



# OPERATIONAL GUIDANCE NOTE

## EGYPT

### CONTENTS

<b>1. Introduction</b>	<b>1.1 – 1.4</b>
<b>2. Country assessment</b> <a href="#">Actors of protection</a> <a href="#">Internal relocation</a> <a href="#">Country guidance caselaw</a>	<b>2.1</b> 2.2 2.3 2.4
<b>3. Main categories of claims</b> Christians/Christian Converts Political Opposition Activists Prison Conditions	<b>3.1 – 3.8</b> 3.9 3.10 3.11
<b>4. Minors claiming in their own right</b>	<b>4.1 – 4.3</b>
<b>5. Medical Treatment</b>	<b>5.1 – 5.5</b>
<b>6. Returns</b>	<b>6.1 – 6.5</b>

## 1. Introduction

- 1.1** This document provides Home Office case workers with guidance on the nature and handling of the most common types of claims received from nationals/residents of Egypt including whether claims are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Case workers must refer to the relevant Asylum Instructions for further details of the policy on these areas.
- 1.2** Case workers must not base decisions on the country of origin information in this guidance; it is included to provide context only and does not purport to be comprehensive. The conclusions in this guidance are based on the totality of the available evidence, not just the brief extracts contained herein, and case workers must likewise take into account all available evidence. It is therefore essential that this guidance is read in conjunction with the relevant COI Service country of origin information and any other relevant information.

COI Service information is published on Horizon and on the internet at:

<http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

- 1.3** Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. Where a claim for asylum or Humanitarian Protection is being considered, case workers must consider any elements of Article 8 of the ECHR in line with the provisions of Appendix FM (Family Life), and

paragraphs 276 ADE to 276DH (Private Life) of the Immigration Rules. Where a person is being considered for deportation, case workers must consider any elements of Article 8 of the ECHR in line with the provisions of Part 13 of the Immigration Rules. Case workers must also consider if the applicant qualifies for Discretionary Leave in accordance with the published policy.

- 1.4** If, following consideration, a claim is to be refused, case workers should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.

## **2. Country assessment**

- 2.1** An overview of the human rights situation in certain countries can also be found in the FCO Annual Report on Human Rights which examines developments in countries where human rights issues are of greatest concern:

<http://fcohrdreport.readandcomment.com/read-and-download-the-report/>

## **2.2 Actors of protection**

- 2.2.1** Case workers must refer to section 7 of the Asylum Instruction - [Considering the asylum claim and assessing credibility](#). To qualify for asylum, an individual must have a fear of persecution for a Convention reason and be able to demonstrate that their fear of persecution is well founded and that they are unable, or unwilling because of their fear, to seek protection in their country of origin or habitual residence. Case workers must take into account whether or not the applicant has sought the protection of the authorities or the organisation controlling all or a substantial part of the State, any outcome of doing so or the reason for not doing so. Effective protection is generally provided when the authorities (or other organisation controlling all or a substantial part of the State) take reasonable steps to prevent the persecution or suffering of serious harm by for example operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.

- 2.2.2** The ex-president of Egypt, Hosni Mubarak, stepped down from office on 11 February 2011, following huge anti-government demonstrations that began in January 2011.<sup>1</sup> He transferred executive authority to the Supreme Council of the Armed Forces (SCAF), a transitional authority of senior military officers that ruled by decree. Their executive responsibilities were carried out by a civilian Cabinet of Ministers. Mubarak was arrested together with his sons and other ministers, sentenced to life imprisonment over deaths of protestors, corruption and other charges.<sup>2</sup> Legislative and parliamentary elections began on 28 November 2011, and were scheduled to end in February 2012.<sup>3</sup> The chairman of the Freedom and

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<sup>1</sup> BBC News: Country profiles: Egypt 15 January 2013  
<http://www.bbc.co.uk/news/world-africa-13313370>

<sup>2</sup> BBC News: Country Profiles – Egypt 15 January 2013  
<http://www.bbc.co.uk/news/world-africa-13315719>

<sup>3</sup> US State Department Country Reports on Human Rights Practices for 2011: Egypt, 24 May 2012, Executive Summary:  
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186423>

Justice Party (part of the Islamist Muslim Brotherhood) Mohammed Morsi won the presidential election in 2012; he took office on 30 June 2012. Two weeks before that, SCAF had issued an interim constitutional declaration amending the 30 March 2011 declaration promulgated following the overthrow of Hosni Mubarak. It restored all legislative powers to SCAF until fresh elections were held for the dissolved lower house of parliament, the People's Assembly.<sup>4</sup>

**2.2.3** Following his inauguration, Mr Morsi revoked this interim declaration, and transferred all the powers assumed by the generals to the presidency, including absolute legislative authority.<sup>5</sup> In August 2012, the head of the armed forces, Hussein Tantawi, was dismissed, together with his chief of staff, Sami Anan; they had previously been appointed as advisors to Morsi. The man chosen to replace Tantawi is the previous head of military intelligence, Abdel-Fatah el-Sissi, one of the generals who defended the use of "virginity tests" against female protesters in March 2011.<sup>6</sup> In November 2012, Mr Morsi signed a decree stating that the president's decisions cannot be revoked by any authority, including the judiciary. This was seen as a move aimed at stopping the constitutional court from dissolving the assembly tasked with drafting a new constitution. Soon after, the Islamist-dominated body voted to approve the final draft of the new constitution in a session boycotted by most liberals and Christians, and Mr Morsi quickly announced that a referendum would be held on 15 December 2012. All of these actions angered secularists and liberals, who accused Mr Morsi and the Islamists of trying to rush through a constitution that they believe curtails freedom and leans towards Islamism. They called mass protests, which quickly became violent.<sup>7</sup>

**2.2.4** President Morsi subsequently rescinded the decree awarding him new powers, but refused to back down on the constitution, which was duly approved at the referendum.<sup>8</sup> It has been criticised by opponents of Mr Morsi as a highly problematic document written by an unrepresentative and overwhelmingly Islamist constituent assembly. Although it has been approved by 64% of the (only) 33% of eligible voters who actually turned out, its passage has failed to quell deep mistrust and tensions between liberal and Islamist political factions.<sup>9</sup>

**2.2.5** In January 2013, President Morsi declared a state of emergency and curfews in the cities of Port Said, Suez and Ismailia following outbreaks of violence and rioting that resulted in the deaths of dozens of citizens over four days. The violence happened in the wake of death sentences handed down to 21 supporters of a local football club, al-Masry, for their role in the country's worst ever football violence, almost a year previously. After being criticised for his relative silence, he stated that he would do much more for the sake of Egypt. Since President Morsi took office, critics claim that he has failed to hold former officials to account for their alleged crimes, or to carry out much-needed reforms, particularly to the interior ministry, and that there

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<sup>4</sup> BBC News: Egypt – 'Who holds the power?' 10 December 2012

<http://www.bbc.co.uk/news/world-middle-east-18779934>

<sup>5</sup> BBC News: Egypt – 'Who holds the power?' 10 December 2012

<http://www.bbc.co.uk/news/world-middle-east-18779934>

<sup>6</sup> The Guardian: 'Egypt defence chief Tantawi ousted in surprise shakeup' 13 August 2012

<http://www.guardian.co.uk/world/2012/aug/12/egyptian-defence-chief-ousted-shakeup>

<sup>7</sup> BBC News: Egypt – Egypt Profile – Leaders 15 January 2013

<http://www.bbc.co.uk/news/world-africa-13313372>

<sup>8</sup> BBC News: Egypt – Egypt Profile – Leaders 15 January 2013

<http://www.bbc.co.uk/news/world-africa-13313372>

<sup>9</sup> Freedom House: Freedom in the World – Egypt – 2013, January 2013

<http://www.freedomhouse.org/report/freedom-world/2013/egypt>

is an increasing security vacuum.<sup>10</sup> In February 2013, President Morsi called for early parliamentary elections, to start in late April and to be held over four stages ending in June. He was obliged under the constitution to set the date for the vote by Saturday 25 February 2013. However, one of Egypt's key opposition leaders, Mohamed El Baradei, said the elections would be "a recipe for disaster" given the growing polarisation of the country, and the eroding authority of the state. He called for a boycott of the vote, which he said would call into question the validity of the vote. The incidence of street protests, strikes, crime and violent clashes between protesters and the security services is increasing; President Morsi has so far been unable to curb the unrest which is further fuelled by the steady deterioration of the Egyptian economy.<sup>11</sup>

**2.2.6** Violent assaults against women, including serious sexual assault and rape, have surged in the vicinity of Tahrir Square in Cairo in recent months, reaching a peak in January 2013, during protests commemorating the second anniversary of the start of the 2011 uprising that ousted Hosni Mubarak. The attacks have been carried out by groups of men, some lasting over an hour. Members of the Human Rights Committee of the Shura Council, Egypt's upper house of Parliament made comments blaming the women protestors for these attacks. They asserted that the women had brought the attacks on themselves by attending the protests; that they bore responsibility for the attacks; and that women should not mingle with men during demonstrations. Only days before these remarks, similar statements were made by the owner of the Al-Ummah television station, Ahmad Mohamed Abdullah. He stated publicly that women protestors had gone to Tahrir Square because they wanted to be raped, and that such women were 'devils'. Amnesty International and other NGO groups have expressed concern that such discriminatory attitudes cast doubt on the authority's stated determination to eliminate sexual violence.<sup>12</sup>

**2.2.7** The new Egyptian constitution has now passed into law, but opposition groups still oppose it, noting its disregard for civil liberties, and personal and religious freedoms.<sup>13</sup> Both the new, and the old constitution of 1971, designate Islam as Egypt's official religion and Islamic law (Sharia) as the main source of legislation. They both obligate the state to 'preserve' traditional family values based on Islam. However, the 2012 charter defines the principles of Sharia for the first time. It says those principles include "evidence, rules, jurisprudence and sources" accepted by Sunni Islam. The new constitution also gives unprecedented powers to Al-Azhar, Sunni Islam's most respected religious school, saying its scholars must be consulted on all matters relating to Sharia. The earlier constitution made no mention of Al-Azhar.<sup>14</sup>

**2.2.8** The new constitution contains an unprecedented ban on "insults" towards the prophets of Islam. It also says that followers of the 'divine/monotheist' religions, i.e. Christianity, Judaism and Islam have the right to perform religious rituals and

<sup>10</sup> BBC News: Egypt: 'Egypt violence tests Mohammed Morsi' 28 January 2013

<http://www.bbc.co.uk/news/world-middle-east-21226289>

<sup>11</sup> CBC News: 'Egypt's Morsi calls early elections amid rising unrest' 24 February 2013

<http://www.cbc.ca/news/world/story/2013/02/24/wrd-egypt-election-protests-morsi.html?cmp=rss>

<sup>12</sup> Amnesty International: Egypt: 'Egypt law-makers blame women victims for sexual violence' 13 February 2013 <http://www.amnesty.org/en/library/asset/MDE12/010/2013/en/30df5a52-f297-420f-842e-1bcfdafcebd/mde120102013en.pdf>

<sup>13</sup> Muftah: New Egyptian Constitution passed: December 27 2012

<http://muftah.org/egyptian-referendum-passed-63-8-vote-yes-36-2-vote-no>

<sup>14</sup> Muftah: New Egyptian Constitution passed: December 27 2012

<http://muftah.org/egyptian-referendum-passed-63-8-vote-yes-36-2-vote-no>

establish places of worship “as regulated by law”. The previous constitution made no mention of the rights of any religions other than Islam. The recognition of these rights in practice is not apparent, particularly in the context of conversion from Islam to Christianity, which is viewed as an insult to Islam. The new constitution also significantly enhances the authority of the Egyptian armed forces.<sup>15</sup> It states that the president must choose a defence minister from among the military’s top officers. Senior officers also gain the authority to put civilians on trial in military courts, but only in cases where the alleged crimes “damage the armed forces”. The new document creates a new National Security Council with a balance of senior officers and civilian Cabinet ministers; the Council is given the task of adopting strategies for establishing security, identifying security threats, and taking actions to address them.<sup>16</sup>

**2.2.9** The country’s transition to democracy continues to be beset by political turmoil, as well as the breakdown of law and order and established social norms. This breakdown has had the largest effect on society’s most vulnerable elements, including women and minorities, who are often the target of violent attacks. The most significant human rights problems during the year (2012) were: a) threats to women’s rights, with an increasingly challenging environment in which women faced assaults and sexual harassment and often were unable to assemble peacefully without male protection; b) failure to prosecute perpetrators of violence against religious minorities and in some cases to protect minorities from violence; and c) threats to freedom of speech, press and association, as security forces assaulted, abused and arrested journalists who sought to cover clashes between the military and protesters while the SCAF was in power.<sup>17</sup>

**2.2.10** The constitution provides for the independence and immunity of judges, and forbids interference by other authorities in the exercise of their judicial functions. During 2012, the courts exhibited greater autonomy and freedom from executive influence by declaring illegal or unconstitutional some of the decrees issued by the SCAF and President Morsi. In 2012, the government generally respected court orders in non-political cases. In all three court systems, defendants are legally presumed innocent. There are no juries, but civilian criminal trials are usually conducted in public. Military and state security courts are not open to the public.<sup>18</sup>

**2.2.11** The law allows defendants to question witnesses against them, and to present witnesses and evidence on their own behalf. In civilian and military courts, defendants have the right of appeal up to the Court of Cassation; state security courts do not allow appeals. The president and the grand mufti must confirm all death sentences. In February 2012 a civilian court acquitted and released demonstrator Amr al-Beheiry after a retrial. In March 2011, a military court had sentenced him to five years in prison following a trial that lasted less than five minutes.<sup>19</sup>

<sup>15</sup> Voice of America: ‘Egypt’s new constitution: How it differs from old version: 25 December 2013  
<http://www.voanews.com/content/egypt-constitution/1572169.html>

<sup>16</sup> Voice of America: ‘Egypt’s new constitution: How it differs from old version: 25 December 2013  
<http://www.voanews.com/content/egypt-constitution/1572169.html>

<sup>17</sup> United States Human Rights Report: Egypt 2012 Executive Summary April 2013  
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>

<sup>18</sup> United States Human Rights Report: Egypt 2012 section 1e April 2013  
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>

<sup>19</sup> United States Human Rights Report: Egypt 2012 section 1e April 2013  
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>

- 2.2.12** Human Rights Watch noted that during 2012 military prosecutors continued to try civilians before military courts, including after President Morsy took power. In November, military police arrested 25 civilians during an attempted eviction on the island of Qursays in Cairo, and prosecutors ordered their detention pending trial before a military court. A committee set up by presidential decree to review all those convicted by military courts recommended the release of up to 700 prisoners by presidential pardon, but failed to recommend the retrial of the remaining 1,100 prisoners convicted by military courts on “security” grounds.<sup>20</sup>
- 2.2.13** Individuals had access to civil courts for lawsuits relating to human rights violations and filed such lawsuits during 2012. However, the evidentiary standards required for a conviction often meant that cases were dismissed or defendants acquitted in the face of lack of evidence or conflicting witness testimonies. Some civil society activists and politicians claimed that some prosecutors and judges held biases in favour of the security forces and Mubarak government that caused them to acquit some police officers and high-profile political figures associated with the Mubarak government.<sup>21</sup>
- 2.2.14** Emergency powers issued on 27 January 2013 give the police the authority to detain people in the three cities of Port Said, Suez and Ismailia for up to 30 days without any judicial review, and permit trials of those detained before emergency security courts.<sup>22</sup> Freedom House noted that because military judges are appointed by the executive branch for renewable two-year terms, military tribunals lack independence. Verdicts are based on little more than the testimony of security officers and informers, and are reviewed only by military judges and the president.<sup>23</sup> Amnesty International and the International Federation for Human Rights expressed concern that the trial of the 21 people involved in the Port Said football violence which led to 74 deaths was not fair and that some of the defendants were reported to have been subjected to torture and other ill-treatment in detention.<sup>24, 25</sup>
- 2.2.15** Corruption remains pervasive at all levels of government. Egypt was ranked 118 out of 176 countries surveyed in Transparency International’s 2012 Corruption Perceptions Index.<sup>26</sup> The deposed president Mubarak and his former interior minister, Habib el-Adly, were sentenced to life imprisonment in June 2012 for their roles in the deaths of unarmed protesters during the February 2011 uprising. However, judges in the same trial dismissed corruption charges against Mubarak and his sons, Gamal and Alaa, citing technicalities. Freedoms of association and assembly are restricted, but Egyptians continued to actively participate in large-scale demonstrations throughout 2012. Protests repeatedly turned violent or

<sup>20</sup> Human Rights Watch: Egypt: World Report 2013: 31 January 2013

<http://www.hrw.org/world-report/2013/country-chapters/egypt>

<sup>21</sup> United States Human Rights Report: Egypt 2012 section 1e April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>

<sup>22</sup> Human Rights Watch, Egypt: Emergency Powers Excessive, 20 January 2013

<http://www.hrw.org/news/2013/01/30/egypt-emergency-powers-excessive>

<sup>23</sup> Freedom House: Freedom in the World – Egypt – 2013 January 2013

<http://www.freedomhouse.org/report/freedom-world/2013/egypt>

<sup>24</sup> Amnesty International, Egypt football violence death sentences condemned, 11 March 2013

<http://www.amnesty.org/en/library/asset/MDE12/014/2013/en/5def3d49-be7b-4772-a157-5960fc887bcc/mde120142013en.pdf>

<sup>25</sup> International Federation for Human Rights, Egypt: Post revolution president following in Mubarak’s footsteps? 12 February 2013

<http://www.fidh.org/Egypt-Post-revolution-president-12811>

<sup>26</sup> Transparency International: Corruption Perceptions Index 2012

<http://www.transparency.org/cpi2012/results>

prompted police crackdowns, with many demonstrators suffering abuses and injuries.<sup>27</sup>

**2.2.16** Amnesty International reported that police brutality, and impunity for police violence was the hallmark of Hosni Mubarak's rule, and was one of the main triggers of the '25 January Revolution'. However, two years on, frustrations are growing at the slow pace of reform and ongoing abuses committed by police and other security forces who continue to act with impunity.<sup>28</sup> Police continued to use torture in police stations and at points of arrest, mostly during investigations in regular criminal cases, but also in some political cases, such as the torture of protesters arrested in Cairo in August and November. Police torture led to at least 11 deaths in custody cases during 2012. Police have also continued to use excessive and sometimes lethal force, both in policing demonstrations and in regular policing. Torture by the military also took place. In May, military officers arrested at least 350 protesters, including 16 women after a protest near the Ministry of Defence in Cairo turned violent. Those released over the following days gave consistent accounts of torture and beatings during arrest and in detention.<sup>29</sup>

**2.2.17** Since December 2011, police and army members have arrested and detained over 300 children who participated in protests. Children arrested at protests at the Ministry of Interior in February 2012, and in front of the American embassy in September reported beatings that in some cases amounted to torture. Despite the high numbers of juvenile detainees, including children living and working on the street, authorities consistently detained children with adults in police stations. They are brought before regular prosecutors instead of being referred to the juvenile justice system as required by law.<sup>30</sup>

**2.2.18** There has been no process of transitional justice in Egypt to account for the crimes of the Mubarak era nor has there been real accountability for the violence during the January 2011 uprising, which left 846 dead. There has been no accountability for the military's involvement in the torture and beating of hundreds of demonstrators on 25 February, 9 March, 9 April, 4 May, and 17 December 2011. In March 2012, a military judge acquitted the only military officer on trial for the sexual assault against seven female protesters in a military prison in March 2011 under the guise of "virginity tests." In September, a military court sentenced three military officers to two years' imprisonment for driving the armoured vehicles that ran over and killed 13 protesters in front of Maspero television building in October 2011. However, there was no investigation into the shooting of 14 other protesters on the same day. No other military officers have been held accountable for abuses since the January uprising.<sup>31</sup>

## **2.3 Internal relocation.**

**2.3.1** Case workers must refer to the Asylum Instruction on [Internal Relocation](#) and in the

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<sup>27</sup> Freedom House: Freedom in the World – Egypt – January 2013  
<http://www.freedomhouse.org/report/freedom-world/2013/egypt>

<sup>28</sup> Amnesty International: Egypt: 'Torture ties the Egyptian government to a brutal past' 11 February 2013  
<http://www.amnesty.org/en/news/feature-torture-ties-egyptian-government-brutal-past-2013-02-11>

<sup>29</sup> Human Rights Watch: Egypt: World Report 2013: 13 January 2013  
<http://www.hrw.org/world-report/2013/country-chapters/egypt>

<sup>30</sup> Human Rights Watch: Egypt: World Report 2013: 13 January 2013  
<http://www.hrw.org/world-report/2013/country-chapters/egypt>

<sup>31</sup> Human Rights Watch: Egypt: World Report 2013: 13 January 2013  
<http://www.hrw.org/world-report/2013/country-chapters/egypt>

case of a female applicant, the AI on [Gender Issues in the Asylum Claim](#), for guidance on the circumstances in which internal relocation would be a 'reasonable' option, so as to apply the test set out in paragraph 339O of the Immigration Rules. It is important to note that internal relocation can be relevant in both cases of state and non-state agents of persecution, but in the main it is likely to be most relevant in the context of acts of persecution by localised non-state agents. If there is a part of the country of return where the person would not have a well founded fear of being persecuted and the person can reasonably be expected to stay there, then they will not be eligible for a grant of asylum. Similarly, if there is a part of the country of return where the person would not face a real risk of suffering serious harm and they can reasonably be expected to stay there, then they will not be eligible for humanitarian protection. Both the general circumstances prevailing in that part of the country and the personal circumstances of the person concerned including any gender issues should be taken into account. Case workers must refer to the Gender Issues in the asylum claim where this is applicable. The fact that there may be technical obstacles to return, such as re-documentation problems, does not prevent internal relocation from being applied.

- 2.3.2** Very careful consideration must be given to whether internal relocation would be an effective way to avoid a real risk of ill-treatment/persecution at the hands of, tolerated by, or with the connivance of, state agents. If an applicant who faces a real risk of ill-treatment/persecution in their home area would be able to relocate to a part of the country where they would not be at real risk, whether from state or non-state actors, and it would not be unreasonable to expect them to do so, then asylum or humanitarian protection should be refused.
- 2.3.3** Egyptian law provides for freedom of movement within the country, foreign travel, emigration and repatriation, and the government generally respected these rights in practice. There are however, notable exceptions, including the handling of refugees and asylum seekers. Neither citizens nor foreigners are allowed to travel in areas of the country designated as military zones.<sup>32</sup> Men who have not completed compulsory military service may not travel abroad or emigrate. Completion of military service is indicated on national identification cards. Police officials reportedly force unmarried women younger than 21 to present their father's written permission to obtain a passport and travel, although this is not required by law.<sup>33</sup> In rural areas, women's day-to-day freedom of movement is often restricted, and widespread sexual harassment in urban areas also inhibits freedom of movement.<sup>34</sup>
- 2.3.4** Careful consideration must be given to the relevance and reasonableness of internal relocation on a case by case basis taking full account of the individual circumstances of the particular claimant. Case workers need to consider the ability of the persecutor to pursue the claimant in the proposed site of relocation, and whether effective protection is available in that area. Case workers will also need to consider the age, gender, health, ethnicity, religion, financial circumstances and support network of the claimant, as well as the security, human rights and socio-economic conditions in the proposed area of relocation, including the claimant's ability to sustain themselves.

<sup>32</sup> United States Human Rights Report: Egypt 2012 section 2d April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>

<sup>33</sup> United States Human Rights Report: Egypt 2012 section 2d April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>

<sup>34</sup> OECD, Social Institutions and Gender Index 2012: Egypt, (accessed March 2013) Restricted civil liberties <http://genderindex.org/country/egypt-arab-rep>

- 2.3.5** Since the overthrow of President Mubarak and the election of President Morsi, security conditions in Egypt, particularly in urban areas, have become more volatile and uncertain. The breakdown of law and order has had the greatest impact on the more vulnerable sections of society, resulting in greater difficulty for those wishing to move around the country. Women and religious minorities, mainly Christians<sup>35</sup> but also Shia Muslims and others, have borne the brunt of violent attacks, sexual assault and violent kidnap.<sup>36</sup> Muslims who have converted to Christianity are generally unable to register as Christians or change their identity cards, and therefore experience difficulty in relocating internally.

## **2.4 Country guidance caselaw**

**Supreme Court. RT (Zimbabwe) & others v Secretary of State for the Home Department [2012] UKSC 38 (25 July 2012)** The Supreme Court ruled that the rationale of the decision in HJ (Iran) applies to cases concerning imputed political opinion. Under both international and European human rights law, the right to freedom of thought, opinion and expression protects non-believers as well as believers and extends to the freedom not to hold and not to express opinions. Refugee law does not require a person to express false support for an oppressive regime, any more than it requires an agnostic to pretend to be a religious believer in order to avoid persecution. Consequently an individual cannot be expected to modify their political beliefs, deny their opinion (or lack thereof) or feign support for a regime in order to avoid persecution.

## **3. Main categories of claims**

- 3.1** This Section sets out the main types of asylum claim, humanitarian protection claim and discretionary leave claim on human rights grounds (whether explicit or implied) made by those entitled to reside in Egypt. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation are set out in the relevant Asylum Instructions, but how these affect particular categories of claim are set out in the instructions below. All Asylum Instructions can be accessed via the Horizon intranet site. The instructions are also published externally on the Home Office internet site at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumpolicyinstructions/>

- 3.2** Each claim should be assessed to determine whether there are reasonable grounds for believing that the applicant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in Karanakaran should be followed

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<sup>35</sup> United States Human Rights Report: Egypt 2012 Executive Summary April 2013  
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>

<sup>36</sup> The Huffington Post: 13 February 2013  
[http://www.huffingtonpost.co.uk/helena-williams/egypt-sexual-violence-against-women\\_b\\_2676810.html](http://www.huffingtonpost.co.uk/helena-williams/egypt-sexual-violence-against-women_b_2676810.html)

when deciding how much weight to be given to the material provided in support of the claim (see the Asylum Instruction '[Considering the asylum claim and assessing credibility](#)').

- 3.3** For any asylum cases which involve children either as dependents or as the main applicants, Case workers must have due regard to Section 55 of the Borders, Citizenship and Immigration Act 2009. The Home Office instruction '[Every Child Matters; Change for Children](#)' sets out the key principles to take into account in all Agency activities.
- 3.4** If the applicant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned (see Asylum Instruction on [Discretionary Leave](#)).

### **Consideration of Articles 15(a) and (b) of the Directive/Articles 2 and 3 ECHR**

- 3.5** An assessment of protection needs under Article 15(c) of the Directive should only be required if an applicant does not qualify for refugee protection, and is ineligible for subsidiary protection under Articles 15(a) and (b) of the Directive (which broadly reflect Articles 2 and 3 of the ECHR). Case workers are reminded that an applicant who fears a return to a situation of generalised violence may be entitled to a grant of asylum where a connection is made to a Refugee Convention reason or to a grant of Humanitarian Protection because the Article 3 threshold has been met.

### **Other severe humanitarian conditions and general levels of violence**

- 3.6** There may come a point at which the general conditions in the country – for example, absence of water, food or basic shelter – are unacceptable to the point that return in itself could, in extreme cases, constitute inhuman and degrading treatment. Decision makers need to consider how conditions in the country and locality of return, as evidenced in the available country of origin information, would impact upon the individual if they were returned. Factors to be taken into account would include age, gender, health, effects on children, other family circumstances, and available support structures. It should be noted that if the State is withholding these resources it could constitute persecution for a Convention reason and a breach of Article 3 of the ECHR.
- 3.7** As a result of the [Sufi & Elmi v UK](#) judgment in the European Court of Human Rights (ECtHR), where a humanitarian crisis is predominantly due to the direct and indirect actions of the parties to a conflict, regard should be had to an applicant's ability to provide for his or her most basic needs, such as food, hygiene and shelter and his or her vulnerability to ill-treatment. Applicants meeting either of these tests would qualify for Humanitarian Protection.

### **Credibility**

- 3.8** This guidance is not designed to cover issues of credibility. Case workers will need to consider credibility issues based on all the information available to them. For guidance on credibility see 'Section 4 – Making the Decision in the Asylum Instruction '[Considering the asylum claim and assessing credibility](#)'. Case workers must also ensure that each asylum application has been checked against previous UK visa applications. Where an asylum application has been biometrically matched

to a previous visa application, details should already be in the Home Office file. In all other cases, the case owner should satisfy themselves through CRS database checks that there is no match to a non-biometric visa. Asylum applications matches to visas should be investigated prior to the asylum interview, including obtaining the Visa Application Form (VAF) from the visa post that processed the application.

### 3.9 Christians & Christian Converts

**3.9.1** Applicants may make an asylum and/or human rights claim based on a fear of ill-treatment amounting to persecution due to their religion of birth, or of having converted from Islam to Christianity.

**3.9.2 Treatment:** Approximately 90% of the population of Egypt is Sunni Muslim. Estimates of the percentage of Christians range from 8 to 12%, i.e. 6 to 10 million; the majority of these belong to the Coptic Orthodox Church. There are tiny numbers of minority faiths, e.g. other Christian denominations, Jews (approximately 100), Baha'is, and Shia Muslims.<sup>37</sup> In addition to the violence, Christians face official and societal discrimination; although Egyptian government officials claim that there is no law or policy that prevents Christians from holding senior positions, the Coptic Orthodox Christian community faces de facto discrimination in appointments to high-level government and military posts. Public university training programmes for Arabic language teachers exclude non-Muslims, because the curriculum involves the study of the Qur'an. Under Egyptian law, Muslim men can marry Christian women, but Muslim women are prohibited from marrying Christian men.<sup>38</sup> Anti-Christian employment discrimination is evident in the public sector, particularly the security services and military, and the government frequently denies or delays permission to build and repair churches.<sup>39</sup>

**3.9.3** Following the overthrow of President Hosni Mubarak on 11 February 2011, the Supreme Council of Armed Forces (SCAF) (now defunct) claimed that it had addressed some of the ongoing religious freedom concerns, including discriminatory and repressive laws and policies that interfered with freedom of thought, conscience and religion or belief. However, Egypt continues to be designated a "country of particular concern" under the 1998 International Religious Freedom Act.<sup>40</sup> Islam is the state religion; some reforms were initiated in 2011 to decrease state involvement in religious institutions, and the SCAF said it would continue to monitor religious extremism. Even so, inter-religious bloodshed has been increasing in recent years, with Christians suffering most of the violence.<sup>41</sup>

**3.9.4** On 6 January 2010 (the Coptic Christmas), six worshippers were killed at Nag Hammadi, in Upper Egypt as they left their church.<sup>42</sup> In January 2011, a Coptic

<sup>37</sup> US State Department International Religious Freedom Report 2011: Egypt, 30 July 2012, Section 2 <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dliid=192881>

<sup>38</sup> The US Commission on International Religious Freedom, Annual Report 2012 – Countries of Particular Concern: Egypt March 2012 – 'discrimination against Christians' <http://www.uscifr.gov/images/2012ARChapters/egypt%202012.pdf>

<sup>39</sup> Freedom House: Freedom in the World – 2013 – Egypt: January 2013 <http://www.freedomhouse.org/report/freedom-world/2013/egypt>

<sup>40</sup> The US Commission on International Religious Freedom, Annual Report 2012 – Countries of Particular Concern: Egypt March 2012 – Chapter Summary: <http://www.uscifr.gov/images/2012ARChapters/egypt%202012%20two-pager.pdf>

<sup>41</sup> Freedom House: Freedom in the World – 2012 – Egypt, March 2012 <http://www.freedomhouse.org/report/freedom-world/2012/egypt-0>

<sup>42</sup> The British Orthodox Church within the Coptic Orthodox Patriarchate: accessed 15 February 2013

church in Alexandria was bombed, killing 23 people. An investigation was opened by the prosecutor, but by Jan 2012 no-one had yet been charged in connection with the incident. On 8 March 2011, Christians in the eastern Cairo suburb of Muqattam protested the burning of a church four days earlier in Atfih, 13 miles south of Cairo, and clashed with Muslims. Twelve people died in the ensuing violence and shootings, and several Christian homes and businesses were torched. The prosecutor has yet to investigate the incident. In May 2011, sectarian violence outside a church in Imbaba, a neighbourhood of Cairo, left 12 dead. On 30 September 2011, a mob burnt down the Mar Girgis church in Aswan, but local authorities and prosecutors failed to investigate, instead insisting on a settlement. The Prime Minister ordered an acceleration of the drafting of a new law to facilitate the renovation and construction of churches, a longstanding demand of Christians who face discrimination in this respect.<sup>43</sup> The destruction and burning of churches is occurring increasingly frequently, together with arson attacks on Christian owned shops and homes.<sup>44 45</sup>

- 3.9.5** In October 2011, the Catholic Church officially implicated the interim military-led regime (SCAF) in the deaths of 25 people, the majority of them Copts, in violence on the streets of central Cairo. More than 200 others were injured, in an attack on peaceful demonstrators (both Muslim and Christian) who were calling for greater action to protect Christians.<sup>46</sup> The state media had falsely accused Coptic Christians of attacking the Egyptian military during peaceful protests marching towards the Maspero state television station; a TV presenter called on the local population to go out and protect security forces from attacks by Christian protesters. This resulted in the above violence in Cairo, including the use of live ammunition, and at least 12 protesters deliberately crushed to death by armoured vehicles.<sup>47</sup>
- 3.9.6** Sectarian violence continued to increase in 2012, and Christians are reported as having borne the brunt of the violence. In February 2012, eight families were evicted from their homes in the village of Sharbat after violent skirmishes over a rumoured affair between a Christian man and a Muslim woman. In September 2012, several Christian families fled their homes in Sinai following threats from suspected Islamist militants and a shooting at a Christian-owned shop. Throughout 2012, minority religious communities expressed concern that Islamist political power would render them more vulnerable to abuse. Coptic members of the constituent assembly resigned, claiming that their interests were not being represented in the process.<sup>48</sup>
- 3.9.7** Through inaction, the government failed to prevent violence against Christians or stop the destruction of churches and religious minority-owned property. Authorities

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<http://britishorthodox.org/glastonbury-review-archive/glastonbury-review-archive-issue-118/2>

<sup>43</sup> Human Rights Watch: Country Summary – Egypt – January 2012: 16 January 2012

<http://www.hrw.org/world-report-2012/world-report-2012-egypt>

<sup>44</sup> Assyrian International News Agency: 3/5/2011 'Nearly 4000 Muslims attack Christian homes in Egypt; torch church'. <http://www.aina.org/news/20110304222016.htm>

<sup>45</sup> USA Today: Church burning deepens tumult of Egypt transition: 5/8/2011

[http://usatoday30.usatoday.com/news/world/2011-05-08-egypt-church-arrests\\_n.htm](http://usatoday30.usatoday.com/news/world/2011-05-08-egypt-church-arrests_n.htm)

<sup>46</sup> Aid to the Church in Need: Christians and the struggle for religious freedom: 2012:

[http://www.acnuk.org/data/files/ACN\\_Christians\\_and\\_the\\_Struggle\\_for\\_Religious\\_Freedom.pdf](http://www.acnuk.org/data/files/ACN_Christians_and_the_Struggle_for_Religious_Freedom.pdf)

<sup>47</sup> The US Commission on International Religious Freedom, Annual Report 2012 – Countries of Particular Concern: Egypt March 2012– 'violence targeting Christians'

<http://www.uscifr.gov/images/2012ARChapters/egypt%202012.pdf>

<sup>48</sup> Freedom House: Freedom in the World – Egypt – 2013, January 2013

<http://www.freedomhouse.org/report/freedom-world/2013/egypt>

also failed to investigate effectively and prosecute crimes against Christians.<sup>49</sup> In March 2013, Amnesty International noted that religious minorities have continued to suffer discrimination by the authorities and receive inadequate protection from the state from sectarian violence. Discrimination and attacks against Coptic Christians, the largest religious minority in Egypt, are particularly prevalent.<sup>50</sup>

**3.9.8** Following the death of Pope Shenouda III, who died in March 2012 after four decades on the patriarchal throne, Pope Tawadros II was confirmed as the new leader of Egypt's Christian minority; the Islamist President Mohammed Morsi did not attend, although the Prime Minister, Hisham Qandil, did attend.<sup>51</sup> Many Coptic Christians are leaving the country since the revolution and subsequent Islamist takeover of politics, according to priests and community leaders. Coptic Christian churches in the West are increasing in number to accommodate waves of new arrivals as Egyptian Coptic priests describe a new climate of fear and uncertainty.<sup>52</sup>

**3.9.9** Islam is the state religion. It interprets Sharia as forbidding Muslims from converting to another religion. A poll conducted in 2010 found that 84% of Egyptian citizens support the death penalty for conversion from Islam to Christianity.<sup>53</sup> Although there are no statutory prohibitions on conversion, the government does not recognise any religious conversions of citizens born as Muslims. This policy, in addition to the refusal of local officials to recognise such conversions legally, constitutes a prohibition in practice.<sup>54</sup> Egyptian courts have also refused to allow Muslims who convert to Christianity to change their identity cards to reflect their conversions. A lower court ruled in January 2008 that Muslims are forbidden from converting from Islam based on principles of Islamic law, because conversion would constitute a disparagement of the official state religion, and entice other Muslims to convert. In some instances converts, who fear government harassment if they officially register their change in religion from Islam to Christianity, have reportedly altered their identification cards and other official documents to reflect their new religious affiliation. Over the years, some individuals have been arrested for falsifying identity documents following conversion. Other converts have fled the country for fear of government and societal repercussions.<sup>55</sup>

**3.9.10** The new constitution of 2012 specifically bans "insults to the prophets of Islam"; conversion from Islam to another religion is considered to be apostasy, and is viewed very seriously.<sup>56</sup> Converts from Islam to Christianity lose all rights of

<sup>49</sup> US State Department International Religious Freedom Report 2011: Egypt, 30 July 2012 Section 2 <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dliid=192881>

<sup>50</sup> Amnesty International, Egypt: Fighting for justice and human rights: Egypt's women activists describe their struggle, 15 March 2013, 'Discrimination against Coptic Christians' <http://www.amnesty.org/en/library/asset/MDE12/011/2013/en/4b46a265-c3db-443d-b22a-a70e6d9fb0fd/mde120112013en.pdf>

<sup>51</sup> BBC News: Egypt: 'Coptic Christian Pope Tawadros II enthroned in Cairo' 18 November 2011 <http://www.bbc.co.uk/news/world-middle-east-20384446>

<sup>52</sup> The Telegraph: 'Egypt's Coptic Christians fleeing country after Islamist takeover – 13 January 2013' <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/egypt/9798777/Egypt-Coptic-Christians-fleeing-country-after-Islamist-takeover.html>

<sup>53</sup> Pew Research Global Attitudes Survey, Muslim Publics Divided on Hamas and Hezbollah: 2 December 2010: <http://www.pewglobal.org/2010/12/02/muslims-around-the-world-divided-on-hamas-and-hezbollah/>

<sup>54</sup> US State Department International Religious Freedom Report 2011: Egypt, 30 July 2012 : Section 2 <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dliid=192881>

<sup>55</sup> The US Commission on International Religious Freedom, Annual Report 2012 – Countries of Particular Concern: Egypt – March 2012, 'converts & re-converts to Christianity'. <http://www.uscifr.gov/images/2012ARChapters/egypt%202012.pdf>

<sup>56</sup> Voice of America: 'Egypt's new constitution: How it differs from old version: 25 December 2013' <http://www.voanews.com/content/egypt-constitution/1572169.html>

inheritance. The government offers no legal means for such converts to amend their civil records to reflect their new religious status apart from the recent exception of re-converts, therefore a convert's loss of inheritance rights may not be indicated on their civil documentation.<sup>57</sup>

**3.9.11** The Egyptian government generally does not recognise conversions of Muslims to other religions. In a case brought by Muhammad Hegazy in January 2008, a lower court ruled that Muslims are forbidden from converting from Islam based on principles of Islamic law, because conversion would constitute a disparagement of the official state religion and entice other Muslims to convert. Hegazy appealed this ruling, but remains in hiding. Another case in 2009, Maher El-Gohary, also went into hiding due to threats and harassment by extremists. He has since left the country and applied for asylum in France.<sup>58</sup>

**3.9.12** Video footage of a Christian convert from Islam being publicly beheaded in an extra-judicial murder in Tunisia was shown on Egyptian television in June 2012. A month previously, a leading figure in the Egyptian Salafist movement, Sheikh Yassir al-Burhami, said:

“Is it the right of the Muslim to convert to Christianity or another religion? Of course this is not a right; this is a matter that Sharia has clearly addressed, according to the agreed upon hadiths. It is impermissible, for any reason, for a Muslim to leave the community. Of course, you cannot coerce any infidel to enter into Islam [Quran 2:256] – except for the apostate. It is impossible to let the apostate remain in [a state of] apostasy, deeming it a form of “freedom”.<sup>59</sup>

**3.9.13** Incidents of sectarian violence between Copts and Muslims continued throughout 2012 with no new prosecutions or serious investigations, with the exception of the investigation into sectarian violence in Dahshour, Giza, where prosecutors ordered the detention of nine suspects. On February 1, police and local religious and political leaders ordered the eviction of eight Christian families after Muslim residents sacked homes and shops of Christian residents in the village of Sharbat, near Alexandria. The eviction was overturned two weeks later after parliamentarians visited the area, but by the end of the year, police had still failed to prosecute anyone for the violence despite a police report identifying suspects. On 21 May 2012, in the southern city of Minya an Emergency State Security court, which does not meet fair trial standards, sentenced 12 Christians to life in prison and acquitted 8 Muslim defendants who had been charged in connection with clashes between Muslims and Christians in April 2011. The clashes had left two Muslims dead, several wounded from both sides, and scores of Christian shops and homes torched.<sup>60</sup>

**3.9.14** In the absence of legal means to register their change in religious status, some converts have resorted to soliciting illicit identity papers. During past years, the authorities have detained and charged converts and those assisting them, with

<sup>57</sup> U.S. State Department, International Religious Freedom Report 2011: Egypt: 30 July 2012, Section 2. <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dliid=192881>

<sup>58</sup> The US Commission on International Religious Freedom, Annual Report 2012 – Countries of Particular Concern: Egypt – March 2012, ‘converts & re-converts to Christianity’. <http://www.uscifr.gov/images/2012ARChapters/egypt%202012.pdf>

<sup>59</sup> The Barnabas Fund: ‘Convert from Islam to Christianity slaughtered’ 8 June 2012 <http://barnabasfund.org/Convert-from-Islam-to-Christianity-slaughtered-by-Muslims.html>

<sup>60</sup> Human Rights Watch: Egypt: World Report 2013: 31 January 2013 <http://www.hrw.org/world-report/2013/country-chapters/egypt>

violating laws that prohibit the falsification of documents. The minor children of such converts to Christianity, and in some cases adult children who were minors when their parents converted, may automatically become classified as Muslims by the government, irrespective of the religion of the other parent. This is in accordance with the government interpretation of Islamic law, which dictates that there must be “no jurisdiction of a non-Muslim over a Muslim”.<sup>61</sup>

**3.9.15** The Egyptian authorities typically conduct ‘reconciliation’ sessions between Muslims and Christians as a means of resolving disputes. In some cases, the authorities compel victims to abandon their claims to legal remedy. The ongoing violence and failure to prosecute perpetrators of attacks on Christians has continued to foster a climate of impunity, making further violence more likely.<sup>62</sup>

**3.9.16** In recent years, there have been a number of reports of Coptic women and girls being abducted by Muslim men, and forced to convert to Islam. Reports of such cases are often disputed, and frequently include allegations and categorical denials of kidnapping and rape.<sup>63</sup> A Coptic activist (Dr. Oliver) reported that the abduction of Christian minors for the purpose of forced conversion to Islam happens regularly. He cited a number of cases where the missing child had been placed in the care of the state until the age of 18, therefore legitimising the kidnaps. He claimed there is an active ring called “Sharia Association of Ain Shams” in the Cairo suburb of ain Shams, which kidnaps Christian minors, and relies on the protection and backing of a particular prosecutor who colludes with the association.<sup>64</sup>

**3.9.17** Women who convert whilst married to a Muslim risk having their marriage annulled and losing any rights over their children. Converts who are still officially recognised as ‘Muslim’ are protected from loss, since their conversion is not officially recognised.<sup>65</sup> The rights of Christians who convert to Islam, and then decide to revert back to their original religion, have been recognised in Egyptian law, but those whose were born Muslim are subject to severe sanctions if they admit their conversion to Christianity.<sup>66</sup>

**See also:** [Actors of protection](#) (section 2.2 above)  
[Internal relocation](#) (section 2.3 above)  
[Caselaw](#) (section 2.4 above)

**3.9.18 Conclusion:** The constitution allows for the freedom of citizens to practice one of the three monotheistic religions, i.e. Christianity, Islam or Judaism. However in practice, Christians in Egypt do face generalised societal discrimination and in

<sup>61</sup> U.S. State Department, International Religious Freedom Report 2011: Egypt: 30 July 2012, Section 2 <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dliid=192881>

<sup>62</sup> The US Commission on International Religious Freedom, Annual Report 2012: Egypt March 2012–Country Summary: <http://www.uscifr.gov/images/2012ARChapters/egypt%202012%20two-pager.pdf>

<sup>63</sup> U.S. State Department, International Religious Freedom Report 2011: Egypt: 30 July 2012, Section 3. <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dliid=192881>

<sup>64</sup> Assyrian International News Agency: Egyptian Judiciary accused of collusion in kidnapping and forced Islamisation of Christian minors: 25 January 2012: <http://www.aina.org/news/20120124192832.htm>

<sup>65</sup> The US Commission on International Religious Freedom, Annual Report 2012 – Countries of Particular Concern: Egypt March 2012 – ‘converts & re-converts to Christianity’. <http://www.uscifr.gov/images/2012ARChapters/egypt%202012.pdf>

<sup>66</sup> The Sydney Morning Herald: ‘Ruling against Islamic Law on Conversion’ 11 February 2008 <http://www.smh.com.au/news/world/ruling-against-islamic-law-on-conversion/2008/02/10/1202578601077.html>

recent years, levels of violence and ill-treatment have become increasingly severe and more overt. Christians may face intimidation and serious harassment which in many cases will amount to persecution. Caseowners must carefully consider each case on its facts. The authorities frequently fail to provide effective protection to Christians, or to investigate and prosecute instances of serious harassment and ill-treatment. Where an individual is able to demonstrate that they are at serious risk of persecution on account of their particular individual circumstances and internal relocation is unavailable, a grant of asylum will be appropriate.

**3.9.19** Christian converts from Islam face serious risks of severe ill-treatment. Islam is the state religion, and societal attitudes to religious conversion are harshly punitive. Over 80% of the Muslim population support the use of the death penalty for the religious sin of apostasy, which is regarded as an insult to Islam. Converts are also at risk of lengthy prison sentences. Religious status is recorded on a citizen's identity card, without which an individual is seriously disadvantaged. It is almost impossible to change the religious status on the card legally. Where it is accepted that the applicant is a Christian who has converted from Islam, a grant of asylum will be appropriate in the majority of cases.

### **3.10 Political opposition activists**

**3.10.1** Some applicants may make an asylum and/or human rights claim based on ill-treatment amounting to persecution on the basis of their previous involvement with the Mubarak regime, or of their membership of political groups opposed to the current authorities under President

**3.10.2 Treatment:** Under ex-President Hosni Mubarak, there were significant limitations on the right of citizens to change their government, although Mubarak was credited with a limited degree of political stability, security and economic growth. He ruled for thirty years, but there was widespread anger over the brutality and impunity of security services, particularly regarding the treatment of political detainees. Mubarak was also criticised for undemocratic practices, including his assumed plan of handing power to his son.<sup>67</sup>

**3.10.3** President Hosni Mubarak resigned on 11 February 2011, following 18 days of mass, largely peaceful, protests across Egypt, to which the security forces responded with lethal and other excessive force. According to official reports, at least 840 people were killed or died in connection with the protests, and more than 6,000 others were injured. Thousands were detained, and many of these were tortured or abused.<sup>68</sup> Protests began on January 25 2011, as citizens called for social justice, democracy and an end to police brutality. Police violence against demonstrators, particularly on 28 January 2011, and worsening economic conditions hardened the protesters' determination.<sup>69</sup>

**3.10.4** In June 2012, Hosni Mubarak was sentenced to life imprisonment for enabling the massacre of protesters who rose up against his rule. The sentencing judge, Ahmed Refaat, stated that neither Mubarak nor any other defendants on trial with him were

<sup>67</sup> BBC News: Egypt: 'The complicated legacy of Egypt's Hosni Mubarak' 25 January 2013

<http://www.bbc.co.uk/news/world-middle-east-21201364>

<sup>68</sup> Amnesty International: Egypt – Annual Report 2012, 24 May 2012

<http://www.amnesty.org/en/region/egypt/report-2012>

<sup>69</sup> The Guardian: 'Hosni Mubarak: Egyptian 'Pharaoh' dethroned amid gunfire and blood' 11 February 2011

<http://www.guardian.co.uk/world/2011/feb/11/hosni-mubarak-resigns-analysis>

responsible for ordering the lethal assaults by security forces in January and February 2011 that left so many dead. He said that the ex-President and his former interior minister Habib al-Adly were guilty only of failing to use their high political office to put a stop to the bloodshed. Other charges, which included profiteering and economic fraud, were dismissed, allowing key members of Mubarak's family and security apparatus (including his two sons and several top security officials) to walk free.<sup>70</sup>

**3.10.5** Following Mubarak's resignation, on 13 February 2011, the Supreme Council of the Armed Forces (SCAF) dissolved parliament, suspended the 1971 constitution, and ruled as an executive authority not subject to electoral approval for the remainder of the year. On 30 March 2011, SCAF issued a provisional constitution which provided for citizens to elect the 508-seat People's Assembly every five years, with 10 of the seats filled by presidential appointment. Under the provisional constitution, citizens were able to directly elect the president, who was to be limited to two four-year terms.<sup>71</sup> The freedom to form, legally register and operate political parties improved significantly during 2011. However, the law prohibits parties formed on the basis of religion, class, sect, profession, geography, language or gender, and new parties are required to have a minimum of 5000 members from at least 10 provinces. Previously, new parties were only required to have 1000 members.<sup>72</sup>

**3.10.6** The army repeatedly used unnecessary and excessive force, including lethal force, to disperse peaceful demonstrations and sit-ins that escalated into clashes, killing dozens of protesters, assaulting bystanders in the process, and intimidating people simply for daring to protest. On some occasions, troops ostensibly stood back while pro-military "thugs" in civilian dress attacked protesters. The armed forces also arbitrarily detained and tortured thousands of protesters – including women – many of whom then faced grossly unfair trials before military courts. Between January and August 2011, over 12,000 civilians were unfairly tried before such tribunals. All these serious human rights violations were committed with impunity by people who believed that they would never be punished for their crimes.<sup>73</sup>

**3.10.7** The main political opponent of ex-President Mubarak, the chairman of the Freedom and Justice Party (part of the Islamist Muslim Brotherhood) Mohammed Morsi won the presidential election in 2012; he took office on 30 June 2012. Mr Morsi clashed with the army, which tried to award itself legislative powers after the Supreme Court ordered the dissolution of the newly elected parliament, which was dominated by Islamic allies of Mr Morsi. After forcing out senior officers and rescinding the army's say in legislative and constitutional matters, he signed a decree in November 2012. This stated that the president's decisions cannot be revoked by any authority including the judiciary. Soon afterwards, the Islamist-dominated body voted to approve the final draft of the new constitution in a session boycotted by most liberals and Mr Morsi quickly announced that a referendum would be held on 15

<sup>70</sup> The Guardian: 'Hosni Mubarak's sentence greeted with initial euphoria, then anger' 2 June 2012  
<http://www.guardian.co.uk/world/2012/jun/02/hosni-mubarak-sentence-euphoria-anger>

<sup>71</sup> US State Department Country Reports on Human Rights Practices for 2011: Egypt, 24 May 2012, section  
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186423>

<sup>72</sup> US State Department Country Reports on Human Rights Practices for 2011: Egypt, 24 May 2012, section  
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186423>

<sup>73</sup> Amnesty International, Brutality unpunished and unchecked: Egypt's military kill and torture protesters with impunity, 2 October 2012, Introduction  
<http://www.amnesty.org/en/library/asset/MDE12/017/2012/en/a6fbc51f-a151-4b74-8c93-7b625d5cdb75/mde120172012en.pdf>

December 2012.<sup>74</sup>

- 3.10.8** On May 31 2012, the State of Emergency expired in Egypt and was not renewed, ending 31 years of uninterrupted emergency rule. By the end of August that year, the Ministry of the Interior had released all those detained under the administrative detention provisions of the emergency law. At least eight trials referred to court during the state of emergency continued before notorious Emergency State Security Courts, which do not provide a right of appeal.<sup>75</sup> In September 2012, Morsi appointed 3,649 judges to these courts, but human rights groups mounted a legal challenge to this move, arguing that Morsi did not have the authority to order such mass appointments outside a state of emergency.<sup>76</sup>
- 3.10.9** In August 2012, Mr Morsi swore in members of his new cabinet, but the makeup has lowered expectations of a sweeping change in governance that was the promise of last year's revolt. There were five ministers from the Muslim Brotherhood, while no ministers from other major political parties were chosen. He also included at least six former government ministers and a number of long-term state employees. Out of 35 members in total, only two women ministers were chosen, and one of them was also the only Christian member.<sup>77</sup> Under President Morsi's government, citizens are free to form, legally register, and operate political parties. However, the law prohibits parties formed on the basis of religion, class, sect, profession, geography, language or gender, and it requires new parties to have a minimum of 5000 members from at least 10 provinces. Six new parties successfully registered during 2012. In September 2012, the Supreme Administrative Court ruled that the Shia-oriented Al-Tahrir Party could not register as a party because it is based on religious principles. The Sunni-oriented FJP and Al-Nour parties faced no such restrictions.<sup>78</sup>
- 3.10.10** Political opponents of President Morsi have dismissed his decision to go ahead with the referendum, and called for mass street protests. Egypt's main opposition coalition, the National Salvation Front, called for mass protests on 11 December 2012 against the draft constitution, stating that it "does not represent the Egyptian people." Opposition spokespersons said that the people demanded the cancellation of the constitutional decree and the postponement of the referendum. They accused the President of acting like a dictator and say the rescinding of his decree was an empty gesture, since it had already ensured the adoption of the draft constitution.<sup>79</sup>
- 3.10.11** In December 2012, Human Rights Watch called for an investigation into the detention and abuse of several dozen anti-government protesters in Cairo, by Muslim Brotherhood members on 5 & 6 December 2012. At least 49 protesters were unlawfully held outside the Ettihadiya presidential palace gate, an area at that

<sup>74</sup> BBC News: Egypt Profile: Updated 15 January 2013

<http://www.bbc.co.uk/news/world-africa-13313372>

<sup>75</sup> Human Rights Watch: Egypt: World Report 2013:

<http://www.hrw.org/world-report/2013/country-chapters/egypt>

<sup>76</sup> Human Rights Watch: Egypt: World Report 2013:

<http://www.hrw.org/world-report/2013/country-chapters/egypt>

<sup>77</sup> AlJazeera: 'Egypt's Morsi swears in new cabinet' 2 August 2012

<http://www.aljazeera.com/news/middleeast/2012/08/201282163659410998.html>

<sup>78</sup> United States Human Rights Report: Egypt 2012 section 3 April 2012

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>

<sup>79</sup> Radio Free Europe/Radio Liberty: 'Egyptian opposition calls for mass protests' 9 December 2012

<http://www.rferl.org/content/egypt-morsi-decree-rescinded/24793219.html>

time occupied by the Muslim Brotherhood and overseen by riot police. The detentions followed armed clashes that resulted in the deaths of 10 people, mostly Muslim Brotherhood members, and injuries to 748 more, according to the Health Ministry.<sup>80</sup> Undercover journalists and other witnesses reported that Muslim Brotherhood members beat and abused protesters, and video reportage showed at least one young child in handcuffs, bleeding and showing signs of injury. Female protesters were also physically and sexually abused. A video of the abuse was posted on 6 December 2012 by the TV station Rasd (RNN) which is friendly to the Muslim Brotherhood. Various witnesses reported that the police, though present, did nothing to prevent or to stop the abuse.<sup>81</sup>

**3.10.12** An Egyptian opposition party alleged that one of its activists has died of wounds sustained during police torture while in custody. It is one of many cases that highlight the brutality of the Egyptian police in cracking down on anti-government protesters, which has aroused public anger. More than 60 people have died in protests across Egypt. The Popular Current party said on 4 February 2013 that a 28 year-old activist named Mohammed el-Gindy died on 3 February in the morning, after being “tortured to death”. A Party spokeswoman (Mona Amer) said that she saw el-Gindy’s body and that it carried marks of torture. She stated that el-Gindy had been electrocuted, he had broken ribs, and a “cord appeared to have been wrapped around his neck. The medical report cited brain haemorrhage as the cause of death.”<sup>82</sup>

**3.10.13** On 9 December 2012, President Morsi issued Law No. 107 of 2012, his eleventh law since taking office. This law grants law enforcement powers to the armed forces without any protections against the referral of civilians for military trials. Previous observations by Human Rights Watch (HRW) have found that during periods of military rule, military involvement in law enforcement was accompanied by serious abuses including excessive use of force, torture and sexual assault. According to HRW, the involvement of the Egyptian military in law enforcement has been characterised by widespread and serious human rights violations over the past year and a half. These have included use of excessive force to disperse, including beating and kicking women, and the torture and sexual assault of female protesters in March 2011.<sup>83</sup>

**3.10.14** During 2012, there was an increase in prosecutions under restrictive laws from the Mubarak era, which penalised defamation and “spreading false information”. Security services continued to arrest and abuse journalists during protests. They also assaulted, arrested and tortured journalists and protesters during protests in February and May 2012. Following President Morsi’s election, the authorities ordered the closure of one TV station and censored at least three editions of newspapers. The public prosecutor filed criminal defamation charges against at least 9 journalists in connection with their writing or broadcasting. In November 2012, the minister of justice appointed an investigative judge to interrogate a

<sup>80</sup> Human Rights Watch: Egypt: ‘Investigate Brotherhood’s Abuse of Protesters’ 12 December 2012 <http://www.hrw.org/news/2012/12/12/egypt-investigate-brotherhood-s-abuse-protesters>

<sup>81</sup> Human Rights Watch: Egypt: ‘Investigate Brotherhood’s Abuse of Protesters’ 12 December 2012 <http://www.hrw.org/news/2012/12/12/egypt-investigate-brotherhood-s-abuse-protesters>

<sup>82</sup> The Huffington Post: Mohammed El-Gindy, Egypt Activist, Tortured To Death By Police, Opposition Says 2 April 2013: [http://www.huffingtonpost.com/2013/02/04/mohammed-el-gindy-egypt-activist-tortured-to-death\\_n\\_2614881.html](http://www.huffingtonpost.com/2013/02/04/mohammed-el-gindy-egypt-activist-tortured-to-death_n_2614881.html)

<sup>83</sup> Human Rights Watch: Egypt: ‘Morsi Law invites Military Trials of Civilians’ 10 December 2012 <http://www.hrw.org/news/2012/12/10/egypt-morsi-law-invites-military-trials-civilians>

number of journalists and activists on charges of “insulting the judiciary”.<sup>84</sup>

**3.10.15** The BBC reported on 4 March 2013 that the security headquarters in the city of Port Said had been set alight in a second day of clashes between police and anti-government protesters. Port Said has been rocked by weeks of intermittent violence; protests, often leading to violent clashes, have been occurring there since January 2013, when 21 local football fans were sentenced to death over football riots which left 74 people dead in February 2012. At least 400 people have been injured in the latest fighting. News agencies reported that protesters cheered when army troops fired in the air, in the direction of the police, and were shouting for the military to side with them, against the police. This recent fighting coincides with heightened political tensions in Egypt; there is an increasing polarisation between pro-Islamists and liberal and secular forces since the Islamists took power last year.<sup>85</sup>

**3.10.16** According to the Cairo Institute for Human Rights Studies, since the election of President Mohamed Morsi in June 2012, the Presidency and its appointed government have committed grave human rights violations and cultivated an environment of legal impunity. These violations have included extrajudicial killings, sexual assaults, torture, arbitrary arrests, and the resumption of military trials of civilians. The violations have targeted media professionals, democracy activists, protesters, and human rights defenders.<sup>86</sup> The International Federation for Human Rights estimates that between 25 January 2013 and 12 February 2013 clashes between demonstrators and security forces resulted in at least 53 deaths and 1,757 injuries.<sup>87</sup> It also reports that harassment, interrogation and physical violence against journalists and media professionals has significantly increased.<sup>88</sup> According to IRIN, as of 11 February 2013, the clashes during the second anniversary of the revolution brought the number of Egyptians killed since the uprising began to at least 1,085.<sup>89</sup>

**3.10.17** In mid-March 2013, the Guardian reported that police officers in more than a third of Egyptian provinces had gone on strike, including in parts of Cairo and in Port Said, the troubled northern city where more than 50 people have died in one the past month in clashes between police and protesters. Among several seemingly contradictory grievances, police demand better weapons and also claim the Morsi regime is using them as unwilling pawns in the suppression of protesters. Campaigners claim that the police have resumed the use of torture, and in some cases, murder. A recent report by the United Group, a group of human rights lawyers, alleges that there have been at least 127 victims of police malpractice

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<sup>84</sup> Human Rights Watch: Egypt: World Report 2013, 31 January 2013  
<http://www.hrw.org/world-report/2013/country-chapters/egypt>

<sup>85</sup> BBC News: Egypt Clashes: ‘Port Said security headquarters torched’ 4 March 2013,  
<http://www.bbc.co.uk/news/world-middle-east-21658944>

<sup>86</sup> UN Human Rights Council, Written statement submitted by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status; The international community must act as Egypt faces human rights crisis, 18 February 2013  
[http://ap.ohchr.org/documents/alldocs.aspx?doc\\_id=21160](http://ap.ohchr.org/documents/alldocs.aspx?doc_id=21160)

<sup>87</sup> International Federation for Human Rights, Egypt: Post revolution president following in Mubarak’s footsteps? 12 February 2013  
<http://www.fidh.org/Egypt-Post-revolution-president-12811>

<sup>88</sup> International Federation for Human Rights, Egypt: Two years after the revolution, the protection of basic citizens’ rights remains non-existent, 29 January 2013  
<http://www.fidh.org/Egypt-Two-years-after-the-12791>

<sup>89</sup> IRIN, Call for investigation into post-revolution deaths in Egypt, 11 February 2013  
<http://www.irinnews.org/report/97448/Call-for-investigation-into-post-revolution-deaths-in-Egypt>

since December 2012.<sup>90</sup>

**3.10.18** In March 2013, Amnesty International noted that during the 17-month rule of the Supreme Council of the Armed Forces, women protesters were beaten in the streets by security forces and the army. Women were also subjected to sexual and gender-based violence in detention, including forced “virginity tests” and threats of rape. Despite promises of accountability, investigations by the army and Public Prosecution have failed to hold the perpetrators to account. In recent months a series of serious sexual attacks on women have taken place in Cairo’s Tahrir Square where women activists have been separated from their friends and dragged away by groups of men, who sexually assaulted them and in some cases raped them, apparently in an effort to stop women from attending protests. Some women who have tried to report the violence have said they were treated dismissively by the police.<sup>91</sup> On 29 January 2013, the UN High Commissioner for Human Rights expressed alarm at the spreading violence and increasing number of deaths in Egypt, and the fact that some 25 female demonstrators were reported to have been sexually assaulted in Tahrir square over a few days, in some cases with extraordinary violence.<sup>92</sup>

**3.10.19** Parliamentary elections, which had been scheduled to begin in April 2013, were suspended by the Cairo Administrative Court, which ruled that the electoral law promulgated by President Morsi needed to be reviewed by the Supreme Constitutional Court. Mr Morsi stated that he respected the ruling, and was unlikely to appeal. The Administrative Court said that it ordered the elections to be suspended because the Islamist-dominated upper house of parliament, the Shura Council, had not returned the electoral law to the Supreme Constitutional Court for final review after amending it in February. They said that instead, the Shura Council had sent the law to Mr Morsi for ratification. The President’s opponents said that the ruling was further proof that President Morsi and his Muslim Brotherhood were mismanaging the country and seeking a monopoly on power; they accused the government of an epic failure of governance.<sup>93</sup>

**See also:** [Actors of protection](#) (section 2.2 above)

[Internal relocation](#) (section 2.3 above)

[Caselaw](#) (section 2.4 above)

**3.10.20 Conclusion:** There are a number of liberal and secular opposition groups active in Egypt, and the new constitution does allow for a range of political parties (within certain parameters). However, many political activists and perceived government opponents have experienced significant ill-treatment at the hands of the Egyptian authorities, which in many cases has reached the level of persecution. This is particularly the case where activists have taken part in protests and demonstrations,

<sup>90</sup> The Guardian, Egyptian police go on strike, 10 March 2013

<http://www.guardian.co.uk/world/2013/mar/10/egypt-police-strike>

<sup>91</sup> Amnesty International, Egypt: Checklist to combat sexual and gender-based violence, 15 March 2013

<http://www.amnesty.org/en/library/asset/MDE12/013/2013/en/579010c2-d145-46b2-9e11-10ebad5dbb4f/mde120132013en.pdf>

<sup>92</sup> OHCHR, Egypt: High Commissioner For Human Rights Urges Serious Dialogue And End To Use Of Excessive Force, 29 January 2013

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12957&LangID=E>

<sup>93</sup> BBC News: ‘Egypt court suspends April parliamentary elections’ 6 March 2013

<http://www.bbc.co.uk/news/world-africa-21689545>

and/or been subject to arrest and detention. Where an individual is able to demonstrate that they are at serious risk of facing serious ill-treatment on account of their activities a grant of asylum will be appropriate. Case workers should consider applications on a case by case basis, based on the particular circumstances, profile, gender and history of the individual concerned.

**3.10.21** The Supreme Court held in [RT \(Zimbabwe\)](#) that the rationale of the decision in [HJ \(Iran\)](#) extends to the holding of political opinions. An individual should not be expected to modify or deny their political belief, or the lack of one, in order to avoid persecution.

### **3.11 Prison and detention centre conditions**

**3.11.1** Applicants may claim that they cannot return to Egypt due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in Egypt are so poor as to amount to torture or inhuman treatment or punishment.

**3.11.2** The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of Humanitarian Protection. If imprisonment would be for a Refugee Convention reason or in cases where for a Convention reason a prison sentence is extended above the norm, the asylum claim should be considered first before going on to consider whether prison conditions breach Article 3 if the asylum claim is refused.

**3.11.3 Consideration:** Conditions in Egyptian prisons and detention centres are generally harsh, with overcrowding, lack of medical care and poor sanitation particular problems. Provisions for food, water, lighting and ventilation are generally inadequate. Abuse of prisoners, including torture, is common, especially in relation to juveniles, and tuberculosis is widespread.<sup>94</sup> Reports confirm that prison inmates are subject to torture and other human rights abuses.<sup>95</sup> Before and after the revolution, police and NSS officers reportedly employed methods such as stripping and blindfolding victims; suspending them by the wrists and ankles in contorted positions or from a ceiling or door frame with feet just touching the floor; beating them with fists, whips, metal rods, or other objects; using electric shocks; dousing them with cold water; sleep deprivation; and sexual abuse, including sodomy. In 2011, there were reports that security officials sexually assaulted some detainees or threatened to rape them or their family members.<sup>96</sup> There were approximately 60,000 prisoners in the penal system during 2012; prison conditions for women are said to be marginally better than for men, but there are credible reports of the sexual abuse of female prisoners.<sup>97</sup>

**3.11.4** In February 2013, the Cairo Institute for Human Rights Studies noted that, in the absence of real and meaningful police reform, torture continues to be carried out in detention facilities and in public places, leading in a number of cases to the deaths of detainees. The police continue to use torture as a method of interrogation in their

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<sup>94</sup> United States Human Rights Report: Egypt 2012 section 1c April 2012

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>

<sup>95</sup> Freedom House: Freedom in the World 2013 Egypt, January 2013

<http://www.freedomhouse.org/report/freedom-world/2013/egypt>

<sup>96</sup> US State Department Country Reports on Human Rights Practices for 2011: Egypt, 24 May 2012

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186423>

<sup>97</sup> United States Human Rights Report: Egypt 2012 section 1c April 2012

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>

criminal investigations. The police have also used torture against activists in an attempt to intimidate them and at times as punishment for their political activities.<sup>98</sup> Human Rights Watch notes that police continued to use torture in police stations and at points of arrest, mostly during investigations in regular criminal cases, but also in some political cases and that police torture led to at least 11 deaths in 2012.<sup>99</sup>

- 3.11.5** The brutal beating and killing of online activist Khaled Said at the hands of police in Alexandria in 2010 was one of the factors that helped to start the revolt against ex-President Mubarak. The State Security Investigations (SSI) police force was disbanded, as their officials were notorious for committing torture with impunity.<sup>100</sup> Nevertheless, police brutality appeared to continue unabated after Mubarak's ousting. Human rights groups reported on torture of those detained by the military and police, and video footage that emerged in September 2011 showed police and army officials using electric shocks and beatings during an interrogation.<sup>101</sup>
- 3.11.6** On 3 November 2012, nearly two years after the fall of Mubarak, approximately 1,000 activists rallied in Cairo to demand an end to brutality and torture in Egyptian prisons. The El Nadeem Centre for Rehabilitation of Victims of Violence told the crowds that the group documented 150 cases of torture in the 100 days since Mursi took office. Protestors held up posters showing the disfigured faces and bodies of torture victims. The protest commemorated the death of Essam Etta, a young Egyptian whose family claimed he was tortured to death by the authorities in October 2011, in Torah prison. His family accused prison officers of inserting a hose into his mouth and anus, pumping water and soap into his body, and causing his death by massive haemorrhaging.<sup>102</sup> In December 2012, an Egyptian activist, Alber Saber Ayad, was found guilty by the courts of 'defamation of religion' and of disseminating material on the internet that defamed religions. During his trial he was held in Tora Prison; his cell was next to a sewer, and lacked light or clean water until human rights organisations filed a complaint with the Public Prosecutor on his behalf.<sup>103</sup> Amnesty International further reports that torture in police custody has been systematic and widespread in Egypt for decades and despite numerous official pledges following the January 2011 uprising that police would respect human rights, videos of torture and other ill-treatment continue to emerge.<sup>104</sup>

<sup>98</sup> UN Human Rights Council, Written statement submitted by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status; The international community must act as Egypt faces human rights crisis, 18 February 2013

[http://ap.ohchr.org/documents/alldocs.aspx?doc\\_id=21160](http://ap.ohchr.org/documents/alldocs.aspx?doc_id=21160)

<sup>99</sup> Human Rights Watch, World Report 2013, 31 January 2013

<http://www.hrw.org/world-report/2013/country-chapters/egypt>

<sup>100</sup> Amnesty International: Egypt – Annual Report 2012, 24 May 2012

<http://www.amnesty.org/en/region/egypt/report-2012>

<sup>101</sup> Freedom House: Freedom in the World – 2012 – Egypt, March 2012

<http://www.freedomhouse.org/report/freedom-world/2012/egypt-0>

<sup>102</sup> Reuters News: 'Activists rally to end prison torture in Egypt' 3 November 2012

<http://www.reuters.com/article/2012/11/03/us-egypt-torture-idUSBRE8A20BW20121103>

<sup>103</sup> Amnesty International: Egypt: 'Outrageous' guilty verdict in blasphemy case an assault on free expression' 12 December 2012

<http://www.amnesty.org/en/news/egypt-outrageous-guilty-verdict-blasphemy-case-assault-free-expression-2012-12-12>

<sup>104</sup> Amnesty International, Egypt: Agents of repression: Egypt's police and the case for reform, 2 October 2012, 3. Abuses on arrest and in custody

<http://www.amnesty.org/en/library/asset/MDE12/029/2012/en/576aa9cc-bd07-4724-a410-95b02009c317/mde120292012en.pdf>

- 3.11.7** During the revolution of 2011 and the general disorder surrounding ex-President Mubarak's resignation, prison unrest resulted in the release or escape of approximately 23,000 inmates and the deaths of at least 189. According to NGO observers, prison guards killed more than 100 prisoners, and injured hundreds of others between 29 January and 20 February 2011.<sup>105</sup> By the end of 2011, there were approximately 66,000 prisoners. Juveniles frequently continue to be held together with adults, and pre-trial detainees are sometimes held with convicted prisoners. Prisoners are frequently brutalised by the guards.<sup>106</sup>
- 3.11.8** The government took steps to automate record-keeping and began imposing fines instead of incarceration when sentencing non-violent offenders. The penal code provides for reasonable access to visitors. However, according to NGO observers and relatives of inmates, the government sometimes prevented visitors' access to detainees. NGO observers claimed that prisoners were sometimes reluctant to submit complaints to judicial authorities, or to request investigation of alleged inhumane conditions, due to fear of retribution from prison officials. The government investigated some, but not all of such allegations during 2012. The government permitted some visits by independent human rights observers to prisons and jails during 2012, but permission to conduct such visits was more often denied. Renovations at some prisons around the country reportedly began to alleviate some of the problems with prison conditions during the year.<sup>107</sup>
- 3.11.9** Prison conditions for women generally are marginally better than those for men.<sup>108</sup> However, recent reports have described sexual torture and abuse of women detained by the military for taking part in protests. These assaults have been widely criticised internationally, and have also engendered further protests in response.<sup>109</sup> The practice of subjecting women to 'virginity tests' was condemned and ordered to be stopped by a civilian tribunal in December 2011.<sup>110</sup> Not one member of the army or security forces has been brought to justice for human rights violations against women. The only military official tried for conducting forced "virginity tests" was acquitted by a military court in March 2012.<sup>111</sup>
- 3.11.10** Egypt retains the death penalty. At least one individual was judicially executed in 2011.<sup>112</sup> During 2011, at least 123 people were sentenced to death, including at least 17 who were sentenced after unfair trials before military courts.<sup>113</sup> A poll conducted in 2010 showed that 84% of Muslim citizens in Egypt favoured the death

<sup>105</sup> US State Department Country Reports on Human Rights Practices for 2011: Egypt, 24 May 2012, section

1c <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186423>

<sup>106</sup> United States Human Rights Report: Egypt 2012 section 1c April 2012

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>

<sup>107</sup> United States Human Rights Report: Egypt 2012 section 1c April 2012

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>

<sup>108</sup> United States Human Rights Report: Egypt 2012 section 1c April 2012

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>

<sup>109</sup> Huffington Post (AOL News) Egypt: 'Female detainees forced to take virginity tests' 24 May 2011

<http://www.aolnews.com/2011/03/24/amnesty-report-female-detainees-in-egypt-forced-to-take-virginity-tests>

<sup>110</sup> Fox News: 'Egyptian Court bans military 'virginity tests' on female detainees; 27 December 2011

<http://www.foxnews.com/world/2011/12/27/egyptian-court-bans-military-virginity-tests-on-female-detainees>

<sup>111</sup> Amnesty International, Egypt: Fighting for justice and human rights: Egypt's women activists describe their struggle, 15 March 2013, Introduction

<http://www.amnesty.org/en/library/asset/MDE12/011/2013/en/4b46a265-c3db-443d-b22a-a70e6d9fb0fd/mde120112013en.pdf>

<sup>112</sup> Hands Off Cain: Executions in 2011 (accessed 21/2/2013):

<http://www.handsoffcain.info/bancadati/index.php?tipotema=arg&idtema=16308821>

<sup>113</sup> Amnesty International Annual Report 2012: Egypt, 24 May 2012, 'Death Penalty'

<http://www.amnesty.org/en/region/egypt/report-2012>

penalty for Muslims who leave Islam for another religion.<sup>114</sup> Over 230 people have been sentenced to death since the “25 January Revolution” in 2011 including 21 persons for their involvement in the Port Said football violence. Amnesty International reported that some of the defendants were subjected to torture and other ill-treatment in detention during the investigation and trial.<sup>115</sup>

**3.11.11 Conclusion:** Prison conditions in Egypt are harsh and can be life-threatening, with overcrowding, poor sanitation, a lack of healthcare and generally unhealthy conditions being particular problems. In addition to these adverse conditions there are numerous reports that officials and guards act with impunity and regularly abuse and torture prisoners, physically and sexually, including to death. Information suggests that such ill-treatment is generalised throughout the prison population. However, those who have publicly demonstrated their opposition to the authorities are at greater risk of mistreatment than others.

**3.11.12** Where applicants can demonstrate a real risk of imprisonment on return to Egypt, a grant of Humanitarian Protection will generally be appropriate. However, the individual factors of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3. Relevant factors include the likely length of detention, the likely type of detention facility, and the individual’s age, gender, religion and state of health. Where in an individual case treatment is likely to reach the Article 3 threshold a grant of Humanitarian Protection will be appropriate.

#### **4. Minors claiming in their own right**

- 4.1** Minors claiming in their own right who have not been granted asylum or HP can only be returned where (a) they have family to return to and it is appropriate for the minor to return to them; or (b) there are adequate alternative reception and care arrangements. Caseworkers should refer to the Asylum Instruction: [Processing an Asylum Application from a Child](#), which is the main guidance document on UASC return consideration.
- 4.2** Caseworkers should refer to the Agency’s guidance on Family Tracing following the Court of Appeal’s conclusions in the case of [KA \(Afghanistan\) & Others \[2012\] EWCA civ1014](#). In this case the Court found that Regulation 6 of the Asylum Seekers (Reception Conditions) Regulations 2005 imposes a duty on the Secretary of State to endeavour to trace the families of Unaccompanied Asylum Seeking Children (UASCs).
- 4.3** At present there is insufficient information to be satisfied that there are adequate alternative reception, support and care arrangements in place for minors with no family in Egypt. Those who cannot be returned should be considered for leave as a UASC as set out in the relevant [Asylum Instruction](#).

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<sup>114</sup> Pew Research Global Attitudes Survey: Muslim Publics Divided on Hamas and Hezbollah: 2 December 2010: <http://www.pewglobal.org/2010/12/02/muslims-around-the-world-divided-on-hamas-and-hezbollah/>

<sup>115</sup> Amnesty International, Egypt football violence death sentences condemned, 11 March 2013 <http://www.amnesty.org/en/library/asset/MDE12/014/2013/en/5def3d49-be7b-4772-a157-5960fc887bcc/mde120142013en.pdf>

## **5. Medical treatment**

- 5.1** Individuals whose asylum claims have been refused and who seek to remain on the grounds that they require medical treatment which is either unavailable or difficult to access in their countries of origin, will not be removed to those countries if this would be inconsistent with our obligations under the ECHR. Case workers should give due consideration to the individual factors of each case and refer to the latest available country of origin information concerning the availability of medical treatment in the country concerned. If the information is not readily available, an information request should be submitted to the COI Service (COIS).
- 5.2** The threshold set by Article 3 ECHR is a high one. It is not simply a question of whether the treatment required is unavailable or not easily accessible in the country of origin. According to the House of Lords' judgment in the case of [N \(FC\) v SSHD \[2005\] UKHL31](#), it is "whether the applicant's illness has reached such a critical stage (i.e. he is dying) that it would be inhuman treatment to deprive him of the care which he is currently receiving and send him home to an early death unless there is care available there to enable him to meet that fate with dignity". That judgment was upheld in May 2008 by the European Court of Human Rights.
- 5.3** That standard continues to be followed in the Upper Tribunal (UT) where, in the case of [GS and EO \(Article 3 – health cases\) India \[2012\] UKUT 00397\(IAC\)](#) the UT held that a dramatic shortening of life expectancy by the withdrawal of medical treatment as a result of removal cannot amount to the highly exceptional case that engages the Article 3 duty. But the UT also accepted that there are recognised departures from the high threshold approach in cases concerning children, discriminatory denial of treatment, and the absence of resources through civil war or similar human agency.
- 5.4** The improvement or stabilisation in an applicant's medical condition resulting from treatment in the UK and the prospect of serious or fatal relapse on expulsion will therefore not in itself render expulsion inhuman treatment contrary to Article 3 ECHR. All cases must be considered individually, in the light of the conditions in the country of origin, but an applicant will normally need to show exceptional circumstances that prevent return, namely that there are compelling humanitarian considerations, such as the applicant being in the final stages of a terminal illness without prospect of medical care or family support on return.
- 5.5** Where a case owner considers that the circumstances of the individual applicant and the situation in the country would make removal contrary to Article 3 or 8 a grant of Discretionary Leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave. Case workers must refer to the Asylum Instruction on [Discretionary Leave](#) for the appropriate period of leave to grant.

## **6. Returns**

- 6.1** There is no policy which precludes the enforced return to Egypt of failed asylum seekers who have no legal basis of stay in the United Kingdom.
- 6.2** Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Where the claim includes dependent

family members their situation on return should however be considered in line with the Immigration Rules.

- 6.3** Any medical conditions put forward by the person as a reason not to remove them and which have not previously been considered, must be fully investigated against the background of the latest available country of origin information and the specific facts of the case. A decision should then be made as to whether removal remains the correct course of action, in accordance with [chapter 53.8 of the Enforcement Instructions and Guidance](#).
- 6.4** Egyptian nationals may return voluntarily to any region of Egypt at any time in one of three ways: (a) leaving the UK by themselves, where the applicant makes their own arrangements to leave the UK, (b) leaving the UK through the voluntary departure procedure, arranged through the UK Immigration service, or (c) leaving the UK under one of the Assisted Voluntary Return (AVR) schemes.
- 6.5** The AVR scheme is implemented on behalf of the Home Office by Refugee Action which will provide advice and help with obtaining any travel documents and booking flights, as well as organising reintegration assistance in Egypt. The programme was established in 1999, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Egyptian nationals wishing to avail themselves of this opportunity for assisted return to Egypt should be put in contact with Refugee Action Details can be found on Refugee Action's web site at: [www.choices-avr.org.uk](http://www.choices-avr.org.uk).

**Country Specific Litigation Team  
Operational Policy & Rules Unit  
Strategy & Assurance Group  
Home Office**

**7 May 2013**