Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: AA/01104/2013

THE IMMIGRATION ACTS

Heard at Field House	**Determination Promulgated**
On 17 February 2014	**On 23 June 2014**

Before

UPPER TRIBUNAL JUDGE CRAIG

Between

MRS DINA SHAFIK LABIB ESAK

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Eaton, Counsel, instructed by B.H.T. Immigration Legal Services
For the Respondent: Mr C Avery, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant, who is a national of Egypt, born on 18 August 1963, is a Coptic Christian. She arrived in this country, together with her husband and two children,

on 9 December 2012, the family having been granted visit visas on 5 September that year.

2. Very shortly after arrival, on 11 December 2012, the appellant telephoned the respondent in order to apply for asylum and she formally applied on 27 December 2012 at the Croydon Asylum Screening Unit at which an appointment had been made. When applying for asylum, the appellant named her husband, Ashraf Thabet Labib Bibawy Tolba (born on 18 August 1963) and their two sons, Youssef Ashraf Thabet Labib (born on 9 September 1996) and Daniell Ashraf Thabet Labib Bibawy (born on 11 January 2003) as her dependants.

3. The appellant's application was refused by the respondent on 23 January 2013, and the refusal letter is dated the same day. The notice of decision and refusal letter were served on 25 January 2013. The decision included a decision to remove the appellant and her husband and two sons from the United Kingdom. This decision had the effect of invalidating their visit visas pursuant to Section 10(8) of the Immigration and Asylum Act 1999, as amended by Section 48 of the Immigration, Asylum and Nationality Act 2006.

4. The appellant (apparently without reference to the other members of her family) appealed against this decision pursuant to Section 82(1) of the Nationality, Immigration and Asylum Act 2002 and her appeal was heard at Taylor House on 8 March 2013 before First-tier Tribunal Judge Callow, but in a determination dated 24 March 2013 and promulgated shortly thereafter, Judge Callow dismissed her appeal.

5. The appellant has appealed against this decision, and was granted permission to appeal by First-tier Tribunal Judge Brunnen on 24 April 2013.

6. Subsequently, following a hearing at Field House on 19 June 2013, before Lord Burns and Upper Tribunal Judge Hanson, this Tribunal found that Judge Callow's determination had contained an error of law such that the determination must be set aside and the decision re-made.

7. Following further directions, the appeal was then relisted before this Tribunal, in order that the decision could be re-made. Although the appellant's husband and sons were named as dependants in the original asylum claim, none of them are named in the appeal documents, and they are not formally parties in this appeal.

Appellant's Case

8. The appellant's case is set out in her screening and substantive asylum interviews and also in the witness statements which she and her husband prepared in advance of the hearing before the First-tier Tribunal. It is supported by various other documents contained within the file, including expert reports. It can be briefly summarised.

9. The appellant is a practising Coptic Catholic, whilst her husband is a Coptic Orthodox Christian. Although the appellant's husband would attend the appellant's church, he would go to his own church for Holy Communion. The children belong to the appellant's church.

10. While living in Cairo, where the appellant, who is a qualified midwife, worked at a Montessori nursery and her husband worked for Telecom Egypt, they, along with other Coptic Christians, suffered discrimination on account of their religion. For example, the appellant's husband claims he was "skipped for promotion on a number of occasions" (at paragraph 11 of his statement). The appellant's husband also complains that he would be taunted and harassed by work colleagues about his religion. Egypt is a country in which the majority of the population are Muslim, but Christian Coptics account for a sizeable minority of the population, possibly about 10%, which is several million people. There are various large communities of Coptic Christians within Egypt.

11. In or about July 2012 (in the appellant's statement at paragraph 9, she refers to an incident in July 2013, but this is obviously a typographical error) the appellant was at a scouts meeting at her church with her children when a man in the street threw a bottle at the group. The appellant, who was a "servant" at the church (in which capacity she helped out at various events) decided that she would report this incident to the police, which she did, even though other servants at the church advised her not to because it was too dangerous. When she reported the incident, a police officer returned with her to the church in order to see what happened, but told her that the individual who had thrown the bottles was mentally ill.

12. Eventually, the appellant returned to the police station with her husband and one of the church leaders, who was the leader in the scouts, where the appellant said that she wished to pursue the matter. The police told her that she should withdraw the complaint, because it would cause difficulties. He told her that the police could not protect her or the church but that they should make the church secure, possibly by putting some barbed wire around its roof.

13. The following Friday, there was another scouts meeting, and the appellant's husband dropped the children off at church but when he came back to his car the car battery was missing. It had apparently been stolen. The appellant believes (although there does not appear not be any specific evidence that this is the case) that the battery had been stolen by "the Muslims that I have made complaints about" (at paragraph 24 of her statement).

14. A week later, the following Friday, the appellant was walking towards the church from her father's house, in order to collect her children, her husband having stopped the car at the top of the street, when a car across the road sped up and, according to the sponsor, nearly hit her. There were two men in the car and they told the appellant they were not going to leave her alone. Although the appellant did not recognise these men, she believed she was "being targeted". The men then drove off. The following Friday, again when the appellant was walking to the church in order

to pick up her children, somebody grabbed her hair and pulled it very hard from behind. When the appellant turned round, the man who had done this let her go and ran off. Again, the appellant believed she was being targeted. She did not believe there could be any other explanation, as there were other Christians who lived in this area and she was the one who was being singled out to be attacked.

15. The appellant says that it was at this stage that she and her husband decided to apply for a visa in order to come to the UK so that they could escape Egypt.

16. On 18 August 2012, which was the appellant's husband's birthday, the appellant went out to buy her husband a birthday cake. After she had bought the cake, she put it in a bag and went to the market in order to buy some vegetables from a van. The owner of the van snatched the bag from her, whilst she was choosing some vegetables to buy, and called her "an atheist Christian infidel". He also told her that if she did not go away he would kill her.

17. Although the appellant and her family had always suffered general harassment in Egypt because they were Christian Copts, as the appellant puts it, "things seemed to be getting much worse".

18. The appellant then decided that she would go to church again on 24 August 2012, because she wanted her children to continue being scouts, but apparently the church was attacked again on that day, even though barbed wire had been put around the roof. The appellant thinks that stones were thrown, while her husband thinks it was bricks. The appellant's husband claims that it was the same person who had thrown the glass previously who had thrown bricks on this occasion.

19. Two days after this incident, the appellant says she received a call from the priest, who told her, when she went to see him, that she and her children should not come to the church any more. The priest said that this was for her own safety, and told her she was not to complain to the priest again. The appellant says that she "had the impression" that the priest had been "instructed by someone" to tell her not to attend the church. She believes that possibly the people who had been attacking the church had demanded that she did not attend any more.

20. Following this occasion, the family stopped attending the church as a family, although her children attended church once more in order to say goodbye to the scout group. The priest had given permission for the children to attend.

21. Although the children had stopped attending church in the first week of the following school term (it had started on 15 September 2012) the appellant's son Daniell was verbally abused by a girl in his class. She told him that he could not speak to her as he was Christian and "was garbage". Although the head teacher and the social worker said they would deal with this, they did not in fact take any action.

22. Another complaint regarding Daniell is that although because he wore glasses he needed to sit at the front of the class so he could see properly, a Muslim teacher would send him to the back if he tried to sit at the front.

23. On 27 September 2012, one of the other children hit Daniell in his shoulder, but he did not see who it was because whoever it was ran away too fast. No one was willing to help him at the school, and he had to be taken to the hospital by a Christian teacher, since which time he refused to go to school.

24. The family eventually came to the UK in December and the appellant claimed asylum as already noted above.

25. Both the appellant and her husband are practising Coptic Christians and wish to continue practising their religion. However, they fear that if they return to Egypt they will not be safe wherever they are.

Respondent's Case

26. The basis of the refusal was set out in the refusal letter of 23 January 2013, and can be summarised as follows. The respondent accepted that the appellant was a Coptic Christian and although noting that she had not brought her claim for asylum on the first occasion she could and had instead used a visit visa to obtain entry clearance to the UK, nonetheless the respondent considered the claim "at its highest". The respondent was not satisfied that the incidents concerning which the appellant had complained had taken place "solely because of your religion" but in any event even though "the treatment you claim to have suffered whilst in Egypt is considered to be discrimination, and whilst it is lamentable, it is does not reach the level of severity so as to constitute persecution".

27. The respondent also considered that the appellant could internally relocate within Egypt, noting at paragraph 47 of the refusal letter that "It is noted the problems you claim to have personally faced whilst in Egypt were limited to the area around the church you attended" and that "Furthermore, it is noted that the incident that led you to claim asylum took place in August ... However you remained in Egypt until 9 December 2012." Reference is then made to the appellant's asylum interview at which "it was put to you that you could relocate to Upper Egypt or Alexandria to avoid any discrimination due to your religion, and your responded "*it is not possible, it will not work. I won't be able to have a normal life. My child is scared of Muslim people. I cannot work. I cannot go to church*"." The respondent did not accept "that if needed, you could not relocate to Upper Egypt or Alexandra or anywhere else in Egypt, particularly when you have been able to relocate to the UK".

28. Reference is then made to the background evidence then available which the respondent considered supported her contention that the appellant and her family could relocate internally within Egypt.

Determination of First-tier Tribunal

29. Essentially, Judge Callow was first of all not satisfied that the appellant and her family had suffered from "persecution". His findings in this regard are set out at paragraph 19 of his determination, as follows:

> "19. Unlike her husband, the appellant and her son were targeted in their home area. The background evidence reveals an increase in sectarian violence since the removal of President Mubarak in 2011. In his expert report Dr Tadros reveals that in 2011 revolutionary incidents sectarianism almost doubled to 70 when compared with 2010 and that up to December 2012, subject to final verification, such incidents had increased to 112. Mindful of a Christian population of about 6,000,000 - 10,000,000 people representing 8% – 12% of the population it might be said that the number of unlawful attacks on Christians is nominal. However, background evidence shows that the authorities do from time to time take action. Some have been prosecuted. Destroyed churches have been rebuilt. Whilst no effective action was taken by the police to address the appellant's complaint arising from the incident which occurred on 18 August 2012, the police did nonetheless attend the scene of the crime. In all of the circumstances Egypt is able to proved the appellant with protection to the *Horvath* standard. Mindful of the low standard [of] proof, it has not been established that the appellant has suffered from persecution."

30. Furthermore and in any event, Judge Callow considered that the appellant could relocate on return if necessary. His findings in this regard are set out at paragraph 21 of his determination as follows:

> "21. The appellant, accompanied by her husband and sons, can safely return to live in their home country. Egypt is a vast country with a large population. Even if the appellant cannot return to Cairo, she can reasonably be expected to relocate to another part of Egypt populated by Christians. It would not be unduly harsh for the appellant and her family to be returned to Egypt. She has certain qualifications and can obtain employment. Furthermore she will be assisted by the international Organisation for Migration by way of financial and practical support on being returned to Egypt."

Basis of Appeal

31. There were essentially two grounds. The first was that the judge erred by finding that there was a sufficiency of protection within Egypt, because he had failed to make reference to the expert evidence of Dr Tadros which although referred to in the determination, had not been considered. The second ground was that the judge's

conclusion that the appellant and her family could internally relocate had been made without any findings as to why it would be safe for them to relocate.

Finding of Error of Law

32. As already referred to above, at paragraph 6, following a hearing at Field House on 19 June 2013 before Lord Burns and Upper Tribunal Judge Hanson, this Tribunal found that Judge Callow's determination had contained an error of law such that the determination must be set aside and the decision remade.

33. In setting out the Tribunal's reasons for finding an error of law, Upper Tribunal Judge Hanson stated as follows:

> "...
>
> 3. Having considered the evidence and content of the determination in detail we find Judge Callow has erred in law such that the determination must be set aside, which we do, and remade for the following reasons:
>
> (i) There are no adequately reasoned findings whether what the appellant has experienced and may experience on return, is persecution. It may only amount to harassment. Clear findings are required in relation to this element which have not been made.
>
> (ii) In paragraph 19 Judge Callow finds Egypt is able to provide the appellant with protection to the Horvath standard but there is no finding they would be willing to do so to the required standard.
>
> (iii) In Osman v UK [1998] 29EHRR 245 the ECtHR found that notwithstanding systematic sufficiency of state protection in the receiving state, a claimant may still have a well-founded fear of persecution if he can show that its authorities know or ought to know of circumstances particular to his case giving rise to his fear but are unlikely to provide the additional protection his particular circumstances reasonably require. The determination fails to adequately engage with the expert evidence in relation to this aspect which stated that no provision will be made.
>
> (iv) In paragraph 21 it was found that there is an internal flight alternative. The judge erred in failing to give adequate reasons for why this is so and failed to engage with the expert report which indicates that it would not be reasonable to expect the appellant to relocate internally for the reasons given ..."

34. Following a further directions hearing, this appeal was then listed before me (a transfer order having been made) after the promulgation of the country guidance decision in *MS (Coptic Christians) Egypt CG* [2013] UKUT 611.

The Hearing

35. I heard evidence from the appellant, who gave her evidence with the assistance of an Arabic interpreter who adopted her witness statements which she had previously made. She was not cross-examined.

36. Although directions had been given for the service of a skeleton argument on behalf of the appellant, this had not been prepared, but I heard submissions on behalf of both parties, which I recorded contemporaneously. As these submissions are contained within my Record of Proceedings, I shall not set out below everything which was said to me during the course of the hearing but shall refer only to such part of the submissions as are necessary for the purposes of this determination. However, I have had regard to everything which was said to me as well as to all the documents contained within the file before reaching my decision.

37. On behalf of the appellant, at the outset Mr Eaton submitted that because it had been found in *MS* that there was no sufficiency of protection within Egypt, the critical issue was whether or not this appellant and her family could internally relocate. However, Mr Avery, on behalf of the respondent, submitted that there was still an issue as to whether or not what the appellant and her family had experienced amounted to persecution, rather than just harassment.

38. Mr Avery relied on the refusal letter. There had been developments within Egypt since this family had come to the UK, when Mohammed Morsi had been in power. Since then, he had been ousted and the military was running the country, so there was a contextual change to the background. Also, the Tribunal now had the assistance of the guidance which had been given in *MS*. Although in that case the Tribunal had found that there was inadequate state protection of Coptic Christians in Egypt, nonetheless there was also a finding that they were not at risk of general ill-treatment contrary to Article 3. In this case it was also apparent that the appellant and her family did not fall within the risk categories set out within the head note at paragraph 3. Also, even if they had, as set out at paragraph 6 of the head note, it did not necessarily follow that the appellant and her family would qualify as refugees or be entitled to subsidiary protection, but this would depend on their showing that they would not have a viable internal relocation alternative.

39. Having considered a great deal of country evidence, the Tribunal in *MS* had decided that most people would have a genuine flight option available to them. Although at paragraph 7 of the head note it was found that this did not preclude a Coptic Christian in Egypt from being able to establish a real risk of persecution or ill-treatment "in the particular circumstances of their case", it would be the respondent's submission that in this case the appellant had not established this.

40. It was the respondent's case that the evidence adduced on behalf of the appellant did not suggest that she had been the target of Islamist extremists or anything like that. Her evidence was strongly suggestive that this was a local issue, involving local individuals, rather than any organised group, and it appeared that the appellant had essentially strung together a sequence of unrelated incidents which appeared to her

to be part of a pattern but in reality there was no evidence to show that this was the case.

41. The trigger for the appellant's difficulties at the church appeared to be where a lone individual had thrown bottles. The police did talk to the individual concerned, although they had not been keen to press charges. The country guidance did suggest that there were difficulties because of a lack of protection. However, that was the incident which appeared to have triggered the appellant's difficulties.

42. There were a number of incidents which the appellant related in her evidence which she has attributed as being part of organised action against her, but these incidents were not attributable to that at all. There was an incident when she went to buy vegetables, when she says she was shouted at by the person selling vegetables and accused of being "an infidel". There was no evidence that this incident was related to the other incidents; the theft of a battery of the family car was also referred to, but it is difficult to see how that could be related to a pattern of action against the family either.

43. The appellant's son experienced some difficulties at school; again there was no evidence that this was related to or formed part of organised activity against the family. While it was accepted that this may be evidence of prejudice against the Coptic community in general, this was not part of any organised activity against her or her family and also was not persecutory.

44. Although the appellant did have her hair pulled when in the locality, it was not clear what this was about.

45. None of these incidents were suggestive of attacks specifically targeted at this family but would be consistent with harassment of the Coptic community in general rather than evidence of persecution. There was no real evidence that any organised group of Islamist extremists were responsible. There had not been mass demonstrations against the family and no one had been round to the house.

46. It may be that friends of the individual involved in the bottle throwing incident were upset that the appellant had tried to bring proceedings against him, but although the evidence might suggest that, that was the highest her case could be put.

47. There were two expert reports produced for this case. The first was for the original hearing, but the difficulty with that report is that the context is now different. That report also had not been particularly helpful. It was very generalised, but there was a suggestion at page 9 that the fact that the appellant and her family had been in the UK might itself make them vulnerable to attack on return. There is, however, no suggestion within *MS* that this is so, and so this speculative suggestion was not supported by any evidence. The country guidance did not support this suggestion with regard to the position of Copts in Egypt.

48. There was another report from Dr George, who gives his answers to various questions which he was asked. However, this report was prepared in June 2013

which was before Morsi was ousted (on 3 July 2013) and there was no addendum dealing with developments since then. At paragraph 100, in answer to a specific question he was asked, he says that the family testimony was that they had been targeted by extreme Muslims. However, there was no evidence that this was so.

49. It was also the case (and Mr Eaton accepted that this was the position) that there was no evidence that this appellant was a proselytising Christian.

50. At paragraph 105, with regard to the issue of relocation, Dr George made his recommendations on the basis that it had not been known whether the people who targeted the family were local or belonged to a wider group. He says that relocation would be more of an option for people targeted by a local group so he could not express a view. However, it was the respondent's case that there was no evidence at all that the appellant and her family had been targeted by any group, let alone one that was not local.

51. Although Dr George seemed to take the view that Copts could be at risk throughout Europe, this was a general comment and we now have the country guidance which was given in *MS*.

52. Summing up, therefore, (1) there was no evidence of any sustained pattern of activity against this family in particular and (2) there was no evidence either that "a group" of Islamist extremists were targeting this family. What they had suffered essentially was no more than discrimination.

53. In that context, even if they would experience local difficulties on return, there was no reason why this family could not relocate.

54. Although the appellant had expressed his concerns about obtaining access to any church elsewhere in Egypt because of the potential attitude of local clergy, this was entirely speculative and had no real foundation in evidence.

55. It was the respondent's case that the appellant and her family would not be at risk in their home area, but even if they were, relocation elsewhere in Cairo would be possible and in any event there were other areas with large Coptic communities, for example Alexandria and southern Egypt. Egypt was a large country with a large population. Clearly the new government would be likely to crack down on the type of people who would carry out any attacks and the background evidence suggested that there had been a number of arrests following the backlash after the fall of Morsi.

Submissions on behalf of the Appellant

56. Mr Eaton began by reminding the Tribunal that the appellants in *MS* had been found to be completely incredible in their accounts and that in that case the Tribunal had therefore been considering the risk to Coptic Christians in general, rather than

specific cases. The Tribunal (as made clear at head note paragraph 7) did not preclude findings in individual cases that an applicant could be at risk.

57. In answer to a question from the Tribunal, Mr Eaton accepted that first the appellant would have to show that there was a risk locally to herself and to her family and secondly, that what happened in 2012 were more than just random unrelated incidents.

58. What was considered in *MS* (with particular reference to paragraph 133-136) was whether there had been a significant change of circumstances since Morsi had gone. It was quite clear that the Tribunal's position in that case was that at best all the change there was likely to be was that there would be a decrease in the level of hostility coming from the highest quarters, from out of government, and the military was unlikely to get itself involved in persecuting Coptic Christians.

59. The Tribunal acknowledged at paragraph 135 that there continued to be widespread support for Islamist parties and groups and accepted that it had always been these groups which had targeted Coptic Christians.

60. Mr Eaton also suggested that this Tribunal should consider some evidence which post-dated the evidence considered in *MS*, which would suggest that the change of government had not made a significant difference. He also referred to the last sentence of paragraph 135 to the effect that people were more concerned with the economy and religious issues were put to one side. In other words, protecting the Coptic community was not likely to be a priority for this government.

61. In summary, the Tribunal was saying it was unlikely that there would be state sanctioned persecution of Copts, but there was unlikely to be an increase in the sufficiency of protection.

62. Referring to the new evidence, Mr Eaton referred to the documents contained at tab A of his new bundle from pages 74 to 91, which related to incidents which had occurred since September 2013, post *MS*. Obviously, the country guidance decision must be followed, but this evidence showed that similar problems were continuing.

63. In answer to a question from the Tribunal as to whether or not it was accepted that this evidence showed that although Copts have a difficult time and are not always protected, it still failed to demonstrate that they were persecuted per se, Mr Eaton responded that the appellant had always accepted that she did not know exactly who had been behind the incidents. However, a number of conclusions could be drawn. Mr Eaton would suggest that the difficulties were more serious than the respondent believed and that it was quite clear that the police had threatened her, because at paragraph 34 of her statement she had referred to having been warned by the priest in the church not to return, this was suggestive of the family being targeted. Clearly the priest took the situation seriously. The church was attacked again after the first incident. It therefore seemed that the priest must have thought that the serious incident when the church was attacked (referred to at paragraph 37) was connected to this family. The affront was that it was this appellant who had been the one to

complain. The police had said that someone cannot complain in this way and had threatened her, and as a consequence she was individually targeted, because she had had the nerve to stand up to them. This was important because it indicated that she could be at risk in her home area, which is why her priest had told her not to come to church any more.

64. Moving on to internal relocation, Mr Eaton suggested that there continued to be a likelihood of risk elsewhere in the country. The appellant had had the affront to stand up to people who had been attacking her and this also raised an *HJ (Iran)* point. She was someone who wanted to stand up for herself. If she was prepared to do this and continued to act in the same way, she would be at risk. In answer to a question from the Tribunal as to whether there was any evidence that someone would be at risk purely because she asserted her rights to practise her religion as a Coptic Christian, Mr Eaton accepted that he could not point to specific evidence that this was so. However, he still submitted that she would be likely to be targeted elsewhere because of what she had already done and also that because she was an assertive person, likely to behave in the same way in the future, she might continue to attract similar problems. Also, another group in another area might have knowledge of the problems she had had in Cairo.

65. In answer to a further question from the Tribunal, as to whether there was evidence that someone who moves to a new area would be at risk because he or she was assertive of his or her rights to practise her religion but without proselytising, Mr Eaton replied that Dr George at paragraph 107 of his report had said that it was difficult to live anonymously.

66. He could not however point to any evidence that showed that she would be known to anyone other than a local group.

67. In answer to a further question from the Tribunal as to why anyone would be interested in this appellant if she moved to another area within Egypt, Mr Eaton suggested that she had done something which was an affront, sufficient for the priest to ask her not to come to church, and "we do not know how well connected" the people who had objected to her were. It was impossible just to ship the family into a local area without making waves, because the police were unsympathetic, to say the least. If the person in Cairo wanted to find this family and were still interested, Mr Eaton would suggest that he could do so, and she is not someone who would want to go into hiding.

68. The only other point Mr Eaton wished to make was in regard to paragraph 10 of the appellant's new statement, where she expressed her belief, following the reaction of her local church, that were she to seek to attend elsewhere, she would find a similar reaction and would be refused admission because of the trouble she might bring. It seemed the local Coptic communities were looking after their own rather than the Coptic community at large.

69. Although Mr Eaton accepted that the Tribunal effectively was saying in *MS* that although there was a level of harassment and discrimination faced by all Copts at the moment (see paragraphs 124-126) this did not generally reach the threshold of amounting to persecution, and this was supported by Dr George at paragraph 106 of his report, nonetheless it would be unduly harsh to require this appellant to relocate. It would be unduly harsh to make someone go to a place where although they would not be persecuted, they would be discriminated against and possibly harassed. In these circumstances, it would be unduly harsh to require this appellant to relocate, because she would be likely to suffer from potential discrimination and harassment in a new area, and she would also face the additional problem (as highlighted by Dr Tadros in his report, at page 32, tab C), that she would be perceived as having come back from the west. In other words, if it could be shown that this appellant had been persecuted in her home area, then it would be unduly harsh to require her to locate to a place where she and her family would be harassed and discriminated against, even if not persecuted. However, other than relying on *Janusi*, which refers to the right of applicants to have a reasonable life, Mr Eaton could not rely on any authority in support of this proposition.

Discussion

70. The starting point for this Tribunal has to be the guidance given in *MS,* which is set out in the headnote as follows:

"*Law*

In relation to a country which is in a state of emergency affecting the life of the nation and which takes measures strictly required by the exigencies of the situation, its ability to afford adequacy of protection under Directive 2004/83/EC (the Qualification Directive) is to be assessed by reference to its general securement of non-derogable rights as set out in the ECHR.

Country guidance

1. *Notwithstanding that there is inadequate state protection of Coptic Christians in Egypt, they are not at a general risk of persecution or ill-treatment contrary to Article 3, ECHR.*

2. *However, on current evidence there are some areas where Coptic Christians will face a real risk of persecution or ill-treatment contrary to Article 3. In general these will be (a) areas outside the large cities; (b) where radical Islamists have a strong foothold; and (c) there have been recent attacks on Coptic Christians or their churches, businesses or properties.*

3. *On the evidence before the Upper Tribunal, the following are particular risk categories in the sense that those falling within them will generally be able to show a real risk of persecution or treatment contrary to Article 3, at least in their home area:*

(i) converts to Coptic Christianity;
(ii) persons who are involved in construction or reconstruction/repair of churches that have been the target for an attack or attacks;
(iii) those accused of proselytising where the accusation is serious and not casual;
(iv) those accused of being physically or emotionally involved with a Muslim woman, where the accusation is made seriously and not casually.

4. *Coptic Christian women in Egypt are not in general at real risk of persecution or ill-treatment, although they face difficulties additional to other women, in the form of sometimes being the target of disappearances, forced abduction and forced conversion.*

5. *However, depending on the particular circumstances of the case, Coptic Christian women in Egypt aged between 14-25 years who lack a male protector, may be at such risk.*

6. *If a claimant is able to establish that in their home area they fall within one or more of the risk categories identified in 3 (i)-(iv) above or that they come from an area where the local Coptic population faces a real risk of persecution, it will not necessarily follow that they qualify as refugees or as beneficiaries of subsidiary protection or Article 3 ECHR protection. That will depend on whether they can show they would not have a viable internal relocation alternative. In such cases there will be need for a fact-specific assessment but, in general terms, resettlement in an area where Islamists are not strong would appear to be a viable option.*

7. *None of the above necessarily precludes a Coptic Christian in Egypt from being able to establish a real risk of persecution or ill-treatment in the particular circumstances of their case, e.g. if such an individual has been the target of attacks because he or she is a Coptic Christian."*

71. As Mr Eaton acknowledged, the appellant would first have to show that she would be at risk on return in her local home area. Notwithstanding the (very limited) further material submitted on behalf of the appellant and contained in the new bundle, this is not in my judgement sufficient to allow this Tribunal not to follow the guidance given at paragraph 1 of the head note that in general Coptic Christians are not "at general risk of persecution or ill-treatment contrary to Article 3". It is also clear on the evidence before the Tribunal that the appellant and her family do not fall within the particular risk categories set out within paragraph 3 of the head note. They are not converts to Coptic Christianity, they are not involved in construction or reconstruction/repair of churches which have previously been the target of an attack, and as Mr Eaton has acknowledged, there is no evidence that this family has been or intends to become engaged in proselytising. Nor have any of this family been accused of having any involvement with a Muslim woman.

72. Mr Eaton relies primarily on the guidance which is summarised at paragraph 7 of the headnote in *MS,* and argues that this appellant can establish a real risk of persecution or ill-treatment in the particular circumstances of her case because she has been the target of attacks because she is a Coptic Christian. He submits that the incidents that occurred in 2012 are "more than just random unrelated incidents".

73. In my judgement, the appellant has failed to establish this. I accept to the standard of proof necessary (which is the lower standard of proof, that is whether this is reasonably likely to have occurred) that the incidents to which the appellant has referred in her statement took place, but these incidents occurred against a general background, as referred to within *MS*, of an insufficiency of state protection with regard to attacks on Coptic Christians (see paragraph 123 of *MS*), and as the Tribunal found (at paragraph 124 of *MS*) attacks and discrimination against Coptic Christians are, sadly, nothing new. The Tribunal also noted at paragraph 126, that "discrimination is prevalent in many areas of society" and that "Copts are significantly underrepresented in Egypt's military, judiciary, diplomatic corps, academia and almost all electoral bodies". It is therefore, sadly, unsurprising that this appellant and her family have been subject to incidents of harassment, but it by no means follows that these incidents are sufficiently related to amount to a targeted campaign of harassment against them.

74. Even if it was arguable that this appellant would be at risk on return to her home area (which, as I have already found, I do not accept) there would nonetheless be an internal relocation option available to her. Although Mr Eaton submits that it would be unduly harsh to require this family to relocate to another area where they might be subject to harassment and discrimination, although passably not persecution as such, he accepted that other than general reliance on *Janusi*, he was unable to refer the Tribunal to any authority supporting this proposition. If this submission had substance, it would follow that internal relocation could never be considered in circumstances where although an applicant would not suffer from persecution in the new location, he or she might still suffer harassment or discrimination. In the absence of express authority that this is so, I do not consider this proposition to be arguable.

75. The highest that Mr Eaton was able to put the case of the appellant and her family was that because she had been warned by the priest in her church not to return, this would suggest that her family was being specifically targeted, because he must have taken the situation sufficiently seriously to request the appellant not to return to the church. However, I do not consider that this would follow at all. There was a localised incident which occurred at the church, and the fact that the priest wanted to avoid further trouble by excluding the appellant does not indicate any more than he was worried that in the immediate aftermath of the original incident, her presence might invite further attacks from that local person or local persons who had been involved before. There is not, in my judgement, any evidence at all of a concerted campaign against this family, let alone any involvement of anyone outside the immediate locality.

76. It is also argued on behalf of the appellant that because she is a person who is prepared to stand up and be counted when she or her church is attacked, that would put her at risk, but such a proposition does not find support from the guidance given within *MS.* When asked by the Tribunal as to whether he could point to any evidence that a Coptic Christian in Egypt would be at risk because he or she was a person prepared to assert her rights, Mr Eaton agreed that he could not point to any

specific evidence, but maintained as a general proposition that this appellant was still likely to be targeted elsewhere because of what she had already done and because she was assertive. She was likely to continue to behave in the same way and this would attract similar problems.

77. Although Mr Eaton referred to Dr George's view that it would be difficult for a Coptic Christian to live anonymously (at para 107 of his report), I note that he also stated at para 105 that it was difficult to say what connections or at what level the people who were said to have targeted the appellant had. It also does not follow that because she would be known within the Coptic community anyone would know her outside that community. It is difficult in those circumstances to see how it can realistically be argued that she will come to the attention of anyone outside the group of Coptic Christians present in the area to which she relocated and certainly not on the basis of having had local difficulties in the past as described in her witness statements.

78. Mr Eaton also submitted that it seemed that local Coptic communities were looking after their own rather than the Coptic community in general, but I find this an unattractive argument. It amounts effectively to an argument that a Coptic Christian should not be returned to Egypt because the Coptic Church cannot be relied upon to look after members of its own flock, but other than the evidence that in the appellant's specific case she was asked not to return to the church by her priest, there is no other evidence to support this proposition. It is also unsupported within the guidance given in *MS*.

79. Accordingly therefore my findings can be summarised as follows. First, the appellant and her family would not be at risk of persecution (or serious harm for a non-convention reason) on return to their home area but secondly, even if they were, they could safely relocate to other parts of Egypt where there are large Coptic Christian communities, and it would not be unduly harsh to require them to do so.

80. It follows that this appeal must be dismissed and I will so find.

Decision

I set aside the determination of the First-tier Tribunal as containing a material error of law, and substitute the following decision:

This appeal is dismissed, on all grounds.

Signed: Date: 30 May 2014

Upper Tribunal Judge Craig