

**0800622 [2008] RRTA 221 (27 June 2008)**

**DECISION RECORD**

**RRT CASE NUMBER:** 0800622

**DIAC REFERENCE(S):**

**COUNTRY OF REFERENCE:** Egypt

**TRIBUNAL MEMBER:** Kerry-Anne Hartman

**DATE DECISION SIGNED:** 27 June 2008

**PLACE OF DECISION:** Sydney

**DECISION:** The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.

## **STATEMENT OF DECISION AND REASONS**

### **APPLICATION FOR REVIEW**

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).

The applicant, who claims to be a citizen of Egypt, arrived in Australia on [date] and applied to the Department of Immigration and Citizenship for a Protection (Class XA) visa on [date]. The delegate decided to refuse to grant the visa on [date] and notified the applicant of the decision and his review rights by letter [on the same date].

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.

The applicant applied to the Tribunal on [date] for review of the delegate's decision.

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**

Under s.65(1) a visa may be granted only if the decision maker is satisfied that the prescribed criteria for the visa have been satisfied. In general, the relevant criteria for the grant of a protection visa are those in force when the visa application was lodged although some statutory qualifications enacted since then may also be relevant.

Section 36(2)(a) of the Act provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia to whom the Minister is satisfied Australia has protection obligations under the 1951 Convention Relating to the Status of Refugees as amended by the 1967 Protocol Relating to the Status of Refugees (together, the Refugees Convention, or the Convention).

Further criteria for the grant of a Protection (Class XA) visa are set out in Parts 785 and 866 of Schedule 2 to the Migration Regulations 1994.

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

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.

The High Court has considered this definition in a number of cases, notably *Chan Yee Kin v MIEA* (1989) 169 CLR 379, *Applicant A v MIEA* (1997) 190 CLR 225, *MIEA v Guo* (1997) 191 CLR 559, *Chen Shi Hai v MIMA* (2000) 201 CLR 293, *MIMA v Haji Ibrahim* (2000) 204 CLR 1, *MIMA v Khawar* (2002) 210 CLR 1, *MIMA v Respondents S152/2003* (2004) 222 CLR 1 and *Applicant S v MIMA* (2004) 217 CLR 387.

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.

There are four key elements to the Convention definition. First, an applicant must be outside his or her country.

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.

Further, persecution implies an element of motivation on the part of those who persecute for the infliction of harm. People are persecuted for something perceived about them or attributed to them by their persecutors. However the motivation need not be one of enmity, malignity or other antipathy towards the victim on the part of the persecutor.

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.

Fourth, an applicant’s fear of persecution for a Convention reason must be a “well-founded” fear. This adds an objective requirement to the requirement that an applicant must in fact hold such a fear. A person has a “well-founded fear” of persecution under the Convention if they have genuine fear founded upon a “real chance” of persecution for a Convention stipulated reason. A fear is well-founded where there is a real substantial basis for it but not if it is merely assumed or based on mere speculation. A “real chance” is one that is not remote or insubstantial or a far-fetched possibility. A person can have a well-founded fear of persecution even though the possibility of the persecution occurring is well below 50 per cent.

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.

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

## **CLAIMS AND EVIDENCE**

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.

The applicant appeared before the Tribunal on [date] and [date] to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of a NAATI Level 3 interpreter in the Arabic (Lebanese) and English languages. At the hearing on [date] friends of the applicant attended to provide support to the applicant. The applicant was represented in relation to the review by his registered migration agent. The applicant's migration agent did not attend the hearing on [date]. He did attend the hearing on [later date].

### **Protection visa application**

According to his protection visa application the applicant was born on [date]. The applicant states he completed [number of] years of education. He states he obtained a Bachelor degree. The applicant states he was employed in a Government position for a number of years. The applicant states he was employed by that employer from [month/year] until [month/year]. The applicant states he was the owner of a business after the Government job. The applicant states he resided at the same address in [city] from [year] to [year]. The applicant states his wife and children are residing in Egypt. The applicant obtained his current passport on [date]. The applicant states he travelled overseas in the past to visit his siblings.

In his protection visa the applicant made the following claims:

- I come from the largest family in [city] [Family profile deleted under s431 of the Migration Act as it may identify the applicant]. I have many family members in the [information deleted under s431 of the Migration Act as it may identify the applicant]. These connections were a blessing and a disaster. On the one hand I was under severe pressure to join the ruling party in Egypt, on the other hand I used those connections to get a passport and get out of the country.
- My political activities started at university. I was elected to the union of university students. I was against Sadat and his policies in particular his visit to Israel. I was arrested in [year] when Sadat arrested hundreds of journalists, thinkers, writers and politicians. I was detained for [a period of time].
- When Mubarak came to power the National Party started putting pressure on me to join them. I refused to join them.
- In [month/year] they sacked me from my job.

- I was [competing in a particular sport at a high level for many years] I was denied representing Egypt in any Championship from [year] to [year] because of my political opinion and stand point against the ruling party.
- In [year] I registered my name for the general elections. The National Party asked me to join them. They asked me to pay [amount] Egyptian pounds and they would guarantee me a seat in parliament. The offer came from [politician]. I refused to join the National Party or any other party. I wanted to win as an independent. The National Party nominated [another candidate] to stand against me. They forged the list of electorates and the security forces turned back any one coming to vote unless they were for the ruling party. They bashed all my representatives at the election polls and kicked them. I did not win the election.
- In [year] I helped in the establishment of a new political party. Before the elections I was arrested and detained for [a period of time]
- In [month/year] I was aware that the government was going to create more problems for me. I arranged a passport to be ready. I obtained visas to other countries.
- On [date] the security forces came to my home They detained me for [a period] accusing me of instigating people against the regime. They released me and told me that I would receive a summons to appear before the court. The Egyptian authorities have arrested and tortured me on a few occasions. This time I expect the worst from them. I could die or at least spend one year in prison

### **Letter to the Department from applicant's advisor**

In his letter to the Department of [date] the applicant's advisor submitted that the applicant will be persecuted if he returns to Egypt because of his political opinion. His political career started years ago when he was at university. He comes from a prominent family in [province]. He was targeted by the ruling National Party and when he refused to cooperate with them or join them he was imprisoned and tortured. His first arrest was in [year]. His second arrest was in [year]. His third arrest was in [month/year] He is waiting for the judgement against him. He has been being accused of instigating young Egyptians against the regime. The Egyptian regime is one of the most brutal in the world. Its security forces are known for torturing detainees.

### **Delegate's decision**

The delegate was not satisfied that the applicant was of adverse interest to the Egyptian authorities or that he had been arrested, tortured or sentenced to one years imprisonment for the following reasons:

- He had not provided any evidence of his political activities.
- He had not provided evidence that he had been arrested, convicted or given a prison sentence.

### **Application for Review**

With his application for review the applicant submitted the following documents:

- A copy of the delegate’s decision
- Photocopy of a document with the heading “[court name and document type]”. The document states that after checking the list of crime cases for [year] it was clear that [case number/category] is recorded against the applicant On [date] at [location] the applicant, with others, called on suspending the Constitution and laws applied in the country and instigated others to do actions which would harm national unity and social harmony though meeting them and addressing them; he also preached against the harmony of the people through distributing brochures and pamphlets. These pamphlets included ideas and statements which opposed the basic principles of the socialist states as well as to disdain and hate such principles leading to political disorder. The prosecutor requested that the applicant be punished in accordance with [Egyptian Law]. The matter was referred to the relevant Court which sentenced the applicant on [date] to [a term of] imprisonment”.

### **Letter to the Tribunal from applicant’s advisor**

In a letter to the Tribunal dated [date] the applicant’s advisor submitted the following documents:

- A certified copy of the sentence
- Letter from [organisation]; congratulating the applicant for [his sporting achievements]
- Letter from [organisation] stating that the applicant trained the National Team in [year] during [event]
- A photograph of the applicant. The writing underneath the photograph states “for the [year] Parliament/independent [area] electorate”

### **The applicant’s submission to the Tribunal**

Before the hearing on [date] the applicant submitted to the Tribunal a twelve paged undated typed submission. In his submission he provided the following information:

- I resisted Mubarak’s regime and his police departments. I was detained for unlimited and indefinite periods of time. My family was harassed and mistreated.
- I was an activist and protestor against Sadat’s internal and external policies. I was against his visit to Israel not because he signed a peace treaty with Israel but because he did not ask parliament or the people before he visited Israel. I was also against his decision to establish central security forces. During that time thousands of protestors were arrested. I was detained for [a period] without a court case.
- I was sacked from my job in [year] because I protested and condemned the internal policies of Sadat and Mubarak. I was prevented from gathering with my sports mates and colleagues.

- During my young years I was a [sportsman] and trainer. I joined many competitions. Because I expressed my political opinion in public I was denied the right to represent Egypt in international competitions between [year-year]
- In [year] I recommenced my political activities. I decided to play a role in my community by educating young people about civil rights and politics. I registered my name for the general elections.
- In [year] I entered the parliamentary elections as an independent candidate. During my election campaign I urged every one to express their political opinion. I called for equality. I was elected by the majority of people in my town because my views that politics affect people's lives and we must continue to build our societies, protect human rights and prevent corruption. I was committed to my opinion and determined to help young people to get jobs.
- In the beginning it went well and after a few weeks things changed. I was confronted by police and council officials. They tried to prevent us gathering in our local club, preventing us from informing people about their electoral rights. All the government systems supported my opponent [candidate]
- I was investigated several times on the ground that I had provoked young people against the government. I wanted to educate young people about voting and about their role as voters.
- I was arrested and beaten and threatened. On one occasion the police dragged me and beat me so badly I [suffered various injuries]. A few of my supporters were dragged to detention and were beaten by the central security forces. I lost the elections by [margin]. I also lost my savings.
- People came to my house and encouraged me to enter the [next/year] elections. Prior to the elections I was arrested for [a period]. I was humiliated and warned not to assemble with people. I did not enter the [next/year] elections.
- I was arrested on [date] and detained for [term]. I was given a summons to appear in court. On [date] the court convicted me and sentenced me to [prison term]
- My [sibling] secured my release from police many times. He is connected with the National Democratic Party Leaders. He helped me to flee Egypt in [month/year]

### **Country information submitted by the applicant**

In his submission to the Tribunal, the applicant referred to country information from the Amnesty International Report 2007 and seven other Amnesty Reports. The Amnesty International Report 2007 states as follows:

“Peaceful protestors calling for political reform were violently dispersed by police. Hundreds of members of political organisations were arrested and scores were held awaiting trial. Thousands of suspected supporters of banned Islamist groups remained in detention under emergency legislation without charge or trial some had been held for more than a decade.

Despite calls for the state of emergency to be lifted, it was renewed in April for two years. The State of Emergency in force continuously since 1981 facilitated human rights violations including prolonged detention without charge, torture and ill treatment, undue restrictions on freedom of speech, association and assembly and unfair trials before Military Courts and Emergency Supreme State Security Courts.

Torture of both political detainees and criminal suspects remains common and systematic and reportedly led to several deaths in custody”.

### **Psychological evaluation of applicant**

On [date] the Tribunal received a report from a psychologist from [organisation]. Her report was based on information obtained from the applicant during testing and diagnostic interview on [dates]. The report states as follows:

**Background information:** The applicant was asked by the dominant political party to join the Party as a potential Minister provided he pay them a significant entry fee. He refused the officer and wanted to be elected as an independent. He was given [many] opportunities to address parliament/government whilst his opponent only got heard [significantly less] times. In [year] [a number of] Egyptians turned up on voting day and forged votes in favour of his opposing candidate who was part of the Mubarak regime. After they voted many police arrived at his home and beat him in front of his wife. He was humiliated and degraded. The government ceased his business. He was continuously harassed by the police. He left Egypt for Country A in order to flee further humiliation and punishment. When he returned to Egypt he was detained in the airport for [a period] in isolation.

**Feelings of hopelessness:** The applicant reported experiencing feelings of hopelessness and worthlessness as he cannot cope with the way he was treated by Egyptian authorities and the fact that he could not be with his family. During the sessions there were multiple times that the applicant could not remember specific periods. This is a common feature of those who suffer from major depression where efforts are made to avoid thoughts feelings or conversations associated with trauma.

### **Summary**

The applicant is experiencing severe depression, anxiety and insomnia due to his treatment in Egypt by the authorities. He is scared to go back to Egypt because of potential repercussions and struggle significantly to cope living in Australia in isolation and with limited social support”.

### **Summary of evidence provided by the applicant at the Hearing on [date 1]**

The Tribunal asked the applicant about his employment in Egypt. He claimed when he finished school in [year] he got a job with [a Government Department]. He claimed he was assigned to a particular organisation. The applicant claimed that from [year] to [year] he was the manager at another organisation. The applicant claimed he was detained by the Egyptian authorities in [year] and sacked from his job. The applicant claimed that when he was released from detention he worked in [a particular] industry. The applicant claimed he has worked in that industry since [his release]. The applicant claimed from [year] to [year] he ran his own company.

The Tribunal asked the applicant about his claim that he was a [high level sportsman]. The applicant claimed that all the clubs in different areas of Egypt have tournaments He claimed he played for a club in [city], and played in [Tournament]. He claimed he won the [city]



championship in [year]. He claimed he had only [competed] in one International competition in [country/year]. The applicant claimed that what he meant when he claimed he was a high level sportsman was that he had achieved at a high level. The applicant claimed he played for many clubs and competed in a particular Tournament. The Tribunal asked the applicant why he had stopped participating in [year]. The applicant claimed he had to stop because he was getting too old.

The Tribunal asked the applicant how he was able to work as a trainer at the Club when he had been sacked as the manager of the club. He claimed that he was providing training at the club as a volunteer. The applicant claimed that he began training [sportsmen] in [year]. The applicant claimed he was one of the most famous trainers in Egypt. The applicant claimed he trained the Egyptian National Team in [year]. The applicant claimed he also trained members of the [government organisation] from [year-year]. The applicant claimed he went to the military college and trained [political party] security forces. The Tribunal put to the applicant that the fact that he was allowed into the military college and trained members of the security forces was inconsistent with his claim that he was not allowed to compete in international [sporting] championships because he was involved in political activities against the National Party. The applicant claimed that the people he trained at the Military college were only students who were interested in [his sport] and who were training to be members of the security forces.

The Tribunal asked the applicant to describe his political activities when he was at university. The applicant claimed he used to conduct meetings or conferences about the awareness of democracy. The applicant claimed that he did not belong to any group. He claimed that he had always stood as an independent person. The Tribunal asked the applicant to explain in more detail what he spoke about. He claimed that he told the university students that they had to develop political awareness and learn about democracy. He claimed he told them that Egypt is not only for members of the National Party, Mubarak's Party. He claimed he told them that Egypt should have many parties.

The Tribunal asked the applicant if anything happened to him when he was at university. He claimed that he was questioned by the university security in [year] and told by them that if they saw two persons talking to each other they would get 6 months jail. The applicant claimed that he then moved his activities to the Club. He claimed he gave speeches to members of the club about political awareness. The applicant claimed that he gave [frequent] speeches to different sporting groups at the Club from [year-year]. He claimed that in [month/year] he was arrested and detained for giving speeches.

The Tribunal asked the applicant about his arrest in [year]. The applicant claimed that the authorities came to his house in [month/year] and took him away. The applicant claimed that he was put in a dark room. The applicant claimed that he was beaten and water was thrown on him. He claimed he was detained for [a period]. The applicant claimed that he was released on the condition he stopped teaching young people about political issues.

The Tribunal asked the applicant if he had been arrested or detained before [month/year]. The applicant claimed he had been detained in [month/year] when he was demonstrating in [city] about the high prices of the commodities and low wages. He claimed he was only detained for [a brief period] in [month/year].

The Tribunal asked the applicant about his claim that he registered his name for the general elections. The applicant claimed he registered his name for the general elections in

[month/year]. The Tribunal asked the applicant to explain his policies. The applicant claimed that he wanted democracy. He claimed he wanted to raise the political awareness of the youth. He claimed he was against National Party policies. The Tribunal asked the applicant what area he was going to represent. He claimed the [local] area. He claimed that the authorities forged the voting cards and that the security forces also stopped members of the public from voting, so he didn't win the election. The Tribunal asked the applicant if he had any difficulties with the authorities during the election. He claimed that they prevented him from having any meetings. He claimed he was never arrested or detained during the elections.

The Tribunal asked the applicant about the document he submitted to the Tribunal which he claimed was evidence that he had stood as an independent. The applicant claimed it was his official advertising material. The Tribunal put to the applicant that anyone could have printed the document using their computer. The Tribunal put to the applicant that the use of computers made it easy for anyone to produce documents that were not genuine and there was nothing to indicate that this document was his official advertising material. The Tribunal put to the applicant that the document stated that he stood for the [year] parliamentary elections, whereas he had earlier claimed he registered for the elections in [a later year]. The applicant stated he didn't have a good memory.

The Tribunal asked the applicant to explain what political activities he was involved in after the general elections. The applicant claimed that he conducted conferences and promoted awareness among young people. When the Tribunal asked the applicant for more specific details of his activities he claimed he used to talk to people about the importance of democracy. He claimed it was about "awareness"

The Tribunal asked the applicant about his claim that he had been involved in the establishment of a new political party. The applicant initially replied "What party". The applicant then claimed in [month/year] he tried to register a party called [party 1]. He claimed he wasn't able to register the party. The applicant claimed in [year] he tried to establish another political party [party 2]. He claimed that he wasn't able to register the party. The applicant claimed that after his applications were not successful he gave up hope and was not involved in the establishment of any new political parties.

The Tribunal asked the applicant what political activities he was involved in after "he gave up hope" of establishing a new party. The applicant claimed he conducted more meetings and gave more speeches about political awareness. The Tribunal put to the applicant that every time he was asked about his political activities he just repeated the same phrases and words "he conducted meetings and promoted awareness" and did not provide the Tribunal with any details of his political activities. The applicant then claimed he had done "lots of things". He claimed that he talked to other politicians, and that he complained about the high prices of commodities and "other issues"

The Tribunal asked the applicant if anything happened to him after he tried to establish new parties. The applicant claimed that on [date] they put him in a room for [a period] and threw water on him. He claimed that they tried to stop him working in the company by arresting his workers and beating them. He claimed he was also detained in [month/year] When the Tribunal put to the applicant that he had not made these claims in his protection visa application and asked if he could summarise when and where he was detained he claimed that "the two main arrests were in [year] and [year]". He claimed that all the other arrests were "minor arrests" and he had only been detained for a few hours.

The Tribunal asked the applicant about his arrest in [the first year]. The applicant claimed he was arrested in [month/year] because he had organised a demonstration against the National Party in [location]. He claimed he was detained for [a long period]. When the Tribunal put to the applicant that the stamps on the pages of his old passport indicated he was overseas in [month/year] he claimed that he went [overseas] after he had been detained. The applicant had earlier told the Tribunal he had some relatives living in [Country B] and a sibling living in [Country A]. He claimed he had travelled to [Country A] on several occasions in several different years

### **Letter from psychologist**

On [date] the applicant's psychologist telephoned a case officer of the Tribunal to express her concern that the applicant was experiencing flashbacks and anxiety about the Tribunal Hearing and she was concerned that he did not have anyone to support him at the hearing. She stated in her opinion the applicant was feeling stressed out and blanking out when asked questions by the Tribunal, because he was experiencing the hearing as if he was still being questioned by the Egyptian authorities and it would help if he was reassured during the hearing. The case officer asked the psychologist to put her concerns in writing.

In a subsequent letter to the Tribunal the psychologist stated that the applicant's experience at the hearing left him feeling distraught and emotionally dysfunctional. He spoke of experiencing multiple flashbacks and felt he was being interrogated by the Egyptian authorities. He mentioned that the people at the hearing were like the people who "beat me up in Egypt". He could not remember names and dates, and blanked out, and could not even say his child's correct name. He explained that all he could say at the hearing was "what did you say" because he felt disoriented and confused.

The applicant has not been able to sleep at night and only sleeps during the day.

The psychologist stated that the applicant reported that his vision had been disturbed since the hearing and he does not see in the normal way. She asked that efforts be made to lessen his flashbacks and recollection of his torture experiences.

### **Summary of the evidence given by the applicant at the hearing on [date 2]**

The Tribunal asked the applicant about his political activities from [year-year]. The applicant claimed that he conducted meetings in [city] and [suburb]. He claimed that he met with groups of young people in clubs and universities. The Tribunal asked the applicant to explain what happened at these meetings and what he talked about. He claimed that the meetings were to provide awareness, to educate young people about their political, social and legal rights, and to make them aware of the political process in Egypt. The applicant claimed that every day from [year-year] he would talk to young people to educate them. The Tribunal asked the applicant how he was able to do this when he was running a business and training [sportsmen]. He claimed that he didn't work in the industry every day and he only trained [sportsmen] who wanted a hobby. The Tribunal asked the applicant if he was ever detained for expressing his political opinion against the National Party during this period. The applicant claimed he was never detained during the period [year-year]

The Tribunal asked the applicant questions about the system of government in Egypt. The Tribunal asked the applicant how many parliamentary seats there were in the People's Assembly. He stated 420. The independent information before the Tribunal indicates that

there are 454 seats. The Tribunal asked the applicant the term of the People's Assembly. He stated four years. The independent information before the Tribunal indicates that the Assembly sits for a five year term. The Tribunal asked the applicant how many parliamentary seats there were in the Shura Council. He stated 400. The independent information before the Tribunal indicates that there are 264 seats. The Tribunal asked the applicant how many members were elected directly. He stated 400. The applicant's adviser interrupted and stated that the interpreter had not interpreted the question correctly. The interpreter put the question to the applicant again, in the words suggested by the applicant's adviser. When the interpreter put the question to the applicant again he stated 440 members are elected directly to the Shura Council. The Tribunal asked the applicant how many members were appointed by the President. He stated five members. The Tribunal asked the applicant how long are members of the Shura council elected for. He stated four years. The independent information before the Tribunal indicates that in the Shura Council 176 members are directly elected and 88 members are appointed by the President for six year terms. One half of the Shura Council is renewed every three years.

The Tribunal asked the applicant how many political parties there were in Egypt at the present time. He said there were many parties. He stated that there was the National Party. The Tribunal asked the applicant if he could write down the names of the political parties. The applicant wrote the names of eight parties. (The Independent Party, al Wafed, Al Ahrar, al Isterkalal, The Opposition Party Muslim Brotherhood al Oma Party al Fatat Masser.) The independent information before the Tribunal indicates that there are over 24 parties in Egypt. The law prohibits the formation of parties on religious grounds, so the Muslim Brotherhood is not recognised as a political party. The Tribunal put to the applicant that the fact that he could only name 8 parties, had listed the Muslim Brotherhood as a party, and had not listed the names of some of the major parties indicted that he had not been involved in political activities for over 25 years. The applicant claimed that there were other political parties in Egypt but he couldn't remember them.

The Tribunal put to the applicant that in [year], Egypt's Supreme Constitutional court passed a landmark ruling in relation to the conduct and monitoring of the elections. The Tribunal asked the applicant if he could explain how the elections were run because of the ruling. The applicant claimed that the National Party obtained the names of the candidates and put them on the voting card and gave the cards to the people and the second day the judge came with a list of names different to the list the day before. He claimed his name did not appear correctly on the card. The Tribunal asked the applicant if all "governorates" voted on the same day. He stated yes. The applicant's adviser interrupted and indicated that the interpreter had not interpreted the word governorate correctly. The interpreter put the question to the applicant again and he stated that the areas did not vote on the same day. He claimed that the first round of the elections were held on [date] and the second round was held a month later. The independent information before the Tribunal indicates that the [year] elections were held in stages between [date] and [date] in order to allow for supervision by a member of the judiciary at each polling place.

The Tribunal asked the applicant if he had an election slogan or an election logo. The applicant stated he didn't. The applicant's adviser then showed the applicant a document which the applicant had claimed was his official advertising material for the elections in [year]. The Tribunal asked the applicant what seat or electorate he stood for. The applicant claimed he wanted to represent youth. The applicant's adviser then asked the interpreter to reinterpret the word electorate. The applicant claimed that the area he stood for was [area].

The Tribunal asked the applicant about the document his advisor had showed him. The document was computer generated and had a scanned photo of the applicant, a scanned photo of a gun, and the words [slogan]. The Tribunal put to the applicant it was very easy to make documents on the computer and that the document may have been fabricated. The applicant claimed the Tribunal could telephone his family and ask them if he had stood for parliament.

The Tribunal put to the applicant that at the hearing on [date 1] he claimed that he had tried to register two political parties. The Tribunal asked the applicant to explain the process involved in registering a political party in Egypt. The applicant claimed that “you first list the name and then you go and get the approval of the State National Security”. The Tribunal asked the applicant to explain in more detail where you went and what you had to do to get the approval. The applicant claimed that you had to go to the State Security and give them the name of the party and then they approved or rejected it. When the Tribunal put to the applicant that his explanation was not consistent with the independent information before the Tribunal, he claimed that “you go to the Governor in the city council and tell him you want to establish a party and he refers you to the State Council Security and they approve it or they may arrest you”.

The Tribunal asked the applicant about the [next] elections. The applicant claimed he couldn't remember when the Presidential elections were held. The Tribunal asked the applicant how many candidates stood against the president. He stated five. The independent information indicates that in [month/year], voters elected President Hosni Mubarak to [another] 6-year term, defeating [number of] other candidates. The Tribunal asked the applicant when the parliamentary elections were held in [year]. He claimed he couldn't remember. He claimed he didn't enter the elections as he was arrested.

The Tribunal asked the applicant about his arrest in [year] The applicant claimed he was arrested in [month/year] because of his political activities, his speeches and meetings and because the election was close. The applicant claimed that they wanted to prevent him from standing for the elections. The applicant claimed he was detained without trial for [period/term] The applicant claimed that when he was released he travelled to [Country A] The applicant claimed that he travelled to [Country A] on [several] other occasions. The Tribunal asked the applicant why he did not apply for protection when he travelled to [Country A] in [month/year] and why he had returned to Egypt. The applicant claimed that there was no sentence against him. The Tribunal put to the applicant that he had told the Tribunal that the Egyptian authorities had detained him even when he had not been sentenced and had submitted country information to indicate that you could be detained by the authorities without charge or trial. The applicant then claimed he wanted to return to Egypt to see his family and because [one of his children] was getting married. The Tribunal put to the applicant the fact he didn't apply for protection in [Country A] when he claimed he had been arrested, detained and tortured in [year] and on other occasions indicated that these claims may not be true. The applicant claimed that he had a career in Egypt, his family were in Egypt, and he had to support his family.

The Tribunal asked the applicant if he resumed his political activities after he returned from [Country A]. The applicant claimed he did not resume his political activities until his children had finished their university studies and were married. He claimed he did not want to be involved in political activities while his children were at university because his children were outstanding students and he wanted them to achieve at a high level. He claimed his eldest child finished their degree in [year], another child finished their degree in [year] and his

youngest child finished their degree in [year]. The applicant claimed he also did not get involved in political activities because his children were getting married. He claimed his eldest child got married in [year] and his youngest child got married in [month/year]

The Tribunal asked the applicant when he resumed his political activities. The applicant claimed that he didn't start his political activities until after his youngest child was married in [month/year]. He claimed that after [month/year] he began to have meetings again. He claimed he was arrested in [month/year] because at the meetings he had criticised the National Party. He claimed he had criticised the National Party because the commodities prices had risen. He claimed that because of the high prices of commodities, he had to sell his office. He claimed that his relative had to put a sum of money into an account so he could get his Australian visa as he didn't have any money in his account. The Tribunal put to the applicant that when he had applied for his visitor visa he had submitted documentation to the Australian Embassy that indicated that he owned a company/business and had funds in his bank account. The Tribunal put to the applicant that the fact that he had provided fraudulent documents to obtain his visitor visa indicated that he may have provided fabricated documents to obtain a protection visa. The applicant claimed that he had sold his office, but the business was still in his name.

The Tribunal asked the applicant about his arrest in [month/year] The applicant claimed that they took him on [date] and released him on [later date]. The Tribunal asked the applicant why the authorities had released him. He claimed that he promised he would stop his activities and leave the country. He claimed that after he left Egypt he received the sentence. The Tribunal asked the applicant when he received a summons to appear in court. He claimed that when he was released he went to [city] and the summons came after he had left his home. He claimed he was able to leave the country with his relative's help.

The Tribunal put to the applicant that information from his previous passport indicated he had a valid visa to [Country A] yet had remained living in Egypt The Tribunal put to the applicant that his current passport indicates he had obtained various visas, and yet he hadn't left Egypt The applicant claimed that his friends advised him to go to Australia as it is a democracy and it is possible to obtain refugee status.

The Tribunal put to the applicant that he had claimed he had paid a bribe to obtain his passport because of his political activities but the independent information indicated that no security checks are made at the time an application for a passport is lodged. The applicant claimed he had to pay a bribe because his old passport was still valid and he wanted a new passport to get his Australian visa so he bribed the passport officer to state his old passport was lost.

The Tribunal put to the applicant that his knowledge of politics in Egypt was not consistent with his claims that he gave public speeches and was involved in educating young people about politics. The Tribunal put to the applicant that he didn't know the number of seats in the Shura Council, the term of the council or how many members were elected directly or were appointed by the president. The applicant claimed in Egypt the National Party dominates all other parties. When the National Party calls for the elections everyone applies to be a candidate as everyone wants to be on the Council. The Tribunal put to the applicant that the independent information indicates that there are 24 parties in Egypt and it had difficulty accepting he was involved in political activities when he did not know the number of political parties in Egypt and had named the Muslim Brotherhood as a party when

religious political parties are not allowed to exist. The applicant claimed that there are many parties in Egypt but the main party is the National Party

The Tribunal put to the applicant that in his protection visa application he claimed he had established [party 1] in [year], and at the hearing he had claimed he had tried to establish several parties. The applicant claimed he was a friend to those who established [party 1] The Tribunal put to the applicant that he did not appear to know how to register a political party. The Tribunal put to the applicant that he had claimed he went to the governor and then the State Security but the independent information indicated that new parties must be approved by the Political Parties Committee and Decisions of the Political Parties Committee may be appealed to the Political Parties Court. The applicant stated he did not want to make any comment.

The Tribunal put to the applicant that at the hearing he claimed that one of his major arrests was in [year] but had not referred to this arrest in his protection visa application. The applicant claimed he was arrested in [a different year]

The Tribunal put to the applicant that the sentence he had submitted from the Court stated he had been meeting and distributing material on [date] yet he had told the Tribunal that he was not involved in any political activities until after his child's wedding in [month/year]. The applicant claimed that he was not politically active until after his child's wedding in [month/year], but he had attended "some meetings" in secret.

### **Document submitted at the hearing on [date 2]**

At the hearing the applicant submitted a receipt from the "Treasury of [organisation]" for fees paid for the applicant's nomination in the [year/first] elections.

### **Letter from applicant's advisor**

In a letter to the Tribunal dated [date] the applicant's advisor submitted that there were serious interpreting problems during the time he was present at the second hearing. He submitted that the mistakes confused the applicant, and his answers were not related to the questions. He submitted that when he interfered twice and interpreted the questions the applicant gave the correct answers. He submitted that if there were interpreting problems during the first hearing similar to the second, he would not be surprised if the applicant did not respond properly.

### **Section 424A letter**

On [date] the Tribunal sent a letter to the applicant putting to him information that the Tribunal considered would be the reason, or part of the reason, for affirming the decision that is under review, and invited him to respond or comment on the information. The information included the fact that the applicant had been issued with a visa to [Country A] on [date], which was valid until [date], independent information relating to the issue of passport and exit procedures and inconsistencies in his evidence.

### **Response to section 424A letter**

On [date] the applicant's advisor provided the following response:

“The applicant was granted a tourist visa to [Country A] valid for five years. He visited [Country A] [several] times and staying from [time period] each time. He returned from his last visit in [month/year]. He never went there again. He did not lodge a protection visa application in [Country A] because up until that time there was no court case against him. When he was informed that he would be taken to court and the court will certainly sentence him to go to jail he decided to leave the country and chose to come to Australia.

The applicant does not know whether his name was on the “alert list” or not. What he knows is that his departure was facilitated by his [relative] who is the assistant to [a Minister] and one of his deputies.

The applicant was elected to the union of students of [faculty] at [University] in [year] until [year] and he was in charge of sports activities in that union. When the applicant mentioned that he never belonged to a group he meant to a political group or a political party.

The applicant was arrested in [year] for [period] and for [period] in [year] when the government of the new president Hosni Mubarak raised commodity prices. Claiming that he was detained for [period] in [year] is untrue and that could have been the result of a few factors including fatigue, stress and misunderstanding between him and the interpreter.

The applicant was appointed [to a clerical position] in [year] with [a Government Ministry] and then transferred to [a similar position in the private sector in [year]]. In [month/year] he became the club manager. In [year] the Ministry sacked him but he kept on training sportsmen for those who are interested in that sport. He was also training some of the students attending the school which graduates cadets for the Security forces. That does not reflect any contradictions because even though he was sacked from his government position he used his sports skills to train some who were interested in [his sport]

The applicant’s unsuccessful attempt to form a political party did not prevent him from participating with others in establishing a new one in his area or city of residence. In particular that movement [party 1] became famous and it attracted many educated Egyptians into its ranks”.

The applicant’s advisor submitted the following documents:

- A copy of the termination letter from the Ministry [portfolio/date].
- A copy of a police clearance [dated] The applicant’s advisor submitted the applicant lodged the police clearance with his nomination for Parliament in [year]

## **Country Information**

### **The arrests in 1981 by Sadat**

On November 19, 1977 Sadat became the first Arab leader to officially visit Israel when he met with Israeli Prime Minister Menachem Begin and spoke before the Knesset in Jerusalem.



In September of 1981, Sadat cracked down on Muslim organizations, following widespread rallies and protests against Sadat's policies. About 1500-1600 activists (including from student groups) were arrested in September 1981. On October 6 of the same year, Sadat was assassinated during a parade in Cairo by army members who were part of the Egyptian Islamic Jihad organization, who opposed his negotiations with Israel as well as his brutal use of force in the September crackdown. He was succeeded by the vice president Hosni Mubarak ('Mohammed Anwar el-Sadat' (undated), Dictator of the Month website <http://www.dictatorofthemonth.com/Sadat/Aug2002SadatEN.htm> – Accessed 14 March 2008).

## **The National Party**

The NDP, controlled by President Mubarak, dominates the country politically and economically. Human Rights Watch (HRW) notes that the NDP has “held a virtual monopoly on formal political life in Egypt” since 1977. The party dominates the People's Assembly and the Shura Council, “as well as all provincial and local councils and leadership positions” Many reports were found of the NDP pressuring people to vote for the party during election time. NDP and government officials also control the Political Parties Committee, which determines whether new parties receive legal recognition. A 2000 HRW report notes the “persistent and ongoing patterns of government harassment of political opponents and potential opposition candidates”. A 2008 HRW report notes that Egypt stepped up attacks on political dissent in 2007. (Human Rights Watch 2000, 'Elections in Egypt', HRW website, October <http://www.hrw.org/backgrounder/mena/egypt-election-bck.htm> – Accessed 14 March 2008; Human Rights Watch 2005, *From Plebiscite to Contest? Egypt's Presidential Elections* , September <http://www.hrw.org/backgrounder/mena/egypt0905/egypt0905.pdf> – Accessed 17 March 2008, Human Rights Watch 2008, *World Report – Egypt* , January).

## **The 2000 elections**

The US Department of State report on human rights in 2000 includes the following general information on the elections held that year:

The ruling National Democratic Party (NDP) dominates the 454-seat People's Assembly, the Shura Council, local governments, the mass media, labor, and the large public sector, and controls the licensing of new political parties, newspapers, and private organizations to such an extent that, as a practical matter, citizens do not have a meaningful ability to change their government.

During the year, Egypt held elections for the People's Assembly. Due to court-ordered supervision by the judiciary of the voting and counting, the process was significantly cleaner and more transparent than previous elections; however, there were a number of problems. The elections were held in stages between October 18 and November 15 in order to allow for supervision by a member of the judiciary at each polling place. Out of a total of 444 elected seats, the ruling NDP won 172 seats, independent candidates won 255 seats, and opposition parties won 17 seats.

Despite the overall improvement in the electoral process, there still were problems affecting the elections' fairness, particularly in the period leading up to elections and outside some polling stations on election days. Violence among supporters of various candidates marred the elections at some polling places and resulted in the deaths of 9 persons. At a few locations, the security presence was so heavy as to inhibit voters'

access to the polls. There were also reports of voter harassment by security forces in jurisdictions in which the Muslim Brotherhood was expected to do well.

The Shura council the upper chamber of parliament has 264 members. Two thirds of the members are elected popularly and the president appoints one third. One half of the Shura seats are up for re-election or reappointment every three years. (US Department of State 2001, *Country Reports of Human Rights Practices for 2000 – Egypt* , March).

## **The 2005 elections**

The US Department of State report on human rights in 2005 includes the following general information on the elections held that year:

On September 7, in the country's first competitive presidential election, President Hosni Mubarak was elected to a fifth 6-year term, defeating nine other candidates representing political opposition parties.

The elections for the 444 open seats of the People's Assembly took place in three stages between November 9 and December 7. The first round in the greater Cairo area occurred peacefully, but there were multiple confirmed reports of vote buying and charges of vote rigging. Presidential runner-up Ayman Nour lost his parliamentary seat in a race against a recently-retired state security officer. Nour's camp alleged government fraud. Independent candidates allied with the banned but tolerated Muslim Brotherhood won 35 seats out of the 160 in play in the first round. The second round of the parliamentary elections, which included Alexandria, witnessed violence by government supporters against opposition voters, sporadic police cordons intended to limit access to polling stations, and additional wins for independent Islamist candidates linked with the MB. The third round of the parliamentary elections was marred by widespread police cordons at polling stations aimed at limiting opposition voters, as well as multiple clashes between police and opposition voters which left at least eight persons dead. The NDP retained its overriding majority in the new parliament but now faces 88 independent deputies allied with the outlawed Muslim Brotherhood and a handful of other opposition deputies. (US Department of State 2006, *Country Reports of Human Rights Practices for 2005 – Egypt* , March).

## **Political parties in Egypt**

The National Democratic Party has held a virtual monopoly on formal political life in Egypt always controlling well over two thirds of the 454 seat Peoples Assembly and the 264 member Shura Council as well as all provincial and local councils.

NDP and government officials also control the Political Parties Committee which determines whether new parties receive legal recognition. Decisions of the Political Parties Committee may be appealed to The Political Parties Court. On October 28 2004 it approved the application of al Ghad Party after rejecting it on three earlier occasions.

There are now twenty one recognised parties. The parties represented in the current Peoples Assembly are the NDP (404) al Wafd( 5) al Tagammu (6) Democratic Nasirist(1) and Al Ghad( 6) along with thirty two independents. Human Rights Watch 2005, *From Plebiscite to Contest? Egypt's Presidential Elections* , September <http://www.hrw.org/backgrounder/mena/egypt0905/egypt0905.pdf> – Accessed 17 March 2008.

## **Passports**

The DFAT provided the following information:

No security checks are made at the time an application for a passport is lodged. Control of those persons who are subject to restrictions on travel as a result of unresolved civil or criminal matters is undertaken at the point of departure from the country. Lists are maintained at departure points of names of individuals who legal authorities (courts or state prosecution) have determined should be temporarily deprived of the right to leave the country (Department of Foreign Affairs and Trade 1993, *Request for Information – Refugee Review Tribunal*, 9 December).

Officially, all Egyptian citizens are entitled to a passport. We have no information to suggest that a person that has been detained, but not charged, for political activities may be denied a passport (Department of Foreign Affairs and Trade 2008, *DFAT Report No. 802*).

## **Exit from Egypt**

The DFAT has provided the following information:

The Egyptian government maintains strict controls on the exit of all people out of Egypt. Interlocutors agreed that Egyptian citizens would be prevented from exiting Egypt if their name appeared on the official “alert list” (DFAT Country Information Report No.116/02 of 2002 refers). We are unable to clarify with the Egyptian government the exact details of how this alert process operates due to the sensitive nature of the matter. Any person that may be wanted by the authorities in relation to security matters would likely appear on the list. We have no information to suggest that bribery would be effective or required for persons wanted by authorities to obtain exit. Interlocutors noted that bribery existed in many forms in Egypt, and the possibility that bribery can be used to obtain exit from Egypt could not be ruled out. However, it would be difficult to conceive that a person that was on the “alert list” would be able to obtain exit from Egypt by paying a bribe (Department of Foreign Affairs and Trade 2008, *DFAT Report No. 802 : RRT Information Request*).

## **FINDINGS AND REASONS**

The applicant travelled to Australia on an Egyptian passport. The Tribunal accepts that he is a citizen of Egypt and has assessed his claims against Egypt as his country of nationality.

In assessing the applicant’s claims, the Tribunal is required to determine if the applicant has a genuine fear that is well founded and if so, whether the treatment he fears amounts to persecution for a Convention reason.

The applicant claims he will be persecuted if he returns to Egypt because of his political opinion. The applicant claims he has been targeted by the ruling National Party because he refused to join the party and has spoken publicly against the party. The applicant claims he started his political career when he was at university. He claims he was an activist and protestor against Sadat’s policies. The applicant claims he educated young people about politics. The applicant claims he registered his name for the general elections in [year]. The applicant claims the National Party asked him to join then but he refused. The applicant claims he stood as an independent in the [year] elections. The applicant claims he tried to establish new political parties. The applicant claims that because of his political activities he was sacked from his employment with [Ministry] and was arrested, detained and tortured by the Egyptian authorities. At the hearing, the applicant claimed that there were [a number of]

“major detentions” as well as a number of “minor detentions”. He claims his family have been insulted and mistreated and the authorities tried to stop his business. The applicant claims that on [date] he was sentenced by the Court to [a term of] imprisonment.

The Tribunal accepts the country information which indicates that there is government harassment of political opponents and potential opposition candidates. The Tribunal accepts the country information the applicant referred to in his submission to the Tribunal that indicates that persons accused of political crimes in Egypt can often be detained without charge for extended periods. The Tribunal accepts that The Emergency Law facilitates human rights violations including prolonged detention without charge, torture and ill treatment, undue restrictions on freedom of speech, association and assembly and unfair trials before military courts and State Security Courts. Given this country information the Tribunal has carefully considered the applicant’s claims. However the Tribunal did not find the applicant to be a truthful or credible witness for all of the reasons set out below.

The applicant’s claims that he had been arrested, detained and tortured by the Egyptian authorities because of his political activities are not consistent with the fact that he was issued with a tourist visa to [Country A], left Egypt on various occasions, travelled to [Country A] and returned to Egypt.

The applicant provided evidence at the hearing that he has relatives who live in [Country B] and another who lives in [Country A]. Information from a page of the applicant’s passport, which he submitted to the Australian Embassy to obtain his visitor visa, indicates that he was issued with a visa to [Country A] on [date]. This visa was valid until [date] At the hearing the applicant provided evidence he had first obtained an Egyptian passport in [year]. In his protection visa application he stated that he travelled to [Country A] in [month/year] to visit his siblings. At the hearing the applicant provided evidence that he had travelled to [Country A] on various occasions. He claimed that he had travelled to [Country A] in various years and returned to Egypt. He claimed that immediately following his arrest, torture and detention without trial for [period] in [month/year], he travelled to [Country A]. When the Tribunal asked the applicant at the hearing why he had returned to Egypt, he claimed that there was no sentence against him. When the Tribunal put to the applicant that he had submitted country information to the Tribunal that indicates that the Emergency Laws are used in Egypt to detain people without charge, trial or a sentence and he had claimed that he had been detained without sentence on a number of occasions, he claimed that he had returned to Egypt because his work was in Egypt, he needed to support his family, his children were still studying and his child was getting married. The applicant’s advisor in his response to the section 424A letter submitted that the applicant visited [Country A] several times, returning from his last visit in [month/year]. He submitted he did not lodge a protection visa in [Country A] because up until that time there was no court case against him. The Tribunal does not accept the applicant’s or his advisor’s explanation as to why he returned to Egypt after visiting [Country A] or why he remained living in Egypt during the period [year-year], when he could have left at any time during that period. The Tribunal is of the view that given the country information that the Emergency Laws are used in Egypt to detain people without charge, trial or a sentence and the applicant claimed that he had been detained without sentence on a number of occasions, the fact that the applicant travelled to [Country A] on several occasions, and returned to Egypt, and remained living in Egypt when he could have left, indicates that he is not a truthful witness and that his claims that he was targeted by the National Party because of political activities and was arrested, detained and tortured for expressing his political opinion are not true.

The applicant's claims that he had been harassed, arrested, detained and tortured by the Egyptian authorities because of his political activities are not consistent with the fact that he was issued with other visas which would have allowed him to leave Egypt but he remained living in Egypt

The applicant submitted his current passport to the Tribunal. The information from the applicant's passport indicates that he was issued with a number of visas that would have allowed him to leave Egypt in addition to the visa he had to [Country A]. The applicant was issued with a visa to Country C on [date], a visa to Country D on [date] and [another] visa on [date]. At the hearing when the Tribunal asked the applicant why he had not left Egypt using the visas he had obtained he claimed that his family had advised him to go to a democratic country like Australia. The Tribunal does not accept the applicant's explanation as to why he remained living in Egypt. The last visa that the applicant obtained on [date] would have allowed the applicant to travel to numerous democratic European Union countries. The Tribunal is of the view that the fact that the applicant remained living in Egypt after obtaining visas in [year] that would have allowed him to leave Egypt, further indicates that he is not a witness of truth, and his claims that he was targeted by the National Party because of political activities and was arrested, detained and tortured for expressing his political opinion are not true.

The applicant's evidence at the hearing about his political activities was vague and lacking in detail.

When the Tribunal asked the applicant to explain what political activities he was involved in at university he claimed he conducted meetings and conferences and talked about awareness. When The Tribunal asked the applicant to explain what political activities he was involved in after the [first] elections he claimed that he conducted meetings and conferences and promoted awareness among young people. When the Tribunal asked the applicant what political activities he was involved in after his applications to establish new political parties were rejected he claimed he conducted more meetings and gave more speeches about political awareness. The Tribunal has considered whether the applicant's vague evidence about his political activities is related to the fact that he was fatigued, stressed or depressed at the hearing. The applicant provided evidence to the Tribunal that for many years he had expressed his political opinion in public. He claimed he conducted meetings and gave speeches every day from [year] to [year]. The Tribunal is of the view that if the applicant had been involved in political activities for many years and was experienced in expressing his political opinion in public, he would have been able give the Tribunal details of his political activities, rather than just repeating the same phrases with no explanation of how he promoted political awareness or educated young people about politics even if he was tired, stressed or depressed. The Tribunal is of the view that the fact that the applicant's evidence at the hearing about his political activities was vague and lacking in detail indicates he is not a witness of truth.

In his submission to the Tribunal the applicant claimed that when he was at university he was an activist and a protestor who condemned Sadat's internal and external policies. He claimed he was against his visit to Israel and against his decision to establish central security forces. At the hearing when the Tribunal asked for details of what he spoke about at his meetings with university students he claimed he talked about democracy. When the Tribunal asked the applicant to explain in more detail what he spoke about he did not refer to Sadat's internal or external policies. He claimed that that he told the university students they had to develop political awareness. He claimed that that he told them that Egypt is not only for members of

Mubarak's Party, the National Party. The Tribunal is of the view that if the applicant had been an activist and protestor while at university he would have referred to Sadat's policies when asked by the Tribunal about his political activities at university.

In his submission to the Tribunal the applicant claimed that during the election campaign in [year] he had urged everyone to express their political opinion in peace and without harm to others. He also called for equality. He claimed his view was that politics affects peoples' lives, and that you must continue to build societies to protect human rights and prevent corruption. He claimed that he was determined to help young people to get jobs. At the hearing when the Tribunal asked the applicant to explain what he had spoken about during his election campaign he claimed he wanted democracy and he wanted to raise the political awareness of the youth. When he was asked for specific details of his policies he claimed he was against the National Party. The Tribunal is of the view that if the applicant had stood for the [year] elections as an independent he would have been able to explain what National Party policies he was against, and why he was against them, and he would have been able to give details of his policies and what he had spoken about during his election campaign. The Tribunal is of the view that the fact that the applicant could not tell the Tribunal in any detail what he spoke about during the election campaign indicates to the Tribunal that his claim that he stood as an independent in the [year] elections is not true.

The applicant's knowledge of Egyptian politics was not consistent with his claims that he had been involved in politics for many years, stood as an independent candidate in the general elections in [year] and had educated young people about politics.

In his submission to the Tribunal and at the hearing, the applicant claimed that he wanted to educate young people about democracy in Egypt, about voting and about their role as voters. The applicant claimed that for many years he had been involved in informing people about their electoral rights. The applicant claimed that he had registered his name for the general elections in [year] because he wanted to educate young people about politics. Given this claim, the Tribunal asked the applicant at the hearing basic questions about Egyptian politics including questions about the Egyptian parliament. The parliament of Egypt consists of the People's Assembly and the Shura Council. When the Tribunal asked the applicant at the hearing about the People's Assembly he claimed that it had 420 seats and that members of the People's Assembly had four year terms. When the Tribunal asked the applicant at the hearing about the Shura Council he claimed that there were 400 seats and that members of the Shura Council were elected for four years. He claimed that five members were appointed to the Shura Council by the President. The independent information before the Tribunal indicates that there are 454 seats in the People's Assembly and the Assembly sits for a five year term. There are 264 Shura members 176 members are directly elected and 88 members are appointed by the President for six year terms. One half of the Shura Council is renewed every three years. The Tribunal is of the view that if the applicant had conducted meetings and given speeches to young people in order to educate them about politics, and if he had stood as an independent in the general elections in [year], he would have known that members of the Assembly sit for five year terms and members of the Shura Council have six year terms. The Tribunal is of the view that if the applicant had educated young people about voting and about their role as voters he would have known that one half of the Shura Council is renewed every three years. The Tribunal is of the view that the applicant's lack of knowledge about the parliament of Egypt indicates that he is not a witness of truth and his claim that he stood as an independent candidate in the general elections in [year] and conducted meetings and gave speeches to young people in order to educate them about politics is not true.

The applicant's knowledge of Egyptian politics was not consistent with his claims that he had tried to establish new political parties.

In his protection visa application the applicant claimed he helped in the establishment of a new political party [party 1]. At the hearing the applicant claimed he tried to register two new political parties. At the hearing when the Tribunal asked the applicant how you register a new political party in Egypt he initially claimed that you list the name and then get the approval of the State National Security. When the Tribunal asked the applicant to provide more details about the process he claimed you go the Governor in the City Council and explain you want to establish a party and then the Governor refers you to the State Council Security and they approve or reject the application and sometimes they arrest you. The independent information before the Tribunal indicates that citizens have the right to establish political parties. The National Party controls the Political Parties Committee, which determines whether new parties receive legal recognition. New parties must be approved by the Political Parties Committee. Decisions of the Political Parties Committee may be appealed to the Political Parties Court. The Tribunal is of the view that if the applicant had helped in the establishment of a new political party or tried to register two new political parties he would have known that new parties must be approved by the Political Parties Committee. The Tribunal is of the view that the applicant's lack of knowledge of the process involved in registering a political party in Egypt indicates that he is not a witness of truth and his claim that he was involved in trying to establish or register a new political party is not true.

There were inconsistencies in the applicant's evidence.

At the hearing the applicant claimed that he was a high level sportsman and a famous trainer. The applicant claimed that because he expressed his political opinion in public he was prevented from representing Egypt in international competitions. However the applicant also claimed that he was a trainer at the Military College and trained political party security forces. When the Tribunal put to the applicant at the hearing that the fact that he trained members of the security forces appeared inconsistent with his claim that he was not allowed to compete in international competitions because he had spoken out against the National Party, he claimed that the sportsmen he trained were only students who were training to be members of the security forces. The applicant's advisor, in his response to the section 424A letter, submitted that in [year] the [Ministry] sacked the applicant from his position as the manager of [organisation], but he kept on training there. He also trained some of the students attending the school which graduates cadets for the Security Forces. The applicant's advisor submitted that this did not reflect any contradiction, because even though the applicant was sacked from his government position, he used his skills as a sportsman to train people who were interested in [his sport] The applicant also claimed he trained the Egyptian National Team in [year]. The applicant submitted a letter from the [sporting body] to support his claim he had trained the Egyptian National Team during [event]. The Tribunal finds it implausible that a person sacked from his government position and detained by the Egyptian authorities because he expressed his political opinion in public against the National Party would be permitted to train students at the military college, or members of the Egyptian National Team. Further, the Tribunal is of the view that the fact that the applicant trained students at the military college who were training to be members of security forces and trained the Egyptian National Team is inconsistent with his claim that he was denied representing Egypt in any international championship because of his political opinion. The Tribunal is of the view that the inconsistencies in the applicant's evidence indicate he is not a witness of truth.

In his protection visa application the applicant claimed in [year] he helped in the establishment of a new political party [party 1]. At the hearing when the Tribunal asked the applicant for details of his involvement in the establishment of the new political party he initially responded “What Party “. He then claimed that in [month/year] he had tried to register [party 2]” and that later he tried to register a party called [party 3]. The applicant claimed that when the registration of these parties was rejected he lost hope and didn’t try to establish any more new political parties. Later in the hearing when the Tribunal put to the applicant the inconsistencies in his evidence he claimed he was a friend to those who established [party 1]. The applicant’s advisor, in his response to the section 424A letter, submitted that the applicant’s unsuccessful attempts to form a political party did not prevent him from participating with others in establishing a new one in his area of residence. The Tribunal does not accept the applicant’s advisor’s submission as it is inconsistent with the evidence the applicant provided at the hearing that he was only a friend to people who had established [party 1], and that he had only been involved in the establishment of two parties [party 2 and party 3]. The Tribunal is of the view that the fact that the applicant, in his protection visa application claimed he had established [party 1] and at the hearing claimed that he had tried to register [party 2 and party 3] indicates that he is not a witness of truth and his claim that he tried to establish a new political party is not true.

At the hearing the applicant provided evidence that when he returned from [Country A] in [year] he was not involved in any political activities. The applicant claimed that he did not resume his political activities until his children had finished their university studies and were married. The applicant claimed that he did not want to be involved in political activities while his children were at university, as he wanted them to achieve at a “high level”. He also claimed he did not want to get involved in political activities during the time his children were getting married. The applicant claimed his eldest child finished her degree in [year], his son finished his degree in [year] and his youngest child finished her degree in [year]. He claimed his eldest child was married in [year] and his youngest child was married in [month/year]. The applicant’s claim that he was not involved in political activities until after [month/year] was not consistent with the information in the document he claimed was from the Court, which states the applicant was sentenced to [a term of] imprisonment because he conducted meetings and distributed brochures and pamphlets on [date]. When the Tribunal put the inconsistency to the applicant at the hearing he claimed that he had attended some meetings before [date] ‘in secret’. The Tribunal is of the view that if the applicant had distributed brochures and pamphlets in [month/year] he would have provided evidence about this activity when the Tribunal asked the applicant about his political activities. The Tribunal is of the view that the inconsistencies between the evidence the applicant provided at the hearing and the documentation he submitted to the Tribunal further indicate that the applicant is not a truthful witness.

The Tribunal has considered the psychological evaluation provided by the applicant’s psychologist. The report from the psychologist was based on the applicant’s own account of the events that happened to him in Egypt. The report does not set out whether, or how the psychologist established that the applicant’s account was true. The psychologist observed that during sessions with her, there were multiple times that the applicant could not remember specific periods and certain dates. While during the sessions with the psychologist the applicant may not have been able to remember specific periods and dates, the applicant submitted to the Tribunal a twelve paged detailed submission with details of specific periods and details of dates. When asked at the hearing how this detailed submission was prepared the applicant claimed he had provided all the details in the submission to his agent. In her



letter to the Tribunal the psychologist stated that the applicant had explained to her that at the hearing he could not remember names and dates and that all he could say to the Member was “what did you say” because he felt disoriented and confused. The applicant’s account is not consistent with the Tribunal’s observations as to what happened at the hearing when the Tribunal questioned the applicant. At the hearing the applicant when questioned provided to the Tribunal specific details and dates about his employment in Egypt, details of his business, specific details and dates about his sporting achievements and specific details and dates about his children’s educational achievements. The psychologist stated in her report that the applicant stated that he could not cope with the way he was treated by Egyptian authorities but she also stated he could not cope with the fact that he could not be with his family. At the hearing the applicant told the Tribunal he was missing his family. The psychologist stated in her report that the applicant was experiencing [psychological problems] due to his treatment in Egypt by authorities. The psychologist also stated that the applicant was scared to go back to Egypt because of potential repercussions and that the applicant was struggling significantly to cope with living in Australia in isolation with limited social support. The psychologist’s report suggests that the causes for the applicant’s mental state may be due to the way he was treated by Egyptian authorities but they may also be due to his separation from his family, living in a new country and his uncertain future. The Tribunal has placed little weight on the opinion of the psychologist for the above reasons. The Tribunal does not accept that the above inconsistencies in the applicant’s evidence were because the applicant is depressed.

In his letter to the Tribunal dated [date] the applicant’s advisor claimed that there were serious interpreting problems during the time he was present at the second hearing. He submitted that the mistakes in interpreting confused the applicant. He submitted that when he interfered twice and interpreted the questions, the applicant gave the correct answers. The Tribunal accepts that at the second hearing the applicant’s advisor interrupted the interpreter and asked him to reinterpret the Tribunal’s question “What seat or what constituency did he stand for in [year]” The Tribunal accepts that when the question was put to the applicant again he gave the correct answer. The Tribunal notes that the applicant’s advisor showed the applicant a document he had submitted to the Tribunal which he claimed was his campaign material and which had the name of the electorate he stood for. The applicant also asked the interpreter to reinterpret the question “How many members are elected directly to the Shura council”. When the interpreter put that question again the applicant did not provide the correct answer. The Tribunal does not accept that the fact that the interpreter had to reinterpret a few technical words like “constituency” confused the applicant. The Tribunal has considered the applicant’s advisor’s submission that if there were interpreting problems during the first hearing similar to the second hearing he would not be surprised if the applicant did not respond properly. The Tribunal has listened to the tapes of the hearing. At the hearing the Tribunal asked the applicant if he understood the interpreter and he stated that he did. The Tribunal also told the applicant that if at any stage of the hearing he didn’t understand the interpreter or understand a question that was asked, he should tell the Tribunal. The applicant at no stage of the hearing indicated that he did not understand the interpreter. The applicant’s responses to the Tribunal’s questions do not indicate that he did not understand the interpreter. When the Tribunal asked the applicant about his claim that members of his family were members of the National Party he initially claimed that no members of his family were members of the National Party. When the Tribunal put to the applicant that this was inconsistent with his claims in his protection visa application he did not claim that he did not understand the interpreter he claimed that he hadn’t understood the question the Tribunal had asked him. The Tribunal does not accept the advisor’s submission that there were interpreting problems during the first hearing. While the Tribunal accepts that there were problems with the way the interpreter interpreted one or two technical words like

“constituency” and “governorates” the Tribunal does not accept that there were other serious interpreting problems. The Tribunal is of the view that if there had been other serious interpreting problems at the second hearing, the applicant’s advisor would have interrupted the interpreter as he had done so with the Tribunal’s permission in relation to the two occasions referred to above. The Tribunal is of the view that the applicant’s advisor has submitted that there may have been interpreting problems during the first and second hearing in order to overcome the serious flaws in the applicant’s evidence. The Tribunal does not accept that the inconsistencies in the applicant’s evidence have arisen because of interpreting problems.

There were further problems with the applicant’s claims

The applicant claimed that he was arrested in [month/year] and detained for [period]. When the Tribunal asked the applicant at the hearing why he had been released when he had been accused of instigating young people against the regime he claimed he promised the authorities he would stop his activities and leave the country. The independent information which the applicant submitted to the Tribunal indicates that people detained for criticising President Mubarak and the National Party have been detained without charge or trial for long periods of time. The Tribunal is of the view that if the applicant had been detained and accused of instigating young people against the regime in [month/year], he would not have been released from detention, especially as the applicant has claimed he was well known to the Egyptian authorities for criticising the National Party and had been detained on [number of] other occasions.

The independent information before the Tribunal indicates that the Egyptian government maintains strict controls on the exit of all people out of Egypt. Egyptian citizens would be prevented from exiting Egypt if their name appeared on the official “alert list”. Although there are no exact details of how this alert process operates due to the sensitive nature of the matter, any person that was wanted by the authorities in relation to security matters would likely appear on the list. The applicant’s advisor, in his response to the section 424A letter submitted that the applicant did not know whether his name was on the alert list or not but that his departure from Egypt was facilitated by his [relative] who is associated with a Minister. In his submission to the Tribunal and at the hearing the applicant claimed that it was [another relative], who he claimed was an office-holder in an organisation in [city], who had helped him leave Egypt. The Tribunal does not accept the applicant’s advisor’s submission that the applicant’s [relative] facilitated his departure from Egypt, given it is inconsistent with the evidence the applicant has provided. The Tribunal is of the view that if the applicant had been arrested, detained and accused of instigating young people against the regime in [month/year] he would not have been able to leave Egypt. The Tribunal is of the view that the fact that the applicant was able to leave Egypt in [month/year] indicates that he is not a witness of truth and his claim that he was arrested, detained and accused of instigating young people against the regime in [month/year] is not true.

The delegate was not satisfied that the applicant was of adverse interest to the Egyptian authorities or that he had been arrested, tortured or sentenced to a term of imprisonment because he had not provided any evidence of his political activities and had not provided evidence that he had been arrested, convicted or given a prison sentence. The applicant has submitted to the Tribunal a number of documents. Some of the documents do not support his claims; for example the letters from [sporting organisations] and his police clearance. Other documents, if accepted by the Tribunal to be genuine, would support the applicant’s claims.

The applicant submitted a document purportedly from the Court. The document states that the applicant was sentenced by the court on [date] to a term of imprisonment, because on [date] he had distributed brochures and pamphlets and had addressed people at a meeting, calling on them to do actions that would harm national unity and social harmony. At the hearing the applicant claimed that he was not involved in political activities in [month/year] as he did not want to disrupt his children's wedding plans. The applicant also, when asked about his political activities at the hearing, did not claim he had distributed brochures and pamphlets. Given that the information in the document was inconsistent with the evidence the applicant provided at the hearing, the Tribunal does not accept that this document is genuine. The Tribunal is of the view that the document has been fabricated in order to strengthen the applicant's claims. The applicant submitted a document he claimed was his advertising material from the [year/first] elections. This document was computer generated and had a scanned photo of the applicant. Given that the document could have been generated by anyone using a computer at any time, the Tribunal places no weight on the document. The applicant submitted a termination letter from [Ministry] / date. The letter does not state why the applicant's employment was terminated by the Ministry. Given the letter does not state why the applicant's employment was terminated by the Ministry, the Tribunal places no weight on this document. The applicant submitted a receipt [dated] which he claimed was for the payment of fees for his nomination in the [year/first] elections. Given the Tribunal has found that the applicant is not a truthful witness and does not accept he stood as an independent in [those] elections, the Tribunal does not accept this document is genuine.

Taking into account all of the evidence, the Tribunal finds the applicant is not a truthful witness and rejects all of his claims. The Tribunal does not accept that the applicant has been involved in political activities for many years. The Tribunal does not accept that the applicant was an activist and protestor against Sadat's policies when he was at University. The Tribunal does not accept that the applicant conducted meetings or educated young people about politics. The Tribunal does not accept that the National Party asked the applicant to join the Party and he refused. The Tribunal does not accept that the applicant stood as an independent in the [year/first] Elections. The Tribunal does not accept that the applicant tried to register or establish a new political party. It follows the Tribunal does not accept that the applicant was sacked from his employment because of his political activities. The Tribunal does not accept that the applicant has been arrested, detained and tortured because of his political activities. The Tribunal does not accept that the applicant's family has been mistreated, or that the Egyptian authorities tried to stop him running his business because of his political activities. The Tribunal does not accept that the applicant has been sentenced by the Court to a term of imprisonment. The Tribunal finds these claims have been fabricated by the applicant in order to obtain a protection visa. The Tribunal is not satisfied that the applicant has a well founded fear of being persecuted for reasons of actual or imputed political opinion if he returns to Egypt now or in the reasonably foreseeable future.

The Tribunal is not satisfied that the applicant has a well founded fear of being persecuted for reasons of actual or imputed political opinion, or for any other Convention reason.

## **CONCLUSIONS**

Having considered the evidence as a whole, the Tribunal is not satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention. Therefore the applicant does not satisfy the criterion set out in s.36(2)(a) for a protection visa.

## **DECISION**

The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.

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