

UNITED NATIONS
OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
UNITED NATIONS SPECIAL RAPPORTEUR ON FREEDOM
OF RELIGION OR BELIEF

Urgent Appeal

Submitted by the European Centre for Law and Justice, an international non-profit law firm with
Special Consultative Status with ECOSOC,

on behalf of

Mr. Mohammed Bishoy HEGAZY

v.

The Arab Republic of Egypt

1. GENERAL INFORMATION

Does the incident involve an individual or a group?

The case involves an individual, Mr. Mohammed Hegazy and his family.

If it involves a religious or belief group please state the number of people involved and the denomination of the group.

Other than Mr. Hegazy, this case represents a general problem all Egyptian converts from Islam are facing. This case affects every Egyptian convert who leaves Islam and converts to another religion and does not want to be officially considered by the State as a Muslim. Therefore, it indirectly involves all converts from Islam who seek the right to choose their religious affiliation, which must be protected by the Egyptian government. However, this case does not involve non-Muslims (mostly Jews and Christians) who convert to Islam because Egypt protects their right to convert to Islam.

Country in which the incident took place:

Egypt

Nationality of the victims:

Egyptian

2. IDENTITY OF THE PERSONS CONCERNED

Family name: HEGAZY

First name: Mohammed. *His Christian name is **Bishoy**, which Egyptian authorities do not recognise.*

Denomination of his/her religion or belief: Christian (convert from Islam).

Place of residence or origin: Mr. Hegazy was born in Port Said in 1982. Mr. Hegazy and his family are currently in hiding due to numerous death threats made against them.

Age: 28

Sex: Male

Nationality: Egyptian

Family name: HEGAZY- KAMEL

First name: Om Hashim. *Her Christian name is **Katarina**, which Egyptian authorities do not recognise.*

Denomination of his/her religion or belief: Christian (convert from Islam).

Place of residence or origin: Egypt

Age: 28

Sex: Female

Nationality: Egyptian

Family name: HEGAZY

First name: Miriam

Denomination of his/her religion or belief: Christian

Place of residence or origin: Miriam was born while the family was in hiding.

Age: 2

Sex: Female

Nationality: Egyptian

3. INFORMATION REGARDING THE VIOLATION

3.1. STATEMENT OF FACTS

Mr. Hegazy, whose case and plight have gained international attention, is the first Egyptian convert from Islam to request legal recognition of his conversion in Egypt¹. Mr. Hegazy was born in 1982 and converted to Christianity in 1998 after a period of intensive study of religion². Mr. Hegazy decided to change his religious beliefs because he believed that “Islam wasn’t promoting love as Christianity did”³.

Shortly after Mr. Hegazy’s conversion to Christianity, Egyptian police tortured him for three days and harassed him several times thereafter⁴. In 2001, he was arrested for publishing a book of poems critical of the Egyptian state security police⁵. In 2002, he was arrested and held for ten weeks in conditions similar to a “concentration camp”⁶.

In early 2007, Mr. Hegazy attempted to register his change of religion with the Egyptian Interior Ministry, but Ministry officials rejected his request⁷. On 2 August 2007, Mr. Hegazy filed a case requesting official recognition of his conversion and to have the details on his identity card changed to reflect his new religious beliefs⁸. Mr. Hegazy chose to file suit because he and his wife were expecting a child, who they would be legally required to raise as a Muslim unless they officially converted from Islam to Christianity⁹. Mr. Hegazy and his wife wanted their child to be born a Christian, from Christian parents, so that their child could have a Christian name, receive a Christian education, and marry in a church¹⁰. Mr. Hegazy stated, “I think it is my natural right, to embrace the religion I believe and not to have [] a double personality for me as well as for my wife and my expected baby”¹¹. Mr. Hegazy also stated that he brought the suit to establish a precedent upon which other Christian converts could rely¹².

When Mr. Hegazy filed his case, two academics from Al-Azhar University demanded his execution, and the minister for religious endowments publicly affirmed the legality of executing Muslims who convert to Christianity¹³. However, in an interview with the *Washington Post*, Grand Mufti of Egypt Mr. Ali Gomaa stated that conversion from Islam, while sinful, is a permissible act that should not be

¹ *Islamic Lawyers Urge Death Sentence for Convert*, COMPASS DIRECT NEWS, 26 Feb. 2009, <http://www.compassdirect.org/english/country/egypt/2217/>.

² *Egyptian Convert to Christianity Goes into Hiding After Death Threats*, JORDAN TIMES, 13 Aug. 2007, <http://www.jordantimes.com/?news=1428>.

³ *Egyptian Christian Convert Goes into Hiding amid Death Threats*, KUWAIT TIMES, 11 Aug. 2007, http://www.kuwaittimes.net/read_news.php?newsid=MTAxNzY2OTk2MA==.

⁴ Kathryn Lopez, *No President Is a Pyramid*, NATIONAL REVIEW, 5 June 2009, <http://article.nationalreview.com/print/?q=OThkN2IwM2IxODI3NzY1OWNmYWZmODQ4Y2U2NDUyYjk=>.

⁵ *Egyptian Christian Convert Goes into Hiding amid Death Threats*, *supra* note 3.

⁶ Lopez, *supra* note 4.

⁷ Jonathan Wright, *Setting Precedent, Egyptian Seeks Recognition as Convert*, Reuters, 7 Aug. 2007, available at <http://www.rrn.org/articles/25854/?&place=northern-africa§ion=church-state>.

⁸ *Islamic Lawyers Urge Death Sentence for Convert*, *supra* note 1.

⁹ *Egyptian Christian Convert Goes into Hiding amid Death Threats*, *supra* note 3.

¹⁰ *Id.*

¹¹ *Muslim Sues for Right to Convert to Christianity*, COMPASS DIRECT NEWS, 6 Aug. 2007, http://www.copts.co.uk/index.php?option=com_content&task=view&id=246&Itemid=2.

¹² *Egyptian Christian Convert Goes into Hiding amid Death Threats*, *supra* note 3.

¹³ Lopez, *supra* note 4.

subject to temporal punishment¹⁴ (though Gomaa's office later issued a clarification or partial retraction of that statement by explaining that because apostasy was subversive, it did merit punishment¹⁵).

Mr. Hegazy's attorney received death threats from various sources including the Egyptian State Security force¹⁶. Mr. Hegazy's first lawyer, Mr. Mamdouh Nakhla, of the Kalema Center for Human Rights, originally filed Mr. Hegazy's petition with the Egyptian courts¹⁷. Due to intense public pressure and threats, Mr. Nakhla abandoned his representation of Mr. Hegazy¹⁸. Additionally, in retaliation against Mr. Hegazy's lawsuit, a number of Muslim clerics filed a court petition with the Egyptian courts against his first lawyer on charges of "causing sectarian strife"¹⁹.

On 8 August 2007, Mr. Hegazy's second lawyer, Dr. Adel Fawzy Faltas of the Middle East Christian Association, was arrested by the Egyptian police along with a colleague after conducting a high-profile online chat session with Mr. Hegazy²⁰. The two were held without charge and had their detention renewed on 21 August 2007²¹. An Egyptian prosecutor considered charging Mr. Faltas with a number of offenses, including converting Muslims to Christianity, destroying the reputation of Egypt, and insulting Islam²². Mr. Hegazy was to be represented by a third lawyer, Mr. Ramses Raouf el-Nagar, but he withdrew, citing Hegazy's failure to provide certain court documents²³. Currently, Mr. Hegazy is represented in Egypt by Mr. Ashraf Edward, in conjunction with four other attorneys.

Mr. Hegazy was forced into hiding after extremists surrounded his former house for several days and set fire to his neighbour's residence, killing the female occupant (who was his wife's best friend)²⁴. At a hearing on 15 January 2008, lawyers filed a complaint against the government, arguing on constitutional grounds against criminalising apostasy²⁵. Another group of attorneys attempted to attack Mr. Hegazy's attorneys, who managed to escape²⁶. On 29 January 2008, the Supreme Administrative Court ruled against Mr. Hegazy²⁷. The court based its ruling on Article 2 of the Egyptian Constitution and cited Sharia law, stating that "monotheistic religions were sent by God in chronological order" and therefore one cannot convert to "an older religion"²⁸. The court also reasoned that according to Sharia,

¹⁴ Nir Boms & Michael Meunier, *Egypt's Choice; Muslims and Minority Rights*, WASH. TIMES, 27 Aug. 2007, at A17., available at, <http://www.washingtontimes.com/news/2007/aug/27/egypts-choice/print/>.

¹⁵ *Muslim Sues for Right to Convert to Christianity*, *supra* note 11.

¹⁶ Lopez, *supra* note 4.

¹⁷ *Authorities Detain Christian Rights Advocates*, COMPASS DIRECT NEWS, 9 Aug. 2007, http://www.copts.co.uk/index.php?option=com_content&task=view&id=258&Itemid=38.

¹⁸ Maggie Michael, *Threats Force Egyptian Convert to Hide*, USATODAY.COM, 11 Aug. 2007, http://www.usatoday.com/news/topstories/2007-08-11-2472276768_x.htm.

¹⁹ Ethan Cole, *Egypt in Uproar Over Christian Convert Case*, CHRISTIANITY TODAY, 11 Aug. 2007, <http://au.christiantoday.com/article/egypt-in-uproar-over-christian-convert-case/3091.htm>.

²⁰ *Authorities Detain Christian Rights Advocates*, *supra* note 17.

²¹ *Jail Time Extended for Christian Rights Workers*, OPEN DOORS UK, 22 Aug. 2007, http://opendoorsuk.org.uk/news/news_archives/001960.php.

²² *Id.*

²³ *Id.*

²⁴ Ethan Cole, *Egypt: Former Muslim Still in Hiding One Year After Conversion to Christianity*, CHRISTIAN TODAY, 24 Sept. 2008, <http://www.christiantoday.com/article/egypt.former.muslim.still.in.hiding.one.year.after.conversion.to.christianity/21495.htm>.

²⁵ U.S. Copts Association, *Egypt: Tempers Flare into Melee at Convert's Hearing*, 28 Jan. 2008, <http://www.copts.com/english/?p=1321>.

²⁶ Lopez, *supra* note 4.

²⁷ *Id.*

²⁸ *Id.*

Islam is the final and most complete religion; therefore Muslims already practice full freedom of religion and cannot convert to older religions such as Christianity or Judaism²⁹. Mr. Hegazy and his family remain in hiding, and are unable to leave the country, having been denied the necessary passports³⁰.

Katarina Hegazy was also born a Muslim and converted to Christianity several years before she met her husband, Mr. Hegazy. Like him, her status as a Christian convert is not legally acknowledged by Egypt, effectively denying her freedom to change, manifest, and register her religion, and denying her parental right to have her daughter receive a Christian education. Mrs. Hegazy had also planned to apply to have her religious status amended on her identification card, but the family was forced into hiding before she could apply. Furthermore, there were frightening reports of the Egyptian police torturing other women who had converted from Islam to Christianity³¹. In addition to being denied freedom of religion and the related rights to register her chosen religion and have her child receive an education consistent with her Christian faith, Mrs. Hegazy and her daughter, as females, will be subject to pressure to comply with state-approved sex roles derived from a religion that is not their own because women's rights and social roles in Egypt are interpreted under Islamic or Sharia law, according to the Egyptian Constitution³².

A recent December 2009 research study by the Pew Forum on Religion & Public Life, entitled, "Global Restrictions on Religion", supports the applicants' allegations that Egypt imposes a "Very High" level of governmental restriction on religion, ranking fifth in the world in that regard, exceeded only by Saudi Arabia, Iran, Uzbekistan, and China³³.

The Egyptian Government has actively restricted the freedom to adopt the religion of one's own choice by refusing to allow Muslims who convert to another religion to change their religious affiliation on their national identity cards. The United Nations must ensure that Egypt respects the freedom of thought, conscience, and religion which is enshrined in numerous international human rights instruments.

3.2. CURRENT EGYPTIAN LAW AND PRACTICE

A. Egypt's Civil Status Law Allows Change of Religious Affiliation on Identification Documents, but This Law is Applied Discriminatorily in Contradiction with the Egyptian Constitution and International Human Rights Norms

Egyptian civil law does not prohibit religious conversion³⁴. However, in practice, conversion from Islam to other religions is not allowed³⁵. Conversion is a legal matter which must be accomplished by

²⁹ Ethan Cole, *Egypt Rules Christian Convert Must Remain Legally Muslim*, CHRISTIAN POST, 3 Feb. 2008, <http://www.christianpost.com/article/20080203/egypt-rules-christian-convert-must-remain-legally-muslim/index.html>.

³⁰ Lopez, *supra* note 4.

³¹ *Muslim Sues for Right to Convert to Christianity*, *supra* note 11.

³² CONST. OF THE ARAB REPUBLIC OF EGYPT arts. 2, 11, *available at* <http://www.egypt.gov.eg/english/laws/constitution/default.aspx>.

³³ PEW FORUM ON RELIGION & PUBLIC LIFE, GLOBAL RESTRICTIONS ON RELIGION 12 (2009), <http://pewforum.org/newassets/images/reports/restrictions/restrictionsfullreport.pdf>.

³⁴ Human Rights Watch, *Prohibited Identities: V. Conversion and Freedom of Religion*, 11 Nov. 2007, <http://www.hrw.org/en/node/10604/section/6>.

³⁵ U.S. DEP'T. OF STATE, INTERNATIONAL RELIGIOUS FREEDOM REPORT § II (2006), *available at* <http://www.state.gov/g/drl/rls/irf/2006/71420.htm>; "Although there is no penalty in Egyptian law for apostasy, government lawyers have argued in conversion cases, and courts have agreed, that apostasy 'is synonymous with death'; that is, it

changing a person's religious status as legally documented on his or her national identification card ("ID card")³⁶. In Egypt, ID cards are required for numerous important activities, including registering children for school, opening a bank account, or establishing a business³⁷. Religious affiliation on the ID cards is also important because "family courts apply religious laws . . . in personal status matters, and a person's religious identity determines under which court's jurisdiction he or she would fall in such matters"³⁸. Furthermore, in case of schooling, religious affiliation as reflected on one's ID card, determines which religious instruction one's child receives³⁹. Article 48 of the Egyptian Civil Status Law 143 of 1994 requires all citizens, who are sixteen or older carry the ID card⁴⁰. Not presenting the ID card upon a request by a law enforcement officer is punishable by fine of up to LE 200 (US\$35)⁴¹.

Article 47(2) of the Civil Status Law allows a citizen to change his religious affiliation on the ID card "without requiring the approval of the Ministry of Interior's Civil Status Department" if it is authorised by a "competent body" (jihat al-ikhtisas)⁴². However, the Civil Status Department, which issues the ID cards, "obstruct[s] and discriminate[s] against persons who have converted from Islam to Christianity by refusing to make the change in official records or to provide vital documents reflecting the requested change"⁴³. A Coptic lawyer, Naguib Gabriel, states that "[t]hose who convert to Islam only have to produce a formal certificate of conversion from Al-Azhar [Egypt's official Islamic establishment] . . . [b]ut for those coming back to Christianity, a certificate from the Coptic Patriarchate is not enough. They are also required to request a court verdict"⁴⁴.

Thus, in practice, legal allowance or prohibition of conversions or change of religious affiliation on ID cards varies according to whether the individual is converting to or from Islam, and whether the convert was Muslim by birth. Non-Muslims are not prohibited from converting to Islam⁴⁵. Muslim converts can also revert back to their previous religions⁴⁶. But individuals born as Muslims are prohibited from converting to Christianity⁴⁷ or changing their religious affiliation on their identification documents, despite constitutional guarantees of freedom of belief⁴⁸ and opinion⁴⁹. Egypt's double standard, therefore, contravenes international norms and its representatives' own statements⁵⁰. Egypt's discrimination against Mr. Hegazy is illegal and must stop.

deprives the 'apostate' of the ability to perform many civil acts". Human Rights Watch, *Prohibited Identities: III. Religious and National Identity in Egypt*, 11 Nov. 2007, <http://www.hrw.org/en/node/10604/section/4> (citing Cessation Court rulings in Case no. 20/34 on 30 March 1966 and Case no. 162/62 on 16 May 1995.).

³⁶ *Prohibited Identities: V. Conversion and Freedom of Religion*, *supra* note 34.

³⁷ INTERNATIONAL RELIGIOUS FREEDOM REPORT § II (2006), *supra* note 35.

³⁸ *Prohibited Identities: III. Religious and National Identity in Egypt*, *supra* note 35.

³⁹ *Id.*

⁴⁰ *Id.* n. 4.

⁴¹ *Prohibited Identities: III. Religious and National Identity in Egypt*, *supra* note 35.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ Barbara G. Baker, *Egyptian Copts Appeal Religious Identity Ruling Interior Minister Demands Execution of Christian 'Apostates'*, COMPASS DIRECT NEWS, 25 June 2007, <http://jmm.aaa.net.au/articles/19847.htm>.

⁴⁵ INTERNATIONAL RELIGIOUS FREEDOM REPORT, *supra* note 35, § II (stating "there are no legal restrictions on the conversion of non-Muslims to Islam").

⁴⁶ *E.g.*, *Citizen Wins Rare Legal Victory to Revert to Christianity*, COMPASS DIRECT NEWS, 8 Jan. 2009, <http://www.compassdirect.org/english/country/egypt/legal/> (showing that Egypt's top administrative court held in 2008 that it was permissible for a person who originally converted from Christianity to Islam to convert back to Christianity).

⁴⁷ INTERNATIONAL RELIGIOUS FREEDOM REPORT § II (2006), *supra* note 35.

⁴⁸ CONST. OF THE ARAB REPUBLIC OF EGYPT art. 46 ("The State shall guarantee the freedom of belief and the freedom of practice of religious rites").

⁴⁹ *Id.* at art. 47 ("Freedom of opinion shall be guaranteed. Every individual shall have the right to express his opinion and to publicise it verbally, in writing, by photograph or by other means of expression within the limits of the law").

⁵⁰ *See infra* note 109 and accompanying text.

B. Egyptian Courts Refusing to Recognise Conversion from Islam to Christianity

Unfortunately, Mr. Hegazy's situation is not an isolated case. In August 2008, Mr. Maher El-Gohary filed a lawsuit seeking to amend his State identification documents to reflect his Christian name and affiliation⁵¹. On 13 June 2009, the Administrative Court, in a historic decision, ruled against Mr. El-Gohary, holding that his claim was contrary to Sharia law and posed a threat to the public order⁵². This decision showed that Sharia law supersedes Articles 40 and 46 of Egypt's Constitution and international law within Egypt's legal system. In addition, the Court created a number of new obstacles to prevent such religious modification of the identification card⁵³.

Since filing the lawsuit, El-Gohary has been called an apostate and had several fatwas calling for "spilling his blood" issued against him⁵⁴. On 17 September 2009, he was prevented from leaving the country and was detained at Cairo Airport⁵⁵. His passport has been confiscated and he was advised that he is barred from traveling⁵⁶. In an aired interview with the *Coptic News Bulletin*, Mr. El-Gohary said, "[t]he authorities are trying to pressure us [him and his daughter] to convert back to Islam, but this will never happen, even if we have to live on the streets. We love our Lord Jesus, and we have left Islam for good"⁵⁷.

The Hegazys, like the El-Goharys and other Egyptians who have attempted to officially convert from Islam to another religion, are only seeking to exercise their fundamental right to change religious affiliations. Their case presents an opportunity to reaffirm that all nations, including Egypt, must be held to the highest standard in respecting the exercise of fundamental human rights.

3.3. VIOLATION OF INTERNATIONAL LAW

Relevant alleged violations of the applicants' human rights, along with corresponding international legal standards, are set out below under consecutive sections that follow the categories formulated by the Special Rapporteur in her framework for communications.

Before setting out the alleged violations, it is helpful to enumerate briefly some general international standards and instruments by which the subject state is bound and which are relevant to the Special Rapporteur's mandate to examine incidents and governmental acts that are incompatible with the universal international human right to freedom of religion or belief.

The Special Rapporteur has stated that the question of religious conversion or change of religion is at the "very heart of the mandate on freedom of religion or belief"⁵⁸ set out in the International

⁵¹ Mary Abdelmassih, *15 Year Old Egyptian Convert to Christianity Sends Plea to Obama*, ASSYRIAN INTERNATIONAL NEWS AGENCY, 17 Nov. 2009, <http://www.aina.org/news/20091117170103.htm>.

⁵² *Id.*

⁵³ A copy of the decision of the Court is annexed, in Arabic.

⁵⁴ Abdelmassih, *supra* note 51.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Mary Abdelmassih, *Muslim Convert to Christianity Prevented from Leaving Egypt*, ASSYRIAN INTERNATIONAL NEWS AGENCY, 9 Sept. 2009, <http://www.aina.org/news/20090925191939.htm>.

⁵⁸ The Special Rapporteur, *Report of the Special Rapporteur of the Commission on Human Rights on Freedom of Religion or Belief*, ¶ 40, delivered to the General Assembly, U.N. Doc. A/60/399 (30 Sept. 2005), available at http://www2.ohchr.org/english/issues/religion/docs/A_60_399.pdf.

Covenant on Civil and Political Rights (“ICCPR”), which Egypt signed in 1967 and ratified in 1982⁵⁹. In agreeing to the provisions of the ICCPR, Egypt made the following reservation: “taking into consideration the provisions of the Islamic Sharia and the fact that they do not conflict with the text annexed to the instrument . . . we accept, support and ratify it”⁶⁰. This broad, formal reservation to its responsibility to enforce those provisions or human rights that may conflict with Sharia law or with virtually any extremist interpretations of such law would appear to vitiate the intent and purpose of the treaty, or to provide an avenue for the wholesale evasion of Egypt’s obligations thereunder as in the present case. The Vienna Convention on the Law of Treaties, which Egypt has ratified, provides, in Article 19, that a State should not be permitted to formulate a reservation when, among other things, “the reservation is incompatible with the object and purpose of the treaty”⁶¹. Islamic Sharia may conflict with the ICCPR rights, in that Article 18 of the ICCPR protects the right to change one’s religion, but the same right may not necessarily be protected under Islamic Sharia. In practice, Egypt has done exactly the same—prohibited Mr. Hegazy from changing his religion, thus deviating from the object and purpose of the treaty.

Other instruments which can apply to the Special Rapporteur’s interventions and which also have some application to this case, are: the International Covenant on Economic, Social and Cultural Rights (“ICESCR”);⁶² the Convention on the Rights of the Child (“CRC”);⁶³ the Convention on the Elimination of All Forms of Discrimination against Women (“CEDAW”);⁶⁴ and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“CAT”)⁶⁵. Egypt has ratified all of these treaties⁶⁶, its ratification of the ICESCR being subject to the same formal reservation it has entered to the ICCPR as quoted above⁶⁷. Having completed an overview of relevant international instruments, we now proceed to outline specific, alleged violations by the Arab Republic of Egypt.

⁵⁹ United Nations Treaty Collection, International Covenant on Civil and Political Rights, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-4&chapter=4&lang=en (last visited 11 Jan. 2010).

⁶⁰ Human Rights Committee, *Reservations, Declarations, Notifications and Objections Relating to the International Covenant on Civil and Political Rights and the Optional Protocols*, U.N. Doc CCPR/C/2/Rev.4. (1995), available at <http://www.unhchr.ch/tbs/doc.nsf/c12563e7005d936d4125611e00445ea9/876f09862d3b0437c12563e70037d248?OpenDocument>.

⁶¹ Vienna Convention on the Law of Treaties art. 19(c), opened for signature 23 May 1969, 1155 U.N.T.S. 331.

⁶² International Covenant on Economic, Social and Cultural Rights (ICESCR), Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 and entered into force on 3 January 1976.

⁶³ Convention on the Rights of the Child [hereinafter CRC], Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 and entered into force on 2 September 1990.

⁶⁴ Convention on the Elimination of All Forms of Discrimination against Women [hereinafter CEDAW], Adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979 and entered into force on 3 September 1981.

⁶⁵ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [hereinafter CAT], Adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984 and entered into force on 26 June 1987.

⁶⁶ See United Nations Treaty Collection, Chapter IV: Human Rights, <http://treaties.un.org/Pages/CTCTreaties.aspx?id=4&subid=A&lang=en> (last visited 20 Jan. 2010) (providing links to the treaties referenced above, and lists of ratifying states therein).

⁶⁷ See United Nations Treaty Collection, International Covenant on Economic, Social and Cultural Rights, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-3&chapter=4&lang=en#EndDec (last visited 20 Jan. 2010).

A. Egypt's Conversion Policy Violates Religious Freedom Rights Enshrined in the International Covenant on Civil and Political Rights

i. Freedom to Adopt, Change, or Renounce, a Religion or Belief

Article 18 of the ICCPR requires that Member States provide their citizens “the right to freedom of thought, conscience and religion”, which includes the “freedom to have or to adopt a religion or belief of [one’s] own choice”⁶⁸. The Special Rapporteur has stated that the right to change one’s religion has an “absolute character” and is “not subject to any limitation whatsoever”⁶⁹. Furthermore, the Human Rights Committee states that “the freedom to ‘have or to adopt’ a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to *replace* one’s current religion or belief with another”⁷⁰.

Egypt is legally bound to provide applicants such rights through legislative, judicial, or administrative means. And, though it has incorporated a *de jure* right to freedom of belief, religion, or opinion in Articles 46 and 47 of its Egypt’s Constitution, Article 2 of that same Constitution, which states that all Constitutional provisions shall be subject to and interpreted in accord with Sharia law⁷¹, is a ploy, akin to the Sharia-based reservation to the ICCPR, to enable Egypt to evade *de facto* enforcement of these rights it has ostensibly promised to protect and preserve. It has been used as a means to illegally deny the right of Egyptians, who are born Muslim, to convert to another religion, as exemplified by the January 29, 2008 ruling of Egypt’s Supreme Administrative Court that denied the right of applicants to convert from Islam to Christianity, holding that “monotheistic religions were sent by God in Chronological order” and that therefore one cannot convert to “an older religion”⁷². This ruling makes a mockery of the human rights Egypt has agreed to protect, and flagrantly, transparently derogates the Egyptian Constitution and international law.

ii. Freedom to Manifest a Religion or Belief

Right to freedom of thought, conscience, and religion also includes freedom “to manifest [one’s] religion or belief in worship, observance, practice and teaching”⁷³. Human Rights Council resolution 6/37 of December 2007 urges States to “review . . . existing registration practices in order to ensure the right of all persons to manifest their religion . . .”⁷⁴ Once again, while the Egyptian law, on its face, appears to comply with this mandate through Law 143/1994 which allows for amending religious status on I.D. cards “on demonstration of proof from appropriate authorities,”⁷⁵ it is a practically impossible for Egyptians born Muslims to legally convert and obtain the required authoritative proof, though amended registrations of religion are, by contrast, permitted for those who convert from other faiths *to Islam*.

⁶⁸ International Covenant on Civil and Political Rights art 18(1), 16 Dec. 1966, 999 U.N.T.S. 171 [hereinafter ICCPR].

⁶⁹ *Report of the Special Rapporteur of the Commission on Human Rights on Freedom of Religion or Belief*, *supra* note 58, ¶ 46.

⁷⁰ U.N. Human Rights Committee, *General Comment No. 22: The Right to Freedom of Thought, Conscience and Religion* (Art. 18), CCPR/C/21/Rev.1/Add.4, ¶ 5 (1993), available at <http://www.unhchr.ch/tbs/doc.nsf/MasterFrameView/9a30112c27d1167cc12563ed004d8f15?Opendocument> [hereinafter *General Comment No. 22*] (emphasis added).

⁷¹ CONST. OF THE ARAB REPUBLIC OF EGYPT arts. 2, 46 and 47.

⁷² See *supra* notes 27–29 and accompanying text.

⁷³ ICCPR art. 18(1).

⁷⁴ Human Rights Council Resolution 6/37, at 9(f), available at

http://ap.ohchr.org/Documents/E/HRC/resolutions/A_HRC_RES_6_37.pdf.

⁷⁵ *Prohibited Identities: V. Conversion and Freedom of Religion*, *supra* note 34.

iii. Right to Freedom of Religion Must be Free of Coercion

Article 18 does not allow State Parties to subject any of their citizens to “coercion which would impair [their] freedom to have or to adopt a religion or belief of [their] choice”⁷⁶. It bars State Parties from using any coercion, whether a threat of physical force or penal sanctions, that compels adherence to or conversion from a belief⁷⁷. Even the “[p]olicies or practices having the same intention or effect” of restricting the right to change religion are “inconsistent” with Article 18⁷⁸. Furthermore, according to the Special Rapporteur, “[a]dministrative requirements can also make it difficult to change one’s religion or belief”, as “in a number of cases converts have found it impossible to obtain identity cards after having changed their religion”, for “[w]here conversion is not actually prohibited by law, converts can [still] be harassed or threatened by State and religious officials”⁷⁹.

Here, the Egyptian authorities have used all forms of coercion against Mr. Hegazy that are prohibited by Article 18 of the ICCPR. Egyptian authorities have arrested Mr. Hegazy several times for converting to Christianity and have tortured him. Authorities have not allowed him to manifest his religion by changing his religious affiliation on his identification documents, though permitted under Egyptian law, which has caused coercion by force and physical harm.

iv. The Right of Parents to Ensure the Religious and Moral Education of Their Children

Egypt, by denying the applicant’s request to amend his religious status on his I.D. card, in effect, further improperly denied both Mr. Hegazy and his wife the associated right of parents provided under ICCPR Article 18(4) “to ensure the religious and moral education of their children in conformity with their own convictions”⁸⁰. For, in Egypt, the subject ID cards are required to enroll a child in school, and children are required to be educated in the Islamic faith as long as their father is officially registered as Muslim⁸¹.

v. Discrimination on the Basis of Religion or Belief/Inter-Religious Discrimination/Tolerance

The Arab Republic of Egypt has further, through its officials, engaged in unlawful discrimination against the applicants based on their religious beliefs. Article 2 of the ICCPR clearly requires State Parties to ensure all citizens the rights and freedoms therein without discrimination or distinction on the basis of religion⁸². However, regardless of this explicit requirement, the applicants have been denied⁸³, due to their religion, not only Article 18 rights to adopt, change, manifest and register their religion and to the educate their child in their faith⁸⁴. They have been denied equal protection and freedom of

⁷⁶ *Id.* at art. 18(2).

⁷⁷ *General Comment No. 22, supra* note 70.

⁷⁸ *Id.*

⁷⁹ *Report of the Special Rapporteur of the Commission on Human Rights on Freedom of Religion or Belief, supra* note 58, ¶ 43.

⁸⁰ ICCPR art. 18(4).

⁸¹ *Prohibited Identities: V. Conversion and Freedom of Religion, supra* note 34.

⁸² ICCPR art. 2.

⁸³ *See supra* pgs. 3-5.

⁸⁴ Liberty of movement is protected under the ICCPR art. 12(1).

movement⁸⁵. They have been denied passports that would allow them to leave the country to escape threats of death, persecution, or torture⁸⁶.

B. Egypt's Recognition of Islam as the State Religion Should Not Be a Pretext to Violate Rights of Non-Muslims

Article 46 of the Egyptian Constitution guarantees freedom of religious belief and religious exercise,⁸⁷ and Article 47 guarantees freedom of opinion and expression⁸⁸. But Article 2 of the Egyptian Constitution states that “the principle source of legislation is Islamic jurisprudence (Sharia)”⁸⁹. The Egyptian Supreme Constitutional Court⁹⁰ (“SCC”) has interpreted Article 2 to mean that no legislation can violate rules of the Sharia, the meaning and immutability of which has been definitively established⁹¹. For the purposes of Article 2, the SCC has defined Sharia as all laws which conform to broad Qur’anic legal principles which have historically been accepted by all Muslim jurists⁹². The SCC applies Article 2 through a two step analysis, which evaluates (1) whether any given law is consistent with applicable rules of Islamic Sharia, and (2) whether the law advances the goals of the Sharia⁹³. As a result of Article 2, Egypt’s legal system is ostensibly a “constitutional theocracy” in which all laws are subject to the principles of Sharia⁹⁴.

Although Egypt’s Constitution declares Islam as the State religion and Sharia law as the principal source of legislation, the Human Rights Committee does not expect this to result in “any impairment” of any of the rights enumerated in the ICCPR⁹⁵. In fact, the Committee states that the ICCPR requires State Parties to “safeguard[] against infringement of the rights of religious minorities and of other religious groups” as guaranteed by Articles 18 and 27⁹⁶. The Committee further states that these articles not only prohibit violence against and persecution of religious minorities, but they also prohibit any discrimination by the State Parties against religious groups⁹⁷. By allowing non-Muslims to easily convert to Islam but not vice versa, Egypt has clearly violated its obligations under the ICCPR. The fact that Islam is treated as an official ideology in the Egyptian Constitution, statutes, proclamations,

⁸⁵ See *supra* pgs. 3-5.

⁸⁶ *Supra* pg. 5.

⁸⁷ CONST. OF THE ARAB REPUBLIC OF EGYPT art. 46 (“The State shall guarantee the freedom of belief and the freedom of practising religious rites.”).

⁸⁸ *Id.* at art. 47 (“Freedom of opinion is guaranteed. Every individual has the right to express his opinion and to disseminate it verbally, in writing, illustration or by other means within the limits of the law”).

⁸⁹ *Id.* at art. 2.

⁹⁰ The Egyptian Supreme Constitutional Court exercises the role of constitutional arbiter. *Id.* at art. 175 (“The Supreme Constitutional Court alone shall undertake the judicial control in respect of the constitutionality of the laws and regulations.”).

⁹¹ Clark B. Lombardi, *Islamic Law as a Source of Constitutional Law in Egypt: The Constitutionalization of the Shari’ah in a Modern Arab State*, 37 COLUM. J. TRANSNAT’L L. 81, 98 (1998).

⁹² *Id.* at 91.

⁹³ Clark B. Lombardi & Nathan J. Brown, *Do Constitutions Requiring Adherence to Shari’a Threaten Human Rights? How Egypt’s Constitutional Court Reconciles Islamic Law with the Liberal Rule of Law*, 21 AM. U. INT’L L. REV. 379, 418 (2006).

⁹⁴ Ran Hirschl, *Constitutional Courts vs. Religious Fundamentalism: Three Middle Eastern Tales*, 82 TEX. L. REV. 1819, 1823 (2004).

⁹⁵ U.N. Human Rights Committee, *General Comment No. 22: The Right to Freedom of Thought, Conscience and Religion (Art. 18)*, CCPR/C/21/Rev.1/Add.4, ¶ 9 (1993), available at <http://www.unhcr.ch/tbs/doc.nsf/MasterFrameView/9a30112c27d1167cc12563ed004d8f15?Opendocument>.

⁹⁶ *Id.*

⁹⁷ *Id.*

and actual practice must not result in impairment of the rights of non-Muslims who are also protected by the ICCPR⁹⁸.

Any interpretation of Sharia law that allows for forced conversions and subjects voluntary religious converts to discrimination, arrest, violence, or death is inconsistent with international human rights standards. The United Nations must send a clear message that there is no Sharia exception to the universal duty to uphold basic human rights⁹⁹. The international community must not tolerate or ignore either of these global problems, for both forced religious conversions and nations refusing to recognise voluntary conversions contravene widespread international norms.

Mr. Hegazy's right to choose and manifest his religion is protected by the ICCPR. Egypt must guarantee that right as a State Party to the ICCPR as well as a Member State of the United Nations. Although Egypt has not ratified the Optional Protocol to the ICCPR, this does not, of course, preclude the Special Rapporteur from exercising her mandate in urging Egypt to honor its legal obligation under Article 18 of the ICCPR.

C. Vulnerable Groups

i. Women

Egypt's ratification of the CEDAW¹⁰⁰ binds it to uphold, without discrimination based on sex or gender, the human and legal rights of the female applicants¹⁰¹. Once again, while Egypt wishes to give the appearance, by ratification of the CEDAW, that it is committed to equality of rights for women, it makes the rights of female Egyptians, *no matter what their religion*, subject to Islamic Sharia law¹⁰². Article 11 of Egypt's Constitution claims that woman is considered "equal to man in the political, social, cultural and economic spheres," but only when and if such equality is "without detriment to the rules of Islamic jurisprudence (Sharia)"¹⁰³. Yet Sharia law is often interpreted to assign woman an unequal, subordinate position in the law, society, and the family and to ascribe to her gender roles that severely limit her freedom and opportunity. Thus, making women's rights subject to those gender-discriminatory interpretations of Sharia law (traditionally used to prop-up patriarchal practices that harm women) is a naked violation of Egypt's obligation under the CEDAW as well as a violation of the rights of Katarina and Miriam Hegazy not only to the freedom to live in accord with their Christian belief in a natural right to human equality, but their right to gender equality under international law.

⁹⁸ See *id.* ¶ 10.

⁹⁹ See David G. Littman, *Human Rights and Human Wrongs*, NATIONAL REVIEW ONLINE, 19 Jan. 2003, <http://article.nationalreview.com/?q=ODkzM2Q2NGE5ODQzZWl2Y2QyMzhYjA4NWRIOWYzMzE=>.

¹⁰⁰ See United Nations Treaty Collection, Convention on the Elimination of All Forms of Discrimination Against Women, available at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en#20 (last visited 20 Jan. 2010).

¹⁰¹ See CEDAW, *supra* note 64.

¹⁰² See United Nations Division for the Advancement of Women Department of Economic and Social Affairs, Declarations Reservations and Objections to CEDAW, <http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm> (last visited 20 Jan. 2010).

¹⁰³ CONST. OF THE ARAB REPUBLIC OF EGYPT art.11.

ii. Children

Egypt, as a State Party to the CRC¹⁰⁴, is bound under Article 14(1) to protect the right of the minor, girl-child, applicant, Miriam Hegazy, to freedom of religion or belief and her right to manifest her religion¹⁰⁵. Egypt is also bound by the CRC to respect the right of Miriam's parents' to provide her direction in the exercise of such rights, for example by insuring that she has the freedom to seek an education consistent with her religious beliefs¹⁰⁶. Egypt has failed to honor these obligations under the CRC and has thus failed to honor the Article 14 rights of Miriam Hegazy and her parents.

D. Statement by Ambassador Hisham Badr, Permanent Representative of Egypt to the United Nations

Ambassador Hisham Badr, Permanent Representative of Egypt to the United Nations, presently serves as the Vice President and Rapporteur on the United Nations Human Rights Council¹⁰⁷, of which Egypt has been a member state since 2007¹⁰⁸. Mr. Hisham Badr decries that freedom of expression has been used to promote "racial and religious stereotyping" and "incitement to racial and religious hatred"¹⁰⁹. Yet racial and religious stereotyping continues in his own country in cases of Christians like Mr. Hegazy, who is currently being discriminated against and stereotyped because of his specific faith. Ambassador Badr should be urged to monitor this discrimination and provide adequate remedy for violations of the rights of the Hegazys.

3.4. CONCLUSION

The refusal of the Egyptian Government to recognise the conversion of Muslim-born individuals to another religion has serious, negative consequences for religious converts like Mr. Hegazy. The Special Rapporteur's office has acknowledged receipt of numerous reports of situations, like that of Mr. Hegazy and his family, in which the right of individuals to have or adopt a religion of their choice has been violated¹¹⁰. This case involves exactly the same right: Mr. Hegazy's right to officially change his religion. Based upon the above facts and law, we make urgent appeal, on behalf of the Hegazy family, to the Special Rapporteur to intervene and assist them in securing the above rights they are being denied, foremost the right to legally change religion. We also implore the Special Rapporteur to intervene in the interim, if possible, to seek emergency protection for the claimants, from persistent threats of death until their basic rights and safety can be secured.

¹⁰⁴ United Nations Treaty Collection, Convention on the Rights of Child, available at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en#8 (last visited 20 Jan. 2010).

¹⁰⁵ CRC art. 14(1).

¹⁰⁶ *Id.* at art. 14(2).

¹⁰⁷ Human Rights Council, Membership of the Human Rights Council, <http://www2.ohchr.org/english/bodies/hrcouncil/membership.htm> (last visited 20 Jan. 2010).

¹⁰⁸ Human Rights Council, Membership (2006-2012),

http://www2.ohchr.org/english/bodies/hrcouncil/past_current_members.htm (last visited 20 Jan. 2010).

¹⁰⁹ Press Release, United Nations, Human Rights Council Adopts Fifteen Resolutions and Two Decisions (1 Oct. 2009), available at <http://www.unhcr.ch/hurricane/hurricane.nsf/0/ABE38E075BC457E7C12576420061072F?opendocument>.

¹¹⁰ *Report of the Special Rapporteur of the Commission on Human Rights on Freedom of Religion or Belief*, *supra* note 58, ¶ 41.

4. STEPS TAKEN BY THE VICTIM AND HIS FAMILY:

- i. On 4 August 2007, Mr. Hegazy filed a lawsuit (# 35647) to challenge the decision of the Civic Centre banning him from changing his religion from Islam to Christianity and his name on his identity card.
- ii. On 29 January 2008, the court declined the validity of the case based on administrative motives. Furthermore, the same court ruled that Mr. Hegazy had to pay the court expenses.
- iii. An appeal was presented immediately. The appeal is still pending before the Supreme Administrative Court.
- iv. The court ruling indicated that the case was not accepted in its structure. This allowed Mr. Hegazy to initiate another case dated 30 May 2009, which is still pending.
- v. The case is scheduled for a hearing on 16 February 2010.

Were any other steps taken? No.

Steps taken by the authorities: None.

5. IDENTITY OF THE INSTITUTION SUBMITTING THIS APPLICATION

EUROPEAN CENTRE FOR LAW AND JUSTICE (ECLJ)

Represented by its Director General, Dr. Grégor PUPPINCK

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Status: Non-Governmental Organisation with special Consultative Status with ECOSOC.

Do you act with knowledge and/or on behalf of the victims? I act on behalf of the victims.

Please state whether you want your identity to be kept confidential: No.

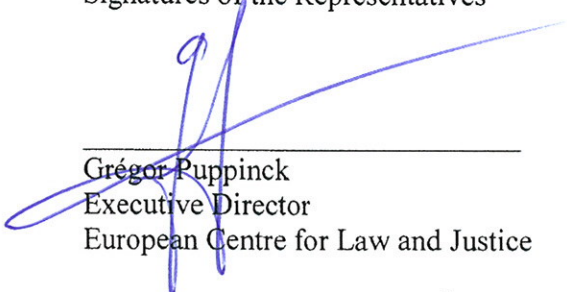
6. DOCUMENTS IN ANNEX:

1. Matrimonial contract of Mr. Hegazy.
2. Birth certificate of Mr. Hegazy.
3. Copy of Mr. Hegazy's identity card.
4. Copy of Mrs. Hegazy's identity card.
5. Back copy of Mr. Hegazy's identity card.
6. Back copy of Mrs. Hegazy's identity card.
7. Birth certificate of Mrs. Hegazy.
8. Court first decision 29/01/08 (in Arabic).
9. Appeal # L 41935 (in Arabic).


10. Administrative Court decision in the cases numbers 53717 (: 62) and 22566 ('63), *Maher Ahmad Al Muatasembellah El-Gowhary v. The President of the Arab Republic of Egypt*.
11. Supreme Court decision in the Bahai's case (in Arabic).
12. Power of attorney.

Respectfully submitted on January 22, 2010.

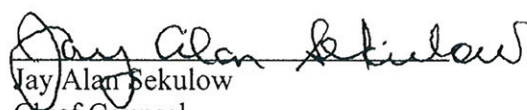
Signatures of the Representatives



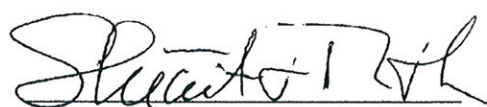
Grégor Puppink
Executive Director
European Centre for Law and Justice



Shaheryar Sher Gill
Associate Counsel
European Centre for Law and Justice



Jay Alan Sekulow
Chief Counsel
European Centre for Law and Justice



Stuart Roth
Senior Counsel
European Centre for Law and Justice