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United Nations Human Rights Council- Universal Periodic Review

Egypt

September 2009.

The Advocacy Department of Open Doors International submits this analysis of religious freedom in the Arabic Republic of Egypt as a contribution to the Universal Periodic Review of UN member-state the Arabic Republic of Egypt.

Open Doors International focuses on the right to freedom of religion or belief, and in this report in submission on the position of Christian minorities in the Arabic Republic of Egypt¹. Egypt faces a worrying trend of human rights' abuses and sectarian clashes. The Christian minority experiences increased abuse from state security apparatus, political institutions, as well as attacks by mobs.

National law

The Arabic Republic of Egypt (hereafter called Egypt), provides for freedom of opinion and belief and the practice of religious rites in its constitution (art 46, 47). Article 40 of the Constitution of Egypt guarantees equal rights for all citizens and prohibits discrimination based on religion². At the same time, however, article 2 of the Egyptian constitution states that "Islam is the religion of the state and Islamic jurisprudence is the principle source of legislation". This article is limiting the equal rights set out elsewhere in the constitution.

The Emergency law

The Emergency Law has been in force since 1981. The law grants the president extraordinary powers, including the power to suspend basic rights, giving the security forces the right to detain any suspect indefinitely without legal representation or official charge, and to prevent public gatherings.

Egypt became a member of the UN Human Rights Council in May 2007 voluntarily pledging to lift the current state of emergency upon the completion and adoption of new anti-terrorism legislation³. Nevertheless, on 26 May 2008, the government extended the Emergency Law for another two years. It is likely, however, that the awaiting counterterrorism law would give the government the same scope for human rights violations.

International law

Article 151 of the Egyptian Constitution regulates that international treaties have the force of law. Egypt agreed to be bound to the Universal Declaration on Human Rights (UDHR)

¹ Sources used are: Open Doors and Unites States Commission on International Religious Freedom.

² Article 160 of the Egyptian Penal Law specifically protects against the disruption of religious observance and damaging religious premises or artefacts, while Article 161 protects against open attacks on religions by publishing distorted versions of their scriptures or by publicly mimicking their celebrations².

³ UN doc A/61/878.



by becoming member of the United Nations. It further has ratified the International Covenant on Civil and Political Rights (ICCPR in 1982). By ratifying the ICCPR, Egypt accepted to guarantee full freedom of religion or belief. The only two accepted limitations to this right are '*prescribed by law and necessary for the protection of public safety, order, health, or morals or fundamental rights, and freedom of others*'⁴. However, when Egypt ratified the ICCPR it issued an understanding that it intended to comply with the Covenant's provisions "to the extent that they do not conflict with Shariah". According to Egypt, recognizing apostates, such as Bahá'í, or Muslim converts to Christianity or another faith is forbidden by Shariah. Moreover, it would violate principles of 'public order'.

Religious minorities

Egypt has a population of 75 million inhabitants of which approximately 8 million belong to the Christian minority. This number includes both Copts (born Christians) as Muslim converts to Christianity. The number of Bahá'í is estimated at 2,000.

The three recognized 'heavenly' religions are Islam, Christianity, and Judaism. For these minorities, recognition does not mean that their status is equal to that of Muslims, even though national law and international law provide for equality. The basis for their limited religious freedom is the officials' interpretation of the Shariah.

Bahá'í

In 1960, former President Nasser issued Decree No. 263, ordering the dissolution of all Bahá'í Institutions and banning the practise of Bahá'í religious rituals and the circulation of literature promoting their beliefs. In 1975, the Supreme Court rejected a case brought by an Egyptian Bahá'í who challenged the legality of the Decree on the basis of its unconstitutional discriminatory nature, its non-conformity with the UDHR and the failure of the President to submit it to Parliament. The Supreme Court ruled that the Decree was constitutional and designated the Bahá'í faith an unrecognised religion. Since the ruling of Cairo's Court of Administrative Justice in January 2008, some Bahá'í are allowed to obtain an identity card with a dash in the space designated for religion. However, although the government has published a verdict on this ruling, it is still unclear whether the decree has been implemented in practice and whether it would help Bahá'í in daily life.

Religious freedom for Christian minorities

The legal recognition of the Christian religion only provides for limited freedom. The Christian minority experiences increased discrimination and abuse from the state security apparatus, political institutions, as well as attacks by mobs.

Although there is no legislation ruling that Christians cannot acquire certain positions, very few have a high position as official or in the army. The position as a teacher in many schools cannot be fulfilled by Christians either.

⁴ Article 18 ICCPR.



Since Egypt's government considers religious education as a principal subject in the curricula of public education, students are obliged to study the religion that is registered on their passports. In several occasions, Christian students have been refused to enrol University education, for example when it includes Islamic education. Furthermore, this regulation has serious implications for Muslims who converted to Christianity as they cannot change their religious affiliation on their ID cards.

Precedents in Shariah law regarding the marriage of non-Muslims to Muslims rule that a man registered as a Muslim can marry a woman registered as a Christian, whereas a man registered as a Christian cannot marry a Muslim woman. Consequently, converts to Christianity who wish to marry within their newly chosen religion, are unable to do so due to the legal constraints surrounding their position. The Court of Cassation set case law precedent when it affirmed "the invalidity of the marriage of a female Muslim apostate if she gets married after apostasy to a non-Muslim and separation is enforceable... and the impermissibility of changing the name or religion status of the apostate in the identity card information... a women apostate does not originally have the right to marry either a Muslim or a non-Muslim; she is considered dead, and the dead is not subject to marriage⁵."

Muslim converts to Christianity

Egyptian courts have historically supported the official stance that Islamic law constitutes an essential part of public order and that recognizing "apostasy" or registering any religion other than the three "recognized" religions in public records would violate the principles of public order. Shariah further regulates that converts from Islam lose all rights of inheritance.

Christian converts who did try to correct their religion in public records were regularly detained on charges of violating public order, and sometimes even subjected to torture. There are cases known in which officers within the Criminal Intelligence Unit of the CSD threatened and attempted to bribe converts in order to pressure them to maintain their Muslim identity. Several Christian women who had converted to Islam and subsequently attempted to "re-convert" back to Christianity testified that a high ranking officer within the Criminal Intelligence Unit of the CSD alternately threatened and attempted to bribe them in order to pressure them to maintain their Muslim identity.

Muslim converts also face problems coming from their social and cultural environment. When a Muslim converts to Christianity, the honour of the family is lost and the convert might face serious repercussions, including disinheritance, loss of possessions, enforced divorce, and abandonment from the community. Moreover, for converts, of whom their apostasy is known, it is very difficult to find a job.

There are cases in which families killed or tried to kill the apostate, or at least abused the convert and threatened him or her to reconvert. Several married apostates were refused to see their children and wife or husband ever again after their conversion.

⁵ Court of Cassation, Case No 1359, Judicial Year 28, 27 Nov, 1984; Case No 162., Judicial Year 62, 16 May 1995.



The conversion of a Christian father to Islam leads to the automatic conversion of his minor children, without regards of their or their mothers' custody rights, because the father has the 'most complete religion'. At the age of 16, when all children have to obtain their own ID, they receive the official Islamic identity, and face the same discrimination as converted Muslims⁶.

ID-card issue

The Civil Status Department of Egypt's Ministry of Interior is responsible for administering and providing to Egyptian citizens their national ID cards, as well as other identification documents. The governments' limited recognition of only the 'heavenly' religions is based on the Ministry's interpretation of the Shariah, rather than Egyptian law. The government is using an approach to Shariah law which directly violates the internationally recognized rights of its citizens.

The Civil Status Law of 1994 allows citizens to change or correct information, including religious affiliation, in ID documents by registering the new information, without requiring approval by the CSD. However, since, conversion from Islam to another religion or atheism, apostasy, is forbidden and punishable by death, Bahá'í and converts from Islam to Christianity are denied (emendation of their) ID documents. Those who did try to correct their ID were regularly detained on charges of violating public order, and sometimes even subjected to torture. Recently, two converts, Maher El-Gohary and Mohammed Ahmed Hegazy, tried to formalise their conversion to Christianity on their ID documents. None of them has been granted the formalisation of their new religion⁷. Moreover, both have received various threats and need to. Some individual complaints from Christians who became Muslim and wished to re-convert to Christianity were ruled in favour by the court. Officials, however, refused to implement the ruling.

People without ID forfeit are not able to carry out the simplest things in life, such as monetary transactions, acquiring a driver's license. Moreover, employers are not allowed to hire someone without ID. Also academic institutions require ID for admission. It has consequences for marriages, and pensions.

Registration and building issues for churches in Egypt

The legal foundation for Egypt's control of Church property is the Al-Azabi Decree, amplified in 1934. Around December 1999, President Mubarak decreed that church repairs no longer required a presidential, governor or federal ministry permit. Instead, the repair of

⁶ A clear example can be read in Compass Direct news 1 July 2009. A husband who became Muslim claimed his twin sons according to Islamic legal principles. The Christian mother won custody as Egyptian law grants custody of children under 16 to the mother. However, due to the fathers' conversion also the religion of the two sons changed automatically to Islamic religion.

⁷ Gohazy's attempt failed last July even though he is the first convert to Christianity to be officially recognized by an official Egyptian church. According to his lawyer: "The judge alluded to the absence of laws pertaining to conversion from Islam to Christianity and suggested an article be drawn up to deal with this gap in legislation". The State Council stated that his case was a threat to societal order in Egypt, and violated Shariah law.



all places of worship was to be subject to a 1976 civil construction code, symbolically placing the repair of mosques and churches on equal footing before the law, although churches still required government permission for new church buildings⁸. Coptic Orthodox clergy have testified that performing repairs to church property is still largely obstructed either by local government officials who delay authorisation by bureaucratic means or by the state security police, who often stop construction, even when official permission has been granted.

Permission from the president is not required to open a new mosque. Furthermore, Mosques face no hindrances in repairing or extending their complexes and they receive funding from the state.

Recommendations

Open Doors International recommends and urges the Islamic Republic of Egypt:

- To immediately release all prisoners of conscience.
- To end the practise of incommunicado detentions, detentions without charges, and corporal punishment without delay.
- To review the legislation regarding, and treatment of, religious groups and organizations that falls short to the obligations following the International Covenant on Civil and Political Rights (ICCPR), and make sure that they comply with its obligations.
- To lift the reservation it made to the ICCPR and fully comply with its obligations.
- To allow all Egyptians full freedom of religion or belief, including the freedom to change from Islam to Christianity, or another religion, as provided for in article 18 ICCPR, and to register the new religion on ID documents.
- To protect the Christian minority from social aggression, attacks of their houses and church buildings.
- To enable the Christian minority to build and maintain their church buildings without discrimination and obstruction from the authorities.
- To revoke the emergency law as pledged and to stop human rights violations by the authorities and secret police.
- To invite the UN Special Rapporteur on freedom of religion or belief and to fully cooperate with her office.

⁸ Two draft laws on this issue have been proposed. Both are awaiting approval in the People's Assembly.



Annex 1 several cases of human rights violations of Egyptian Christians in 2009
exclaimer: this list is by no means exhaustive

14 April 2009

The Court of Administrative law has rejected the appeal submitted by Shahinaz kamel, Kamilia lofty, and Ghada Ayoub, against the Minister of Interior and the head of the office of civil status where accusing them of changing the status of their children's religion from Christianity to Islam. This took place after the fathers' conversion into Islam. The Court's decision was based on reasoning of the civil status law that it is up to the decision of the father and his decisions will be followed. Consequently, what the father did was legal and according to the law. Therefore, the court had to change the religion of the children to Islam, which the father converted to.

21 April 2009

The court of administrative law rejected the appeal by a Christian civilian to register to the Postgraduate studies in the department of the Sharia and law in Al Azhar University. The appeal was to stop the refusal of Christian students in the Postgraduate Program of the University.

The Court based its decision on the reasoning that the applicant does not fulfil all the criteria for his legibility to register for the Masters degree. Further explaining, the applicant must have at least a grade of "Good" and should register before the studies begin. The applicant fulfilled these criteria, however, and still was not accepted.

28 April 2009

The Court has rejected the urgent part of the appeal of a Christian woman against the Minister of interior and against a Muslim man (the husband of the woman's daughter) to cancel the decision of the judge who recognized the marriage of the second accused party (the Muslim man) and her daughter, and to cancel the conversion of her daughter into Islam. The woman's claim was that the daughter married the second accused party while she was below legal age and psychologically disturbed. This prevents her from having a free will to decide and this should annul the court's decision.

The court based its decision on the article 46 in the Constitution stating that the country gives freedom belief and practicing of religious rites, also found in article 18 of the ICCPR, stating every human has the right to freedom of religion or belief, including the right to change religion and religious practice.

The court concluded that the daughter has converted to Islam and married with her own free will, neither forced nor pressured. In addition it stated that the mother's allegation that the daughter is mentally and psychologically challenged is only meant to get her back to Christianity, an issue that the mother cannot impose.

13 June 2009

The court has rejected a double appeal by Maher El-Gohary against the president and others requesting review of the denial to change the religious information on his ID card from Muslim to Christian.



The Court based its decision on a number of points, mainly the freedom of belief within the constitution, and is to be understood through the following reasoning. Egypt is an Arab country and Islam is the state religion, and the Shariah is the main legislative constituent and citizenship is the second. Though this freedom does not affect the civilian based countries, the case is different in Egypt, where legal parameters will be affected, such as marriage, divorce, inheritance that are based on the religion and denomination.

The court also referred to article 18 of the ICCPR, to which Egypt placed a reservation that it should not contradict the Islamic Shariah.

The court amplified, explaining its Islamic point of view on freedom of religion, "freedom to think is the road to the truth". Then the court denied the presence of limitations and boundaries in Islam, adding that freedom is an inseparable part of the society. Islam builds human life in general through experience and choice between good and evil. On the other hand the freedom of religion was stated in the Shariah long before the constitution (14 centuries ago) quoting some of the related verses; God ordered his Prophet to keep away from idolaters and ignorant there is no compulsion in religion.

But then the court came back to confirm that freedom of religion is not absolute. Since Islam does not accept religion to be a game; those who want to believe will be part and later change religion (step out) of it is not acceptable.

Although the court accepts article 47 of the Civil Status law including the right to change the religious affiliation on ID documents, it gave a new explanation to the law stating that this requires a few conditions, processes and limitations to in order for the authorities to be able to take the decision to change the religious affiliation and the name in the birth certificate and other documents.

These conditions are: submitting a request to the authorities, with an attached document supporting the decision, or a court order permitting the change, or an official document stating such a change. However, it was never explained which office or court should do this and in addition denied the church the right to issue such a document. Therefore, it is clear that article 47 of the Civil Status law is not complete and does not permit a Muslim to convert into any other religion and change his religious status in the legal documents.

To conclude, the court did not recognize the certificate issued from a Cypriot Church dated 20 September 2005, and the certificate his recognition as a Christian by the Orthodox Church, dated 8 April 2009. The court did so by stating that they are void of all authority. Thus the Court cannot grant his request to change his religious status in the official document.



Annex 2: several cases of attacks on houses of worship

21 June 2009

An attack on a church in Ezbet Boushra El Sharkiya, El Fashn Bany Sueif.

Bishop Estaphanous of Beba and El Fashn bought a building for worship after obtaining the legal authorization from the police. However, a Group of Muslims from the village attacked the building because Christians were using it for worship and prayer.

3 July 2009

Burning of a building used for worship in Ezbet Girgis in El Fashn.

This village has nearly 2000 inhabitants, of which 75 % are Christians. They lived in harmony with their Muslim neighbours as witnessed by the village priest: Father Semaan Shehata Rizkallah. Because there were no churches in the village the Bishopric bought a three story building where the priest could live on one floor and the other 2 floors could be used for prayer and wordhip. At daybreak of Friday 3 July, a group came and burned the house next to the church owned by Fawzi Iskander Hanna. The further destroyed a tractor belonging to a Christian in addition to Burning 17 Acres of produce .They also tried to burn the church bus and threw stones at homes of Christian villagers.

11 July 2009

Burning of Abiskharoun El Kalliny Church in Basilious village in Bany Mazar

In the morning of 11 July, the Church was burnt down by a group of Muslim fundamentalists. The Church that was burnt had a permit and was just inaugurated on 7 March, in the presence of Bishop Athanasious of Bany Mazar, after it was closed for a while for security reasons.

20 July 2009

Burning of a Church in Faqaay in Bany Sueif.

On Friday after the prayers, Muslims surrounded the twenty years old worship building that belonged to the bishopric, and started throwing rocks at the people that gathered there, When the Christians stood up to them, the Muslims started attacking their houses. The police came and took 15 people into custody and set a curfew.

24 July 2009

Burning of a Baptist Church in El Hawaslah in Abu Korkas.

A group of Muslim youth threw fireballs at the church with the intention of burning it. This church was just being prepared to be opened and was to be the only Catholic Church in the village. The police took into custody 40 people from both sides.