether he had anything further to add, the applicant said that two or three days ago he saw people with Bibles and musical instruments in the street. He said that that was what he wanted to do, without any constraint.
66. The applicant’s adviser said that the independent evidence on Egypt shows that there has been a regression in religious tolerance in Egypt. Islamists, Salafists and other fundamentalists are on the rise. The applicant had religious convictions which included for him the necessity of preaching the Gospel to everyone. He had done this not only on behalf of Coptic Christians, but he had found a commonality with other churches such as [Church 4]. The adviser said that the applicant would be harmed because he would be preaching if he returned to Egypt, to everyone, not just to Christians, regardless of the consequences. The adviser said that the authorities are not disposed to protect Christians. People who would harm the applicant can take the law into their own hands without fear of reprimand. The authorities were not receptive to Coptic Christians’ complaints. Indeed they have been accused of encouraging sectarian violence. There is a climate of open hostility to Christian activists, with the authorities being loath to protect them. Fundamentalism is on the rise in contrast to past where the society was inclusive. If the applicant return he would live out his convictions, including the duty to preach, and this would put him at risk from Islamists.

Country Information

Current situation in Egypt

67. There is a very significant amount of information available about the situation in Egypt. *The New York Times* provides a useful summary of events following the fall of Mubarak up to the present.
(<http://topics.nytimes.com/top/news/international/countriesandterritories/egypt/index.html?scp=1-spot&sq=egypt&st=cse>)
68. *The New York Times* points out that the current situation in Egypt is highly unstable:

Now, more than a year after the initial uprising, Egypt is still under martial law, with the ruling military council acting as the highest authority, even though the Muslim Brotherhood’s Freedom and Justice Party was the clear winner in the parliamentary elections. The new Parliament remains subordinate to the ruling military council, although the generals have promised to turn over power to civilians by the end of June 2012, with some still undefined limits.

As tens of thousands of Egyptians gathered on Jan 25 [2012] in Tahrir Square to mark the first anniversary of the protests, the mood was a mixture of celebration and agitation. The spirit that unified last year’s uprising had been replaced by new tensions between the country’s political factions and the military rulers.

Coptic Christians in Egypt

69. Sources indicate an increase in sectarian violence and attacks since President Hosni Mubarak's resignation in February, resulting in deaths and injuries. The International Federation for Human Rights, the United States Commission for International Religious Freedom and the Egyptian Initiative for Personal Rights report that police and military forces have failed to adequately protect Christians and their property in the post-Mubarak period.¹ In May 2011, the US Commission for International Religious Freedom recommended that, for the first time, Egypt be designated a country of particular concern.²
70. Sources indicate that the security situation has greatly deteriorated as a result of a power vacuum left after the transitional government dismantled the police and intelligence services. This has reportedly emboldened extremist groups and diminished the capacity of the authorities to respond to attacks.
71. The bombing of a Coptic church in Alexandria on the 1st January 2011 was the worst sectarian attack on Christians in Egypt in over a decade, killing 23 people and wounding nearly 100.³ Conditions have not improved for Christians since President Mubarak's resignation on 11 February 2011, with sources reporting an overall increase in sectarian conflict and attacks.⁴ One of the most serious recent attacks occurred in October 2011. A BBC News Report of 10 October 2011 includes the following:

At least 24 people have been killed and more than 200 wounded in the worst violence since Egypt's former President Hosni Mubarak was ousted in February. Clashes broke out after a protest in Cairo against an attack on a church in Aswan province last week which Coptic Christians blame on Muslim radicals...

Sectarian tensions have increased in recent months in Egypt. The Copts - who make up about 10% of the population - accuse the governing military council of being too lenient on the perpetrators of a string of anti-Christian attacks.

Prime Minister Essam Sharaf appealed to Egyptians not to give in to sectarian strife. (<http://www.bbc.co.uk/news/world-middle-east-15235212>)

72. A few days after the event, BBC News posted the following:

Egypt's ruling council has denied that troops opened fire on Coptic Christian protesters and drove military vehicles into crowds during recent clashes, but many

¹ International Federation for Human Rights (FIDH) 2011, *Escalation of inter-confessional violence in Egypt*, 9 May; United States Commission on International Religious Freedom 2011, *Annual Report 2011*, May, p49 <http://www.uscirf.gov/images/book%20with%20cover%20for%20web.pdf> – Accessed 27 June 2011; Egyptian Initiative for Personal Rights 2011, *EIPR Releases Findings of Field Investigation into Imbaba Events*, 14 May <http://www.eipr.org/en/pressrelease/2011/05/14/1166> – Accessed 27 June 2011

² United States Commission on International Religious Freedom 2011, *Annual Report 2011*, May, p49 <http://www.uscirf.gov/images/book%20with%20cover%20for%20web.pdf> – Accessed 27 June 2011

³ Minority Rights Group International 2011, *World Directory of Minorities and Indigenous Peoples – Egypt: Copts*, April; Johnston, G. P. 2011, 'Who will defend Christians in Egypt?' *The Whig Standard*, 27 March <http://www.thewhig.com/ArticleDisplay.aspx?e=3043828> – Accessed 27 June 2011

⁴ Kirkpatrick, David P. 2011, 'Egypt's Christians fear violence as changes embolden Islamists', *The New York Times*, 30 May http://www.nytimes.com/2011/05/31/world/middleeast/31coptic.html?_r=1&nl=todaysheadlines&emc=th22&pagewanted=print – Accessed 27 June 2011; United States Commission on International Religious Freedom 2011, *Annual Report 2011*, May, p49 <http://www.uscirf.gov/images/book%20with%20cover%20for%20web.pdf> – Accessed 27 June 2011

Egyptians have been left with a deepening sense of disenchantment with the authorities...

In those heady days of demonstrations [February 2011], there were many inspiring scenes of Christian and Muslim solidarity. They offered an alternative utopian vision to the large number of Coptic Christians who had long feared an Islamist takeover. People became more vocal in their complaints that the Mubarak regime had allowed discrimination against Egypt's Copts - who make up about 10% of the population. It was yet another of the country's social problems that had been left to fester... But since then, with each month that has passed during this chaotic period of political transition, public frustration has mounted. And Christians in particular, have felt increasingly vulnerable. Instead of seeing reforms to try to stop sectarian division, they point out that Islamist extremists, known as Salafis, have gained more free rein. They are suspected of being behind many of the attacks on Copts...

This week Egypt also took a comforting step towards a return to civilian rule, beginning to register political candidates for a parliamentary election next month. (BBC News, 15 October 2011, <http://www.bbc.co.uk/news/world-middle-east-15312194>)

73. On 26 October 2011, BBC News reported that Yousef Sidhoum, editor of the Coptic newspaper al-Watani, as arguing that the situation for Egypt's Copts has worsened following the country's revolution, but that the Copts can still play a crucial role in building a liberal, civil state. He is reported as saying that the situation had worsened for Coptic Christians "because of the revival of political Islam and the eruption of violence inflicted upon them by the emerging Salafist Islamic groups coupled with a very worrying failure of the ruling regime to enforce the rule of law or to offer Copts protection" (<http://www.bbc.co.uk/news/world-middle-east-15385063>).

74. In a report on the funeral of the Coptic Pope Shenouda, on 20 March 2012, *The New York Times* remarked on the Coptic Christians' grief:

The grief seemed only to compound the long-held complaints about discrimination which since Mr. Mubarak's departure have been replaced by deeper fears that Islamist parties could further marginalize the minority Christian population if they try to fashion Egypt into a more observant Muslim state. (<http://www.nytimes.com/2012/03/21/world/middleeast/coptic-pope-shenouda-iiis-death-adds-to-fears-in-egypt.html?ref=egypt>)

State protection

75. Sources indicate that security forces have failed to respond adequately to some of the attacks on Christians or have indeed been responsible for some of the attacks. However, the transitional authorities have made some statements which indicate a willingness to protect Coptic Christians. Prime Minister Sharaf has also established a National Justice Committee within the cabinet tasked with addressing sectarian issues and drafting a new unified law for building houses of worship.⁵ The new draft law has been labelled by one Coptic Bishop as a

⁵ Kamel, Mansour and Emad Khalil 2011, 'Prime Minister announces committee to tackle sectarian issues', *Almasry Alyoum*, 11 May

“major step forward for the citizenship of Christians”.⁶ However, other church officials in Egypt have criticised the draft law.

76. In May 2011 the US Commission for International Religious Freedom recommended that, for the first time, Egypt be designated a country of particular concern. This was due to ‘the Egyptian government’s systematic, ongoing, and egregious religious freedom violations’.⁷ The 2011 USCIRF report concludes that ‘the Egyptian authorities have failed to protect religious minorities, particularly Coptic Christians, from violent attacks, including during the transitional period when minority communities are increasingly vulnerable’. Since Mubarak’s resignation, religious freedom conditions have not improved and attacks targeting Coptic Christians have risen, the Commission concluded.⁸

Proselytising in Egypt

77. The 2011 US Commission on International Religious Freedom (USCIRF) *Annual Report* notes ‘although neither the Constitution nor the Penal Code prohibits proselytizing or conversion, the Egyptian government has used Article 98(f) of the Penal Code to prosecute alleged proselytizing by non-Muslims’.⁹ Persons engaged in proselytising have been arrested and detained by Egyptian police. Sources suggest some have been tortured or subjected to ill-treatment by police and security officers. Domestic and international human rights groups reported that the State Security Investigations Service, police, and other government entities continued to employ torture to extract information or force confessions.
78. The 2010 US Department of State (USDOS) *International Religious Freedom Report* notes:
... police have detained or otherwise harassed those accused of proselytizing on charges of ridiculing or insulting heavenly religions or inciting sectarian strife¹⁰
79. The Egyptian government has used Article 98(f) of the Penal Code to prosecute alleged proselytising by non-Muslims.¹¹ According to the Article, such persons may be punished with imprisonment between six months and five years.
80. Sources suggest that persons accused of proselytising may be at risk of torture or other ill-treatment by Egyptian police and security officers. Two young men arrested at the Cairo International Book Fair told the Egyptian Initiative for Personal Rights (EIPR) that they were tortured with physical blows and electric shocks in the State Security police headquarters in

⁶ ‘Optimism in Egypt over building churches’ 2011, *Aid to the Church in Need*, 22 June
http://www.churchinneed.org/site/News2?page=NewsArticle&id=6631&news_iv_ctrl=1001 – Accessed 28 June 2011

⁷ United States Commission on International Religious Freedom 2011, *Annual Report 2011*, May, p53
<http://www.uscifr.gov/images/book%20with%20cover%20for%20web.pdf> – Accessed 27 June 2011

⁸ United States Commission on International Religious Freedom 2011, *Annual Report 2011*, May, p53
<http://www.uscifr.gov/images/book%20with%20cover%20for%20web.pdf> – Accessed 27 June 2011

⁹ US Commission on International Religious Freedom 2011, *USCIRF Annual Report 2011 – Countries of Particular Concern: Egypt*, UNHCR Refworld website, 28 April
<http://www.unhcr.org/refworld/docid/4dbe90c4c.html> – Accessed 6 July 2011

¹⁰ US Department of State 2010, *International Religious Freedom Report 2010 - Egypt*, 17 November

¹¹ US Commission on International Religious Freedom 2011, *USCIRF Annual Report 2011 – Countries of Particular Concern: Egypt*, UNHCR Refworld website, 28 April
<http://www.unhcr.org/refworld/docid/4dbe90c4c.html> – Accessed 6 July 2011

Assyout after they were forcibly returned to the governorate.¹² Similarly, Christian news agency *Compass Direct* reports that following his arrest Kamel Barsoum [one of the young men arrested] remained in handcuffs for hours, was thrown to the ground, spit upon and threatened with violence.¹³

[Church 2][Suburb 1]

81. The church has a website which is in part in English. It provides a list of the priests at the church, and the list includes [Father E] and [Father C].
82. Various sources, including the US State Department, report on the explosion of a small bomb near the [Church 2] in [Suburb 1] in [2009]. [news article and URL deleted:s.431(2)]

Al Hayat TV [channel]

83. Some confusion may arise from the fact that there are two Al Hayat (“life”) television channels, one a secular TV channel in Egypt, the other an evangelical TV channel which has a local presence in Australia and which has its own website. Al Hayat Australia’s website says:

Our sole purpose is to broadcast the Gospel in Arabic to introduce [people...without God’s grace] to Christ as Lord and Savior through grace by faith and to teach them God’s eternal Word, simply, effectively and biblically.¹⁴

84. The Australian Al Hayat website announced on 31 January 2011 that Al Hayat Australia is to start a new Weekly Live Show which will be broadcast to a global audience.

[Church 4]

85. This is a church whose services are directed towards Christian converts from Islam. [Information the Church provides about itself states] the following:

We are a group of people that the sincere grace of God (Tit 2-11) has reached us through the work of our Lord and saviour Jesus Christ who loved us and gave himself for us...

And the fact that our religious identity as former Muslims saved by the blood of our Lord Jesus Christ, we are burdened with this service among those far from our beloved Lord and Saviour, Jesus Christ, who desires all men to be saved, and to come unto the knowledge of the truth.[(1 Tim 2-4)]

86. The church conducts Arabic language services on Sundays and Arabic language Bible studies on Thursdays.

Demonstrations in [Australia] on behalf of Coptic Christians

87. [reference to specific demonstrations in Australia and the related URL link deleted: s.431(2)]

¹² Egyptian Initiative for Personal Rights 2009, *Freedom of Religion and Belief in Egypt Quarterly Report*, July-September, pp.27-28 http://eipr.org/sites/default/files/reports/pdf/FRBQ_July_Sept_09_EN.pdf – Accessed 23 February 2010

¹³ Morris, Will 2009, ‘Christian arrested for distributing tracts in Egypt’, *Compass Direct*, 6 October

¹⁴ “Al Hayat Australia – Welcome” n.d., Website of Al Hayat TV Australia, http://lifetv.org.au/tv/?page_id=2 - Accessed 12 January 2011.

FINDINGS AND REASONS

88. On the evidence before it, including the evidence of the applicant's passport, the Tribunal finds that he is a national of Egypt.
89. The Tribunal found the applicant to be generally a credible witness, though it also found that he demonstrated a high level of anxiety at the Tribunal hearing and appears to have been strongly influenced by media reports of the situation for Coptic Christians in Egypt. The Tribunal found him to be extremely committed to his religion and knowledgeable about it, and highly partisan in his religious beliefs. He appears to believe, for example, that Muslims in general hate Christians, and act accordingly.
90. The Tribunal also found [Father D] to be a credible witness, and found it useful that he was able to give evidence on conditions in Egypt as recently as the latter part of 2011.
91. The Tribunal accepts that the applicant is a committed Coptic Orthodox Christian from a Coptic Christian family. It accepts that he was active in the affairs of his local church in [Suburb 1]. The Tribunal accepts that the applicant is very committed to preaching about his religious beliefs to other people, a characteristic not necessarily shared by other Coptic Christians. It accepts that the applicant has continued and increased this kind of proselytising since he has been able to do so freely in Australia.
92. The Tribunal accepts that as part of the activities of the applicant's church in Egypt he distributed gifts of money and goods to poor people in his area. It accepts that the applicant, not necessarily with any encouragement from his church, talked to people, including Muslims, about the Bible, and sometimes left Bibles in Muslims' homes. It accepts that the applicant in the last 18 months before he left Egypt would go by himself, and not with people from the church, to talk to people about Christianity. It accepts that this activity caused him to have a profile, in that he was recognised by local people as a Christian who preached about his religion. The Tribunal accepts that the applicant was subjected to verbal abuse and minor physical harm by having stones thrown at him as a result of his preaching to Muslims in Egypt. The applicant said at interview that he did not require medical treatment or admission to hospital because of the stone-throwing, but that he suffered minor injuries to his body. On the evidence before it, the Tribunal is not satisfied that the applicant suffered harm serious enough to amount to persecution in a Convention sense as a result of his proselytising in Egypt.
93. The Tribunal accepts the supporting evidence given in the form of letters by Father [Father C] of [Church 2] that the applicant was engaged in Christian activities in Egypt, and that he suffered problems as a result of this. [Father D] was able to confirm that this was the case, having spoken to both [Father C] and the applicant's father on his trip to Egypt at the end of 2011. [Father C] is identified on the [Church 2] [Suburb 1] website as one of the priests affiliated with the church (para 81). The applicant was convincing in explaining that this priest was his confessor, and that he had approached him to provide more detailed supporting evidence about his activities when he had appealed to the Tribunal. The applicant said, and the Tribunal accepts, that [Father C] had in fact provided very little additional detail in his second letter because he was concerned that providing more detail might be dangerous for himself and the church.
94. The Tribunal formed the view at the hearing that the applicant is a headstrong and impetuous person not given to prudence in his actions. It accepts the applicant's evidence, and that of

his witness [Father D], that his father and [Father C] both attempted to dissuade him from his dangerous preaching activities. It accepts that the applicant's father in effect removed him from harm's way by sending him to study in Australia.

95. The Tribunal accepts the applicant's evidence, supported by letters and statements by clergymen and others, that he has been very active both on behalf of the Coptic Orthodox Church and the [Church 4] since he has been in Australia. It accepts that a large part of the applicant's activities involve preaching his religious beliefs to strangers. In making these findings, the Tribunal has been mindful of Section 91R(3) of the Migration Act which requires it to disregard any conduct engaged in by the applicant for the purpose of strengthening his claim to be a refugee. The Tribunal finds that the applicant has engaged in his religious and political activities (involving himself in Coptic [demonstrations]) for purposes other than strengthening his refugee claims. It finds that he has been motivated chiefly by his religious commitment as a Coptic Christian and by a passionate opposition to Islam.
96. The Tribunal has considered whether there is a real chance that the applicant will be persecuted if he returns to Egypt in the foreseeable future. In making its findings, the Tribunal has taken into account the substantial amount of country information which details a current climate of hostility to Christians in Egypt. It accepts that there has been an increasing Islamisation of Egyptian society, as evidenced by the very strong showing in the recent elections, not only of the Muslim Brotherhood, now generally considered more moderate than it has been in the past, but by the Salafists, who hold extreme Islamist views (paras 67-74). The Tribunal has also taken into account the general lack of State protection for Christians suffering harm from Salafists and others in the community, and the USCIRF's designation of Egypt as a "country of particular concern" because of the Egyptian government's "systematic, ongoing and egregious religious freedom violations" (para 76).
97. Even though the conditions for Coptic Christians are clearly extremely worrying, the Tribunal does not accept that the mere fact of being a practising Coptic Christian means that there is a real chance that such persons will be seriously harmed in a Convention sense for that reason. However, the Tribunal finds that a remote chance of serious harm may become a real chance for some individuals. In the applicant's case, the Tribunal finds that he has a level of commitment to his religious beliefs, which include a belief in his duty to proselytise, which elevate the risk to him in the current situation in Egypt. That risk is further increased, in the Tribunal's view, because of activities undertaken in Australia which may be considered politically hostile to the regime in Egypt, including a strong public engagement with protest activities against the regime on behalf of Coptic Christians, and a public profile with Al Hayat, a television network with a record of strident criticism of Islam.
98. The information on attitudes to proselytising in Egypt indicate that the police have detained and otherwise harassed those accused of proselytising, even though this activity is not illegal in Egypt (paras 77 to 80). Press coverage of Coptic demonstrations in [Australia] has been notable, and the Australian arm of Al Hayat broadcasts events which have a global audience. The applicant has submitted photos of his involvement in demonstrations, and his activities as a bodyguard for a [visitor to Australia]. In the Tribunal's view, any monitoring of local media by Egyptian authorities or informants is likely to disclose the applicant's public activities in Australia.
99. On the evidence before it, the Tribunal is satisfied that there is a real chance that the applicant will face Convention-based persecution for reason of his religion and his real or imputed

political opinion if he returns to Egypt in the foreseeable future. The persecution is likely to include serious mistreatment and detention by the Egyptian authorities and physical abuse by Islamists in the community. The Tribunal is satisfied that the applicant has a well-founded fear of persecution in Egypt, within the meaning of the Refugees Convention.

CONCLUSIONS

100. 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).

DECISION

101. The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act.