

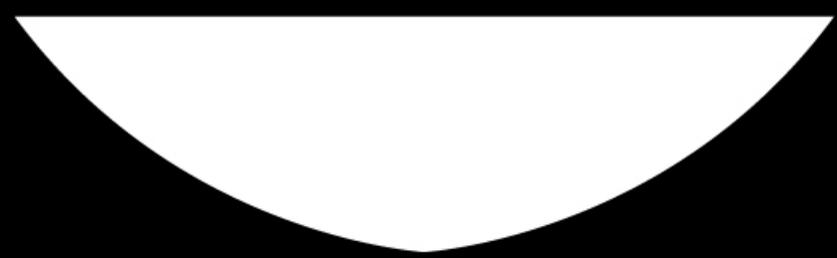


Egyptian Initiative
for Personal Rights



Besieging Freedom of Thought

Defamation of religion cases in two years of the revolution



Besieging Freedom of Thought: Defamation of religion cases in two years of the revolution

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Abstract

Freedom was at the forefront of demands of the revolution of 25 January 2011. In the name of freedom, millions of Egyptians took to the streets aspiring to create a new history on the ruins of years of dictatorship and violations of the rights and liberties of citizens. During their great uprising that astonished the world, Egyptians never imagined that only a short time after they had broken the barrier of fear, rights would again be on the retreat as freedom of expression and belief are put to the test under a ruling elite that sees itself as the custodian of society and state and as politicians urge the abandonment of liberty won by citizens' struggle.

There have been increasing attacks on citizens with minority views and others who tried to express an opinion on controversial religious issues. Accusations of defamation of religion began to be heard as several parties crowded the scene, some of them seeking political, social or even financial gain at the expense of rights and liberties. As a result of these interventions, tension and violence increased, and trials on defamation charges became more frequent, constituting a direct threat to religious liberties and a clear violation of freedom of opinion and expression.

This report documents 36 cases of civic tension and judicial prosecutions in 2011 and 2012, a large number that indicates the magnitude of the challenge facing freedom of expression, particularly freedom of religion and belief.

The report looks at cases involving defamation of religion charges of which the lead researcher has direct knowledge¹ through contacts and interviews, and monitoring the course of legal action. The researcher has obtained copies of all documents pertaining to these cases and the related investigations. This is in addition to field documentation of several instances of tension and violence related to defamation cases. The report excludes cases in which complaints were filed to the public prosecutor, but no action was taken.

1- Not all defamation cases are made public; some are resolved by means of customary reconciliation, particularly in areas far from the capital and major cities.

We hope this report will be read with a vigilant eye and serve as an alarm for state officials and all Egyptians. In particular, we highlight the danger of citizens, acting to “protect religion” taking actions that restrict the wellspring of all liberties—the freedom of expression, belief and inquiry—based on overly broad claims of protecting the sanctity of religion from any encroachment. In this context, we also point to a dangerous conservative cultural hegemony. Persons accused of defamation lack even the simplest forms of popular support for their basic rights; even political forces that make freedom of expression a priority fail to show solidarity with victims of such charges due to the sensitivity of the issues and the fear that they may face the same accusation.

The report begins by looking at defamation and similar cases in the years leading up to the revolution—years marked by the confiscation of creative works with the goal of circumscribing freedom of expression. This section looks at writers and thinkers who were prosecuted and religious figures who issued “fatwas” declaring persons they believed to have overstepped the bounds of the acceptable to be unbelievers. In practice, this endangered the lives of these citizens who insisted on their right to expression. This section also describes security harassment of Egyptian Shia, Quranists, Ahmadis and others, which took the form of arrest and unlawful detention and travel bans simply because their beliefs diverged from those of the Sunni Muslim majority.

The report next describes the situation in the two years after the January revolution using data on defamation cases documented by the EIPR. It compares the judicial and security actions that preceded the revolution with the types of action that followed it to identify salient new developments, pinpointing four new features of defamation charges and cases after the revolution.

The first feature is an increasing tendency by non-official social actors to engage in harassment aimed at curbing freedom of opinion, belief and expression. In most of these cases, the victims were regular citizens, not well-known public figures, in contrast with the past two decades. This harassment was not aimed solely at minorities and the adherents of non-majority religious confessions. On the contrary, often the victims of such charges were Sunni Muslims, the same sect of official Egyptian religious institutions. Most instances of harassment followed a fight or argument that touched on opinions or beliefs, published on social media. These cases tended to follow one of two courses:

1. Persecution and assault, common in governorates of Upper Egypt: the property of the person accused of defamation might be attacked and he and his family forced to leave town. His right to a fair trial is impeded by the crowds surrounding the courthouse and prosecutor’s office during his interrogation and trial, which ends with his conviction.

2. Legal action: typically Islamist lawyers file complaints with the public prosecutor and file direct suit against public figures, writers and artists. The vagueness of the law permits them to level broad accusations. Given the partisan and sectarian incitement that often accompanies these complaints, the public prosecutor takes rapid action to question the suspect and the complainants and open an investigation.

The second feature of attempts to curb freedom of belief and expression after the revolution is the near complete failure of state agencies to offer adequate protection to victims of these allegations—what the report calls “failure tinged with bigotry.” As the police failed to protect citizens and prevent attacks on their property, administrative and executive interventions ensured biased, prejudicial sanctions prior to any diligent investigation, regardless of the findings.

The third prevalent feature is related to the roles of religious institutions and the forces of political Islam, whose conduct in most cases was part of the problem rather than the solution. They alternately demanded wholesale censorship of media outlets and social media and the confiscation of certain creative works, filed complaints against public figures and regular citizens or mobilized their supporters to set siege to courts where defamation cases were being heard, with the goal of influencing the judges and their decision.

The fourth and final feature is related to the role of judges, who tend to adopt the most conservative interpretation of legal provisions regulating such cases and lean toward the restriction of freedom of belief and expression, although the legal provisions are extremely vague and broad.

The report identifies the rights that have been breached—first and foremost the right to freedom of religion, belief, opinion and expression, and creative freedom and the right to a fair trial—and concludes with several recommendations for specific government and social institutions. The analytical section is followed by a documentation of the defamation cases, the chain of events and their consequences, to inform the public of the worrying scope of the phenomenon. In this documentary section, we relied on the help of other researchers for details and additional facts.

A close reading of cases in Egypt over the last two years demonstrates the risk to freedom of opinion and expression from individuals and institutions that wish to act as citizens’ guardians, at times by determining what they can read or write and at other times by persecuting them and attempting to imprison them, as illustrated by several cases filed against writers, intellectuals and bloggers, as well as the young people currently serving prison sentences simply because they received comments on their social media accounts that some considered blasphemous and had no institutional or union protection. At the same time, the conduct of government bodies

was extremely conservative—at times militantly so—which led them to make concessions that curtailed freedom of expression, criminalized it or imposed more restrictions on opinion, as seen when university and education officials punished faculty simply because students or their parents objected to classroom content, thus allowing any extremist person or group to protest against ideas that do not conform to their own opinions.

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Where is the freedom in the revolution for freedom?

The state of religious freedom prior to the January revolution was not ideal. Egypt witnessed the harassment and prosecution of several intellectuals due to their ideas and religious opinions, as well as ordinary citizens because of their opinions or beliefs.

Before the revolution: security and judicial harassment

Over the last two decades, intellectuals and activists faced prosecution and citizen harassment because they differed with what some considered to be facts necessarily known from Islam, and this in a climate generally characterized by curbs on freedom of expression. This harassment took several forms, including physical attacks and assassination, as in the case of intellectual Farag Fouda and novelist Naguib Mahfouz, as well as lawsuits brought by private citizens, the most prominent victims being Dr. Nasr Hamed Abu Zeid and blogger Karim Amer.² In addition to or parallel with legal action, demonstrations and other actions were used to pressure state institutions, best illustrated by the demonstrations urging the confiscation of various works of art, such as the novel *A Banquet for Seaweed* and the film “I Love the Cinema.”

Egyptian citizens who did not belong to majority religion or confession, including Shia, Ahmadis, Quranists and others, faced various types of security harassment, as well as detention without trial, unlawful detention and administrative travel bans. In some cases, interrogators questioned detainees about their religious beliefs, opinions and religious practice, a process that typically ended with charges of religious defamation, the propagation of ideas contrary to Islamic law and insulting Islamic symbols.³

2- For more information, see Gaber Asfour, *Didd al-ta'assub*, GEBO, 2000, and *Freedom of Religion and Belief Report*, Arabic Network for Human Rights, 2008.

3- EIPR was a party in many of these cases, acting as a legal representative for defendants from religious minorities; EIPR lawyers were thus present in proceedings before investigating bodies.

Defamation of Religion after the 25 January revolution

Tension, violence and trials associated with religious defamation cases increased markedly and worryingly after the January revolution, constituting a direct threat to religious liberties and a flagrant violation of freedom of opinion and expression. Violence often ensued and Egyptians faced collective punishment from their fellow citizens simply for expressing their beliefs.

The EIPR documented 36 cases from the beginning of the revolution through the end of 2012 in which citizens' liberties and rights to belief and expression were violated in various ways. This list includes cases in which complaints were filed with the security apparatus and investigating bodies, action was taken to question the suspect or charges were filed and defendants prosecuted. Some cases involved more than one defendant. Two cases were brought against eight defendants each.

Overall, 63 citizens were accused of religious defamation and faced customary and/or legal sanctions. One case was filed against a corporation, when a citizen filed a suit with the Court of Administrative Justice against Google for failing to block a film deemed to have defamed Mohamed, the prophet of Islam, and asked that the court issue an order blocking YouTube. It was difficult to document the total number of persons punished in connection with defamation allegations. In one case, an entire family of 21 people was forcibly displaced and their property attacked after one of their members was accused of defaming a Salafi sheikh.

Everyone is a target for defamation charges

Despite prevailing opinion, security and legal actions due to religious defamation did not target solely Egyptians belonging to religious and confessional minorities, such as Christians and Shia. On the contrary, the last two years saw Sunni citizens charged with defamation for ideas and beliefs that are not accepted by other citizens, as disagreements about ideas were hashed out in police stations and courtrooms.

Figure 1 shows the religious affiliation of those accused of defamation by individuals and the investigating authorities: 26 of 63 were Christians, or 41.2 percent, who were involved in 19 cases, while 58.7 percent were Muslims, classified as follows:

- 26 Sunni Muslims, or more than 70 percent. Although in some cases these citizens were accused of propagating Shi'ism, they affirmed that they were Sunni Muslims.
- Ten Shia Muslims who faced harassment and trials because of their religious beliefs, or 27 percent of the Muslims accused.

- One Ahmadi from the governorate of Sohag who was transferred from a teaching to an administrative post due to his religious beliefs.

In the cases documented by the EIPR, there was one involving the defamation of Christianity: the Public Prosecution brought three Muslims to trial, among them Ahmed Abdullah, known as Sheikh Abu Islam, alleging that they had defaced and desecrated a particular community's sanctities and publicly traduced with word and deed a revealed religion whose rites are performed publicly, after defacing a bible during the wave of protests that following a film that defamed the prophet.

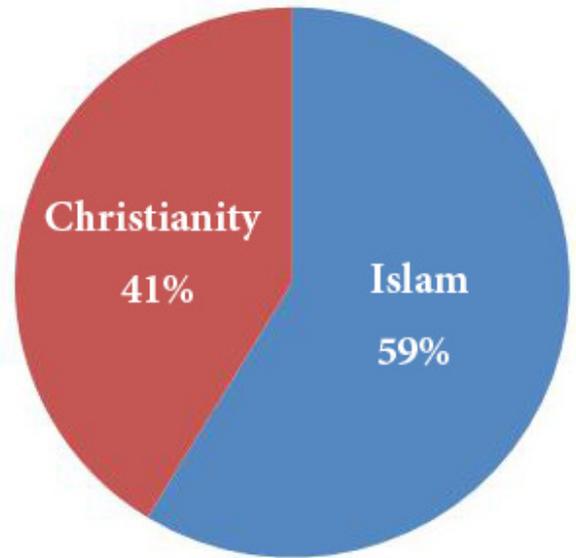


Figure 1: Religious affiliation of defendants

A total of 60 people in 35 cases were accused of defaming or blaspheming Islam, showing contempt for its adherents and orally propagating extremist ideas with intent to inflame civil strife. Six of them were charged with propagating Shia thought, although they said they were Sunni Muslims. Notably, some of these cases began as ordinary discussions of a religious idea or in the course of answering a question in a classroom before devolving into a religious debate or inquisition or an administrative complaint that ended with administrative and judicial sanctions.

Excluding eight defendants connected to the defamatory film who live abroad and eight Shia non-nationals who were deported for violating the conditions of their residence, the 47 remaining persons are grouped according to their profession in Figure 2 as follows:

- 19 work in education, or 40.4 percent of the total, including eight who work in the Ministry of Education (five teachers, one principal, one secretary and one activity director), three university professors and eight students at various levels (five at university, three in schools).⁴
- Eight working in the press, printing and publishing (three as journalists, three as writers, a cartoonist and a publisher).
- Six working in cinema and drama, defendants in two different cases filed by the same plaintiff accusing

⁴- This high percentage of educators raises questions about developments in educational institutions in the past decades, the nature of mainstream educational culture, and whether this culture fostered tolerance, pluralism and diversity in educational institutions at various levels. By highlighting this indicator, the EIPR urges interested researchers to examine the reasons for it and explore how to create an alternative, inclusive educational culture.

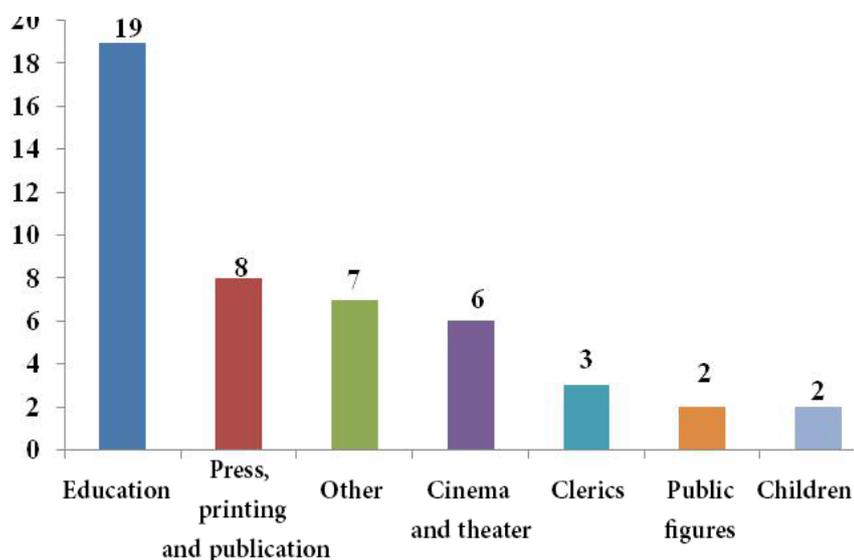


Figure 2: Professional affiliations of defendants

them of defaming Islam and its religious symbols in their artistic works.

- Three clerics, all in connection with the defamatory film: Pastor Terry Jones (US), Father Morqos Aziz and Sheikh Abu Islam.
- Two public figures: Dr. Yehya al-Gamal, who was the deputy prime minister when a complaint was filed against him accusing him of defaming the divinity

during a television interview, was summoned to give a statement by the prosecution; al-Gamal apologized for the misunderstanding his words caused and he was released. Three separate suits were filed against businessman Nagib Sawirus after he posted a cartoon that some religious forces considered defamatory to Islam.

- Two children who do not read and write and were not enrolled in school.
- Seven citizens working in various professions.

Sites of tension

The governorates of Upper Egypt saw the most cases of blasphemy and defamation of Islam, with more cases in northern Upper Egypt than the south, as illustrated by Figure 3.

All defendants in cases in the governorates of northern Upper Egypt (Beni Soueif, Minya and Assyout) were Christians, and the allegations against them were accompanied by attacks and the collective punishment of Christians in the area.

In the governorates of southern Upper Egypt (Sohag and Qena), defendants were Christians and Muslims, with the latter including Sunnis, Shia and Ahmadis. The tribal structure in these areas, which often constitutes a parallel authority, offered a form of protection to defendants' property, even Christians, according to the statements of several eyewitnesses.

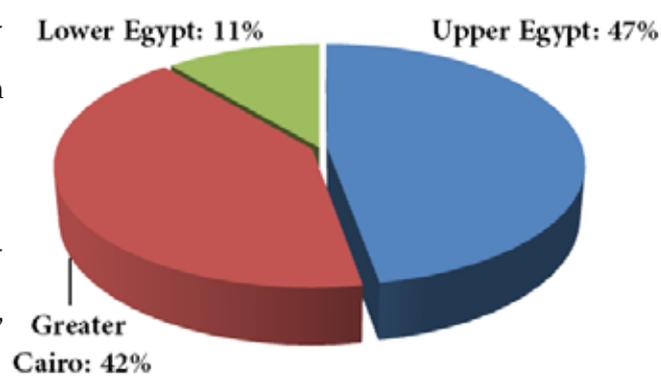


Figure 3: Location of cases

Table 1: Governorates as sites of defamation cases based on the human development index⁵

Governorate	Number of the defamation cases	Human Development Index	H.D.I. Ranking
Asyut	5	0.681	21
Sohag	4	0.685	19
Al-Menia	3	0.682	20
Bani-Sweif	2	0.697	18
Kena	2	0.699	17
Aswan	1	0.730	8

Cairo witnessed 11 cases, while four cases were seen in neighboring Giza, bringing the total of cases in Greater Cairo to 15, or 41.6 percent of the total, divided as follows:

1. A group of lawyers, mostly Islamists, filed complaints with the public prosecutor or petitions with the Court of Administrative Justice, or directly raised a misdemeanor case against artists and thinkers. The report documents two cases filed against businessman Naguib Sawirus after he published a cartoon on his Facebook page that some considered defamatory to Islamic mores, specifically the beard and the face veil. Similarly, two cases were filed against actor Adel Imam citing his complete works. Another case was filed against cartoonist Mustafa Hussein and writer Ahmed Ragab for a cartoon published in Akhbar al-Yom. Yehya al-Gamal was questioned in connection with a complaint alleging that he defamed the divinity, and the Court of Administrative Justice heard a petition to revoke the State Appreciation Prize from intellectuals Sayyed al-Qimni and Hassan Hanafi. Finally, a case was filed seeking to block YouTube due to the defamatory film about the prophet.

2. In the protests that followed the defamatory film, lawyers filed several complaints demanding the prosecution of the film's producers and distributors. Seven Egyptians and one American were ultimately tried for producing and distributing the film. Against the background of this case, blogger Albert Saber was arrested after local citizens surrounded his house, accusing him of promoting the film on his Facebook page; Saber was tried on charges of religious defamation. The Public Prosecution also referred three people to trial on charges of defaming Christianity after Sheikh Abu Islam and his son defaced a copy of the bible and defamed Christianity while taking part in a protest in front of the US embassy in response to the film. While this report was

5- Again, this data raises questions about the significance of this phenomenon in southern Egypt. The appended table indicates that these governorates trail the list in terms of HDI. These same governorates were also the theater for clashes between the state and armed Islamist groups in the 1990s. Do these conflicts continue to cast their shadow over culture and politics in Upper Egypt to this day? Is there a correlation between low HDI values and the persecution of citizens for their religious beliefs? The EIPR raises these questions for researchers in sociology and politics and hopes they will spark a broader conversation in the future that can produce recommendations to resolve these problems.

being written, the Nasr City Misdemeanor Court sentenced Abu Islam to 11 years in prison (suspended) and fined him LE3,000, and sentenced his son to eight years in prison (suspended) with a bail of LE2,000. The security bodies in Giza asked the family of an émigré Copt to leave their home fearing for the lives after rumors circulated that they were involved in promoting the film.

The governorates of Beheira, Sharqiya, Menoufiya and Gharbiya each saw one case. With the exception of the Menoufiya case, which was a misdemeanor suit filed against Naguib Sawirus for the same cartoon mentioned above, the cases all involved Muslim citizens. In one, a Shia citizen in Gharbiya was tried for praying in the village mosque; in the second, a teacher accused of proselytizing Shi'ism was transferred to an administrative position; and in the third, a young man and woman were accused by the girl's family of holding ideas alien to Islam.

Political polarization: part of the problem

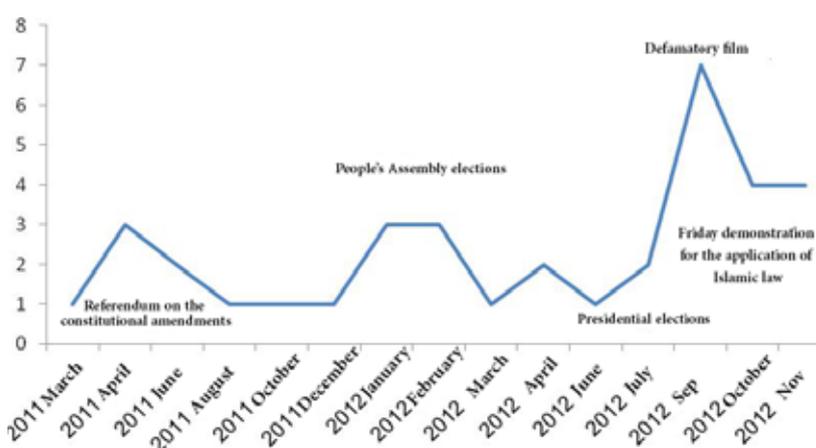


Figure 4 tracks religious defamation cases and political events of the first two years of the revolution, showing that the frequency of cases spikes in tandem with certain events and demonstrating that the climate of political and religious polarization during the transitional phase played a role in stoking tensions and fostering security and judicial harassment.

Figure 4: Defamation cases and major political events in first two years of the revolution

The highest point came in September 2012, followed by October and November of the same year. This coincides with the release of a trailer of the film deemed defamatory to the prophet Mohamed and the angry Islamist demonstrations in front of the US embassy, called by several parties, among them the Muslim Brotherhood-affiliated Freedom and Justice and Party and the Salafi Nour Party, following the film's release on YouTube.

The period of January, February and April 2012 was the second highest point in terms of the number of cases. This period saw the third phase of the People's Assembly elections and both rounds of the Shura Council elections. The elections were the occasion for several worrying violations, not only the heavy use of religious slogans in campaigning, but even the persecution of those holding non-mainstream beliefs. A group of teachers

in the governorate of Qena attempted to assault a Shia teacher after his brother filed for candidacy in the Shura Council elections running against a candidate from an Islamist party. In the same governorate, Christians in the town of al-Rahmaniya in the district of Nagaa Hamadi were prevented from voting because they supported a candidate previously with the dissolved National Democratic Party and opposed the Gama'a al-Islamiya candidate. Two weeks later, sectarian clashes erupted in the village when a Christian barber defaced a copy of the Quran. A member of the People's Assembly for the Salafi Asala Party filed a complaint against the deputy prime minister with the Public Prosecution and also brought a misdemeanor suit against businessman Naguib Sawirus after the latter supported the Egyptian Bloc, an electoral coalition made up of civil parties.

Four cases coincided with the referendum on the constitutional amendments in March 2011. Religion was heavily used in campaigning, as mosques and churches were mobilized to sway the electorate. Islamist movements, most significantly the Muslim Brotherhood, the Gama'a al-Islamiya and Salafi groups, urged their supporters to vote for the amendments, ostensibly to save Article 2 of the constitution, which was not up for amendment, while many Copts mobilized for a no vote.

The period between the first round of presidential elections and the runoff between Mohamed Morsi, the FJP candidate supported by other Islamist groups, and Ahmed Shafiq, the last prime minister under the old regime, saw only one case. A discussion between a Christian lawyer and his Muslim colleagues about the elections and the relationship of religion and politics grew into a religious dispute after which a complaint was filed against the Christian; an arrest warrant was issued for him by the public solicitor of the Assiout Prosecution Offices.⁶

The internet: new ground for harassment

Figure 5 illustrates the means used to convey the material deemed defamatory. The internet was the most common medium, used in 12 of the cases under consideration, reflecting the increasing usage of the tool and its role in providing a larger space for the expression express of opinions without restriction or regard for the strict professional standards of traditional media or the means to identify the person stating the opinion. Despite the leap forward brought by these new means of communication, laws remain unchanged, punishing expression and imposing several restrictions.

⁶ On 21 March 2013, the public solicitor referred the defendant to the second Assiout misdemeanor court on charges of religious defamation; the case is still pending.

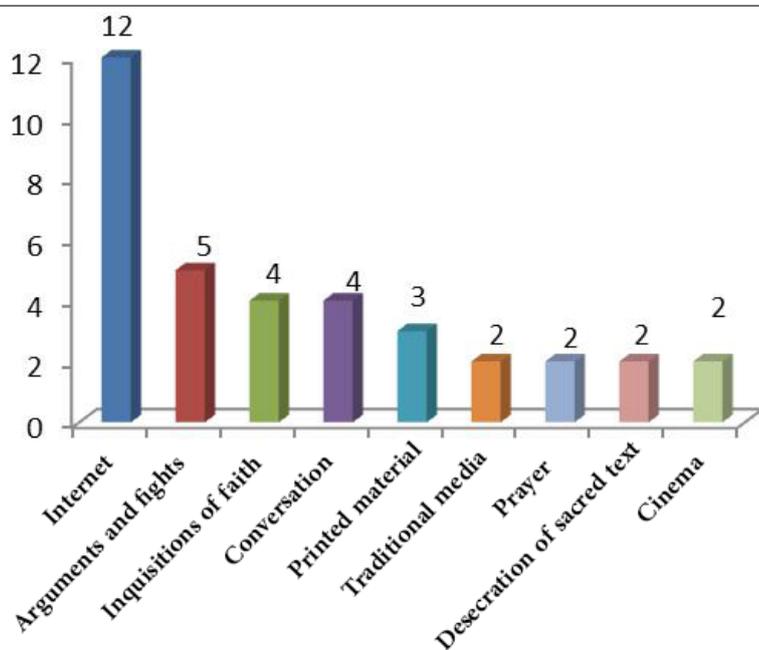


Figure 5: Means used to convey the defamatory material

Arguments were the second most common context for defamation accusations, with five cases. Typically the cases begin with an argument related to economic competition or social disputes. One party then alleges that the second defamed religion in some way, after which he files an official complaint, demands prosecution and mobilizes others to bring this about.

The next most frequent are what might be described as trials of inquisition, with four cases, which amply demonstrate the discriminatory aspect of defamation cases. In some cases, a person is entrapped; he is asked about his religious beliefs, and when he responds, a police report alleging defamation is filed, or he is assaulted and his property attacked.

We document two cases involving Shia citizens. In the first, Mohamed Asfour, an Egyptian Shia, went to pray and several local citizens accosted him, refusing to allow him to pray in the village mosque. The police then arrived, closed down the mosque and arrested Asfour on charges of desecrating a mosque, although he did not start or stoke the fight. In another case, several Shia gathered to pray in one of their homes and the police raided the place, arresting them and several foreigners with them, who were deported.

In four cases, teachers explaining a lesson had their words used against them, after families of their students went to the police and prosecutor and sued them. In one of these cases, one of the students whose families filed the complaint was not present on the day in question; nevertheless, the student's father accused the teacher of insulting the prophet. Three other cases involved printed works, including a novel and a university textbook, and two involve the defacement of a religious book. In two cases, the traditional media (television and press) were the medium, while in two others, the cinema was the medium of the alleged defamation.

Types of civic and legal action

Various types of protest actions and objections followed from allegations of religious defamation, as showed by Figure 6. The organization of demonstrations and protests in front of schools, police stations and courthouses was the most common, seen in 17 cases, along with police complaints accusing citizens of religious defamation,

also seen in 17 instances. In nine cases, citizens faced collective punishment and persons who were not parties to the events were attacked. In some instances, this involved settling scores over financial disputes. In eight cases, lawsuits were filed, while in five complaints were filed directly with the public prosecutor; clashes were seen in three cases, and police took direct action in two cases.

The report found 11 cases of expulsion and eviction following defamation allegations, including a case in which a family of 21 people was expelled from their village in the Minya governorate. Most of these cases took place in Upper Egypt. The finding of most customary reconciliation processes was to order the expulsion of the person accused of defamation along with his family, while also continuing official legal action. In four cases, the tension was resolved without the intervention of

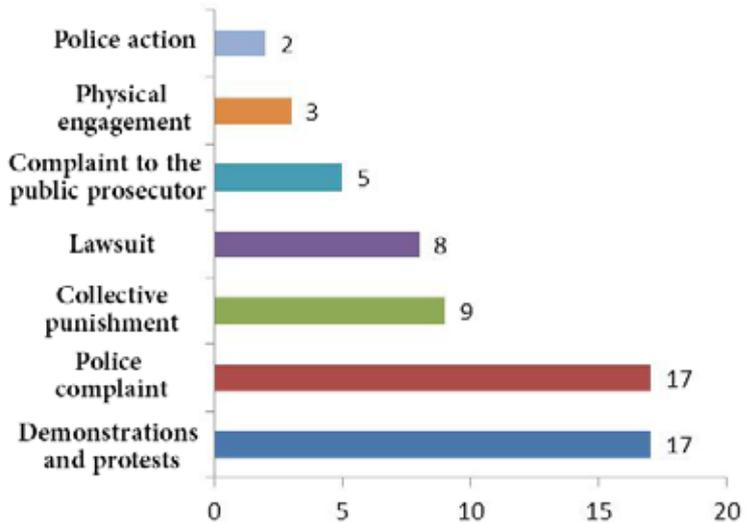


Figure 6: Types of civic and legal action taken against persons accused of defamation

the police and Public Prosecution, while police prepared 19 reports related to defamation accusations following complaints by citizens. Sixteen of these were referred to the Public Prosecution; the prosecution investigated these and four complaints filed directly with its office. The Public Prosecution thus investigated 20 complaints. Figure 7 illustrates the initial actions ordered by the Public Prosecution with regard to defendants, showing a clear predilection for detention. Of 31 people accused, the prosecution released only two and took statements from two more. Figure 8 illustrates the outcome of the prosecution’s investigations. In most cases, the accused persons were referred to court; the prosecution closed only 10 percent of the cases brought before it.



Figure 8: Outcome of the Public Prosecution's investigations

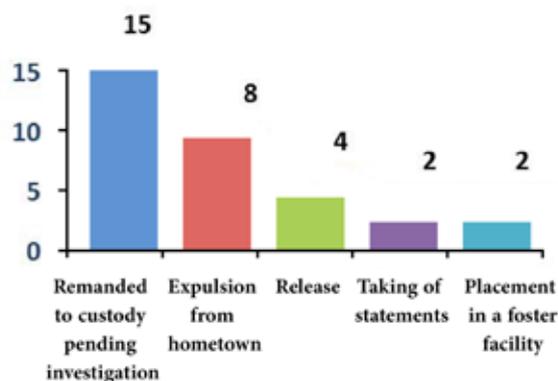


Figure 7: Initial orders from the Public Prosecution

In the period under review, the courts heard 17 defamation cases, six of them lawsuits filed by citizens and 11 filed by the Public Prosecution,⁷ divided as follows:

1. Beni Soueif Child Court: the court ruled to turn over two children to the custody of their parents, meaning that the court was persuaded that the two children did indeed deface the Quran and handed down the minimum sentence.
2. Criminal courts: criminal courts heard one case involving the defamatory film; the court sentenced seven defendants to death and gave US preacher Terry Jones five years in prison.
3. Misdemeanor courts: 15 cases were heard before various misdemeanor courts, and two are still pending. The courts acquitted defendants in five cases, all of them public figures sued directly by citizens. Defendants in eight cases were convicted and given various sentences. Actor Adel Imam was sentenced to three months imprisonment and two years with labor in one case, while three years were given to defendants in three cases, six years to defendants in two cases, and three years suspended with bail in one case.

Appellate courts heard seven defamation cases. Appellate misdemeanor courts heard six of these, upholding the prison sentences for defendants, all Christians, in four cases; an appellate court reduced the sentence for Shia Mohamed Asfour from six to one year imprisonment and acquitted actor Adel Imam, and the Beni Soueif Child Appellate Court denied the appeal filed by the lawyers for the two children. The Court of Cassation has yet to rule on five pending appeals.

The State Council considered three cases. The first circuit of the Court of Administrative Justice heard a petition seeking the revocation of the State Appreciation Prize from Hassan Hanafi and Sayyed al-Qimni; the court denied the suit, meaning it ruled in favor of the respondents. The seventh circuit of the Court of Administrative Justice considered a suit against Google seeking the closure of YouTube for its failure to block the defamatory film; the court ruled to block the site for one month. In the third case, the Administrative Prosecution referred its investigations to the Qena Disciplinary Court, which suspended a teacher for six months.

7- While this report was being written, the public solicitor for the Assiout Prosecution Offices on 21 March 2013 referred Romani Murad Saad to trial before the second Assiout Misdemeanor Court on charges of insulting the divinity and mocking the Quran. On 1 June 2013, the court ruled in absentia to sentence the defendant to one year in prison with labor and awarded LE10,000 to the civil plaintiff. The Faqous Summary Misdemeanor Court, hearing a case against Hamdi Gamal and Basma Rabia, sentenced the former to three months in prison on the charge of inciting the latter to defame Islam. Rabia was referred to the Public Prosecution to set a trial date in child court, since she was under 18 at the time the suit was filed. In May 2013, the Public Prosecution referred Mustafa Hassan Ahmed to trial on the charge of defaming Islam; the Tama Misdemeanor Court is still hearing the case. In June 2013, the Beba Misdemeanor Court sentenced Karam Saber in absentia to five years in prison and a bail of LE1,000 on charges of defaming the divinity and advocating atheism; the defendant challenged the judgment and 10 September was set for a retrial. On 16 June, the Nasr City Misdemeanor Court sentenced Ahmed Abdullah, known as Sheikh Abu Islam, to 11 years in prison (suspended) and bail of LE3,000 and gave his son a term of eight years imprisonment (suspended) and bail of LE2,000; the court acquitted a journalist accused in the same case.

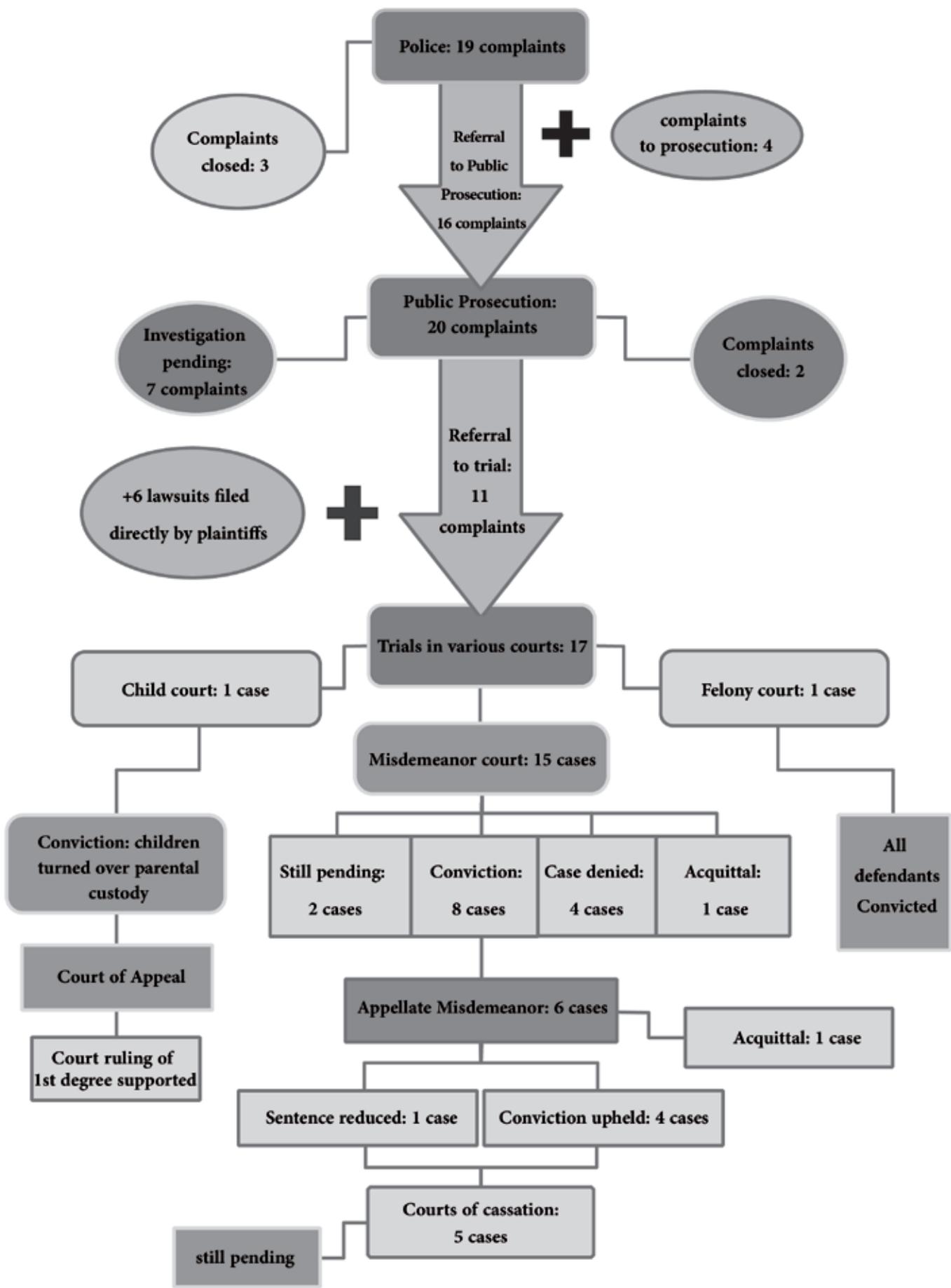


Figure 9: Legal and judicial actions taken in defamation cases

Custom vs. law: roles of the different actors in defamation cases

Over the past two years, state interventions in cases involving freedom of opinion, expression and belief have blatantly violated the law. Upon being accused of defamation of Islam or blasphemy, whether fact or rumor, a citizen automatically finds himself in the defendant's chair. Instead of guarantees and protection for his life and property and the right to a fair trial, various state parties levy extrajudicial sanctions and penalties, in an attempt to appease angry mobs protesting the alleged defamation. When the official parties fail to perform their role, they instead turn to customary solutions that are often the real locus of judgment in these cases, replacing state legal action.

Failure tinged with bigotry: the role of security interventions

The security establishment has consistently failed to protect citizens' lives and property. It has also failed to anticipate the course of events and take preventive action, although in some cases security were present on the scene before attacks. Police investigations into defamation cases also reflect a bias to complainants. These conclusions are demonstrated by the following:

- Police forces raid the homes of citizens accused of defamation, searching the premises and filing police reports on various pretexts, in the absence of any official complaints or strong grounds to justify these practices. There are several flagrant examples of such conduct. As noted above, police forces harassed a group of Shia citizens who were praying in a home in Doqqi, arresting several of them and deporting eight non-Egyptians. Security forces also forced the family of émigré Copt Joseph Nasrallah to leave their home in Giza citing fears for their lives, following rumors that Nasrallah was involved in the defamatory film. The General Information Directorate in the Interior Ministry filed a complaint against blogger Ayman Mansour; he was arrested and tried on charges of publishing photos and comments defaming Islam on his Facebook page.

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- Security interventions to protect people accused of defamation and their property are untimely and inadequate. Although the fallout from some incidents persisted for two days and there were indications of a charged sectarian atmosphere, security forces were not prepared to do their duty to prevent attacks before they happened. They also failed to deal with the situation properly during attacks. They did not arrest assailants, and in some cases provided no protection for bodily safety. For example, after student Gamal Abduh Masoud, a resident of a town in the Assiout governorate, published images on his Facebook page considered defamatory to Islam, dozens of people gathered inside his secondary school and he was arrested. The charged atmosphere reached his town, where his home came under attack and parts of it were torched for two straight days, in the presence of the police. The violence and tension spread to three neighboring villages, prompting a wave of assaults on Copts and their property, although they had no connection to the incident in question or Masoud. The same thing happened in the events of Ezbat Shaker in the Minya governorate, when a Christian was accused of publishing an image deemed disparaging of Islamic symbols. His family's home, which was under police guard, was attacked, and police took no action to intervene.
 - Lack of diligent investigations into complaints filed by citizens against other citizens or reports of tension due to allegations of religious defamation: the security apparatus typically arrests the weaker party or the victim of a complaint without ascertaining the facts of the complaint or its legal basis. Police investigation reports submitted to the Public Prosecution are often a virtual copy of the complaints filed by citizens alleging religious defamation, with no diligent investigations to back them up. Police investigation reports are often written against the accused while favoring the complainant, which is made worse by the fact that the police do not disclose their sources for the investigation.
 - Torture, physical harm and the insult of the accused: police officers or personnel may directly inflict harm or may incite detainees in the station to physically assault the accused. Mistreatment may include insults and slander, the use of restraints, being forced to mop the jail and long periods of forced standing, as well as assault with sharp objects. The case of blogger Albert Saber aptly demonstrates how police treat defendants in such cases. When neighborhood youths gathered under his home, his mother called the police asking for protection for her and her son. Instead of protecting them, however, the police arrested the blogger. In the Marg police station, Saber was assaulted by other detainees, who were urged to do so by police, claiming that he had blasphemed Islam and insulted the prophet. The assault nearly cost Saber his life; he sustained serious injuries when his neck was cut with a razor blade.

- Questions about intentions, religious beliefs and observance of various religious rites: there are several cases in which this occurred, including the case of writer Karam Saber, whose lawyer was questioned about Saber's religiosity and his religious observance.
- Customary reconciliation sessions, at times held in police stations: often these sessions end unfairly, with the rights of the weaker party violated. Even if the Public Prosecution pursues its investigation, the police may still impose some additional customary penalty to appease the complainants.
- Failure to protect defendants' lawyers, preserve their safety and permit them to do their job without coercion or attack: the most prominent instances of this are seen in Upper Egypt. During trials, defendants' attorneys have been repeatedly prohibited from entering the courtroom and have been attacked and verbally abused, either by opposing counsel or regular citizens, and in the presence of security personnel, who at times know the assailants. Trials are often conducted without precautionary measures in place to ensure smooth proceedings. Lawyers working with the EIPR have been subjected to such practices when working on behalf of the EIPR to defend those accused in defamation cases.

Additional penalties: interference by executive bodies

Executive officials and administrative leaders are typically prompted into action by the public mobilization that accompany allegations of defamation, and in all cases officials have acted against the accused. Executive bodies whose duty is to enforce the law have punished citizens without waiting for fair, unbiased judicial investigations. Nor have they offered aid to defendants or even restitution to persons harmed in cases in which their innocence has been proven. The performance of executive bodies is characterized by:

- Bias toward the complainants and a tendency to take swift punitive measures against state employees accused of defamation without waiting for the findings of the Public Prosecution's investigations: this swift action gives the impression that officials are already persuaded of the veracity of the complaint and the alleged incident, which only exacerbates the situation. In one case, Mukhtar al-Hamalawi, the governor of Beheira, responding to a complaint filed by the Nour Party against Maher Ramadan Abd al-Gawad, a teacher at the Lutfi al-Osta Girls' School, transferred the teacher to administrative duty in Itay al-Baroud. Abd al-Gawad was allegedly proselytizing Shi'ism, but the incident was not confirmed and thus there was no legal basis for the transfer.
- Use of customary reconciliation processes, particularly in Upper Egypt: as noted above, most of these sessions end in unlawful resolutions, the aim of which is to temporarily restore calm. Student Gamal Abduh

Masoud, from the village of al-Adr in Assyout, was accused of publishing images considered defamatory to the prophet. In the wake of this, the homes of Christians in his village and three neighboring villages came under attack for several days straight, even after Masoud's arrest. After a reconciliation session convened in the governorate building under the auspices of the governor of Assyout and the director of security, Mohamed Ibrahim, who later became interior minister, the church was forced to issue an official apology and two Christian families were forcibly expelled from their villages, which had been the scene of the tension.

- Administrative penalties, particularly in the field of education, imposed on those accused of defamation prior to the necessary investigations: in 14 cases, three of them involving universities and the others involving Ministry of Education employees and school students, administrative sanctions were levied as soon as the complaint was filed, prior to the findings of the investigation. Sanctions include suspension, transfer to an administrative position, docking of pay and, for students, suspension from school. In the Faculty of Humanities at Minya University, the university textbook of a professor of Islamic history was confiscated, while a Christian student was expelled from the dormitories at Assyout University.
- Failure to compensate families whose property was damaged in unrest in connection with defamation cases: in some cases, citizens' homes have been torched and looted, some of whom have no connection to the events at all, but were attacked due to religious reasons or because of their proximity to the home of the accused. Neither the state nor its institutions have met the needs of these citizens, assessed the damage to their property or considered compensation.
- Preventing citizens expelled from their homes to return: some people expelled from their hometowns have attempted to return after the prosecution closed the investigation and took no legal action against them due to lack of evidence, but they were prohibited from returning at the recommendation of the security bodies. When they appealed to executive leaders, instead of offering aid, officials simply referred their complaints back to the security bodies.
- Discriminatory penalties: in some cases, defamation accusations have followed religious disputes between a Muslim and a Christian. In these cases, the two disputing parties have been treated unequally, with penalties levied solely on the Christian.

Incitement and confiscation: intervention of religious institutions

Official religious institutions played a role in several cases, especially those brought before the administrative courts or when the investigating bodies solicited the opinion of al-Azhar. Some imams with the Ministry of Awqaf also played a role in instigating events and stoking tension. This role can be summarized as:

- Confiscation, censorship and calls to ban publications: demands for bans or censorship were heard amid allegations that artistic works explicitly denied truths necessarily known from religion by relying on words taken out of context and interpreted in less than straightforward ways. For example, a case was brought before the State Council seeking to revoke the State Appreciation Prize from thinkers Dr. Hassan Hanafi and Dr. Sayyed al-Qimni. The first-circuit court solicited the opinion of the Islamic Research Academy, which supported the petitioner, but the court did not accept the opinion, stating in its ruling that the text was not read in its entirety, that passages were taken out of context and that no body possesses the right to declare others unbelievers. When the al-Fashn prosecution solicited the opinion of the Islamic Research Academy on the novel *Where is God* by rights advocate Karam Saber, the academy responded that the book was not fit for publication or circulation and that it undermined doctrinal, intellectual and moral values and rent the fabric of Egyptian society. The prosecution also asked the Beni Soueif bishopric for its opinion of the novel, thinking—wrongly—that the author was Christian. The church's opinion was similar to that of the Islamic academy, condemning what it called the traducement of the divinity and the mocking of revealed law.
- Incitement to assault persons alleged to have defamed Islam: some imams incited citizens to attack other citizens who had allegedly defamed Islam; at times, the incitement was directed against the accused's co-religionists, regardless of their approval of the accused's actions or personal opinions. In two separate incidents, hundreds of worshippers from mosques in al-Adr, located in Assyout, attacked the homes of Christians after a secondary student was accused of defaming Islam. Residents of Ezbat Marco, located in the al-Fashn district in northern Beni Soueif, rejected the sermon of several imams inciting against village Christians after two children were accused of defacing a Quran.
- Appeals to the UN to adopt international laws criminalizing religious defamation: these include the letter sent by Sheikh of al-Azhar Ahmed al-Tayyeb to UN Secretary-General Ban Ki Moon in the wake of the film deemed defamatory to the prophet. Tayyeb asked the secretary-general to issue a law criminalizing the defamation of Islamic symbols, blaming it for aggression that had disturbed global peace and

threatened international security. In connection with the same incident, the Orthodox Synod seconded al-Azhar's stance, demanding accountability for every person involved in the production, screening or promotion of defamatory films and adding that religious defamation is a crime that the community must prohibit and suppress.

Part of the problem, not the solution: the role of Islamist parties and movements

Islamist movements, particularly Salafi parties and the Gama'a al-Islamiya, played a significant role in harassing citizens based on their ideas. Indeed, in many cases, the incitement began with Islamist groups. In addition, some prominent Salafis oversaw reconciliation sessions that skirted legality and infringed several basic rights and guarantees enshrined in the constitution for all citizens. Prosecution offices and courtrooms were also surrounded to pressure judges following appeals from prominent Islamists. The EIPR documented the following specific practices:

- Filing complaints with the Public Prosecution against persons holding opinions antithetical to mainstream religious interpretations: typically these complaints alleged that the citizens was proselytizing Shi'ism, if the accused was Muslim, or had defamed the divinity, if the accused was Christian. Allegations also included the propagation of erroneous ideas dangerous to society. The former deputy prime minister, Dr. Yehya al-Gamal, for example, was accused of having defamed the divinity on a talk show.
- Bringing lawsuits against writers, intellectuals and artists: the EIPR observed that several Islamist lawyers devoted themselves to filing suits with the administrative courts or misdemeanor courts, at times filing multiple suits against the same person for the same reasons. For example, three lawsuits were filed against Naguib Sawirus before three different courts for the same cartoon, while Adel Imam faced two different suits in two different courts.
- Encouraging citizens to file police reports and administrative complaints, especially in the case of teachers with the Ministry of Education and university professors: in some cases, incidents would snowball several days after the fact due to the direct interference of leading local Islamists. In one case, a religious conversation between two Muslim teachers and the Christian school secretary concluded without incident. Later, when the two teachers approached a local Gama'a Islamiya sheikh in Assyout with a question

raised by the Christian, the sheikh considered the question itself to be defamatory of the prophet and Islam and proceeded to collect signatures on a complaint sent to the education directorate. Police and administrative complaints were filed over two weeks after the original conversation.

- Gathering in front of state institutions to compel them to arrest the accused and take action against him without consideration for the circumstances of the incident: for example, only a few minutes after a religious argument between Christian and Muslim students in the dorms of Assyout University, dozens of members of the Gama'a al-Islamiya demonstrated in front of the dormitories. The secretary-general of the Gama'a in Assyout also intervened with the director of security and the university president to resolve the dispute, which involved expelling a Christian student from the dorms, but not the others involved in the argument.
- Surrounding the Public Prosecution during interrogations and attempting to prevent lawyers for the accused from entering the courtroom or accosting them: in some cases, Islamist leaders were allowed to enter the courthouse and sit with security officials while regular citizens were denied entry. Lawyers for the accused were also harassed. When two EIPR lawyers entered the office of the head of the Sohag courthouse security detail after arguing in defense of teacher Bishoi Kamil, accused of defaming Islam, they found a Gama'a al-Islamiya leader in the office who provoked an argument with them and called them atheists.
- Attacks on public property: some supporters of Islamist currents took part in attacks on the property of persons accused of defamation, without facing arrest. In events in the towns of Assyout and in Ezbat Shaker in the Minya governorate, dozens of homes were attacked and looted with the encouragement and participation of Islamist supporters. The EIPR documented some of these cases.
- Sponsoring customary legal resolutions that involve additional penalties without fair investigations: for example, members of the Muslim Brotherhood and Salafi current refused to allow the return of a Christian family that had fled town after one of its members was accused of defaming the prophet. The Public Prosecution released the accused and the case was not referred to trial. Nevertheless, despite the consent of the village mayor and intervention by Minya governorate officials, the refusal of no more than ten Islamists was enough to deny the family the right to return. The security apparatus predicated the family's return on the Islamists' approval; otherwise, it said, the Christians could return with the understanding they were responsible for their own safety.

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- The involvement of some citizens in what can only be described as trials of inquisition, ending in complaints filed at the workplace seeking sanctions against them: for example, Mohsen Aba Zeid Abd al-Aal was punished for being a Shia Muslim, after his Salafi colleagues organized a visit to his home and an inquisitorial interrogation. An MP for the Nour Party organized similar interrogations for Maher Ramadan in the Beheira governorate.

Judicial intervention and absent justice

This period was characterized by the increased societal targeting of those of minority beliefs and confessions, the failure of the security apparatus to confront this phenomenon and executive bodies' bias toward the assailant. In addition, judicial interventions failed to provide the necessary protection to victims, and in many cases contributed to the infringement of the basic rights of the accused. Through the combination of outright collusion between the Public Prosecution and the complainants or assailants and judges' adoption of conservative interpretations of ambiguous legal texts, several inalienable rights were violated, such as freedom of belief and expression and the right to a fair trial.

1. The Public Prosecution

The law vests the Public Prosecution with the authority to investigate and charge. The Public Prosecution files criminal suits, refers accused persons to trial and orders cases closed. In the period under review, the work of the Public Prosecution was marred by dereliction, if not complicity, during interrogations of those accused of religious defamation and a failure to conduct diligent investigations to identify persons who attacked the property of the accused and their families, or other persons with no relation to them, although the assailants were easily identifiable. When questioning accused persons, prosecutors often disregarded the rights of the accused to claim justice from those who attacked him and his property. Specific problems in the performance of the Public Prosecution include:

- Failure of the Public Prosecution to conduct the necessary investigations into events related to rising tensions and collective punishment: in many cases, prosecutors did not survey the scene of incidents in the immediate aftermath, although this was necessary to observe and document the attacks before the traces of the crime had been effaced. In addition, the Public Prosecution did not order the arrest of persons involved in attacks and referred no citizens to trial for participating in or inciting to attacks. The

office did not question security officials present on the scene of attacks, investigate their failure to protect property and arrest assailants or investigate their unlawful use of customary reconciliation instruments.

- Explicit disclosure of the prosecutor's religious inclinations to the accused and his lawyers: this was demonstrated in questions asked by prosecutors that violate the basic constitutional rights of the accused, including questions about their religious beliefs and observance. This was the case with Hamdi Gamal and Basma Rabia, who were questioned after being accused by Rabia's family of holding beliefs alien to Islam, as well as with writer Karam Saber.
- The tendency of the Public Prosecution to detain suspects immediately after questioning: these orders were given despite the lack of grounds for pretrial detention, which include the potential to influence witnesses or conceal the traces of the crime. Pretrial detention orders were issued in all investigations except three; in two of those, the prosecution took statements and in one case, it ordered the release of the accused.

2. Trials

The climate in which defendants in defamation cases were tried was not ordinary. These trials involved the violation of defendants' rights and infringed on the rules for fair, independent trials, most significantly:

- Defendants were tried on the basis of values rather than pursuant to specific criminal statutes: several judges adopted a conservative reading of freedom of belief and worship, seeing it as conditional on not contravening morals or infringing the public order, as evidenced in their written judgments. Some judges stated that the legally prescribed penalty was not severe enough for the defendant's act. In the judgment issued by the Court of Administrative Justice blocking YouTube for one month, the judges urged the administrative body to protect morals and values and prevent transgressions against religious symbols.
- Defendants punished for the same act more than once: this is done by piling on different charges against the defendant with the intent to add more years to the sentence. The articles of the Penal Code most frequently cited by judges in these cases were Articles 98(f), 160 and 161 on religious crimes, in addition to several other statutes. In other cases, articles were cited from the child law and the communications law.
- Clear discrimination between cases involving public figures and cases involving ordinary citizens: in all cases in which public figures were sued, the court denied both the civil and criminal suits, with the ex-

ception of the case of actor Adel Imam, who was sued on charges of defamation and disparagement of the beard and Islamic dress; the Pyramids Misdemeanor Court sentenced him to three months in prison and fined him LE1,000, but the conviction was overturned by the Appellate Misdemeanor Court. It is clear that public figures enjoy some protection in defamation cases. The location of the trial is typically in the Cairo or Giza governorate, which facilitates media attention and minimizes the likelihood that the courthouse will be surrounded, as it is in Upper Egypt. In contrast, all defamation cases adjudicated in courts in Upper Egypt—four cases in misdemeanor courts, one case in the Qena Disciplinary Court and one case in juvenile court—ended with convictions. A prison sentence and a fine were issued in the misdemeanor courts, while the disciplinary court ordered work suspension and the juvenile court remanded the two children to their families; appellate misdemeanor courts upheld all these convictions and sentences.

- Courts disregard technical issues pertaining to conviction of defendants in cases involving online content: falsification in this type of case is extremely easy. There are several cases of unknown persons establishing a social media account in the name of another person, including information about and a photo of the latter. Several defendants maintained that they were not responsible for web pages accused of posting defamatory material and showed that they did not know who established these accounts. This issue is even more problematic considering reports from the Interior Ministry's Information and Communications Directorate declaring that the department is unable to decisively link accused persons with the web page they allegedly created. The directorate can only identify the IP address of the computer used to establish the account.
- In some cases, counsel for defendants was unable to defend their clients and the necessary measures to protect their safety were not taken: for example, Makarem Diab was sentenced to six years in prison without his attorney being allowed to defend him and without the submission of legal briefs to the misdemeanor court. Moreover, although the defendant's two lawyer informed the bench that they were being verbally and physically harassed, the necessary measures to protect them were not taken.

Defamation charges and infringements of freedom: a rights-based perspective

Freedom of religion, belief, opinion and expression and the right to justice are fundamental, inalienable rights that can be neither voluntarily ceded nor forcibly denied. The state is responsible for guaranteeing all citizens' enjoyment of these rights. In religious defamation cases seen in Egypt over the last two years, these rights have been subject to grave infringement with the full knowledge of state officials, while no one has taken action to end these abuses or uphold the rights of victims of violations. These violations cannot be allowed to continue with greater frequency after the revolution of 25 January than under the rule of former President Hosni Mubarak, in a way that denies citizens' their rights.

Curtailing freedom of thought, conscience and religion

Freedom of religion and belief are basic freedoms protected in international conventions from any infringement under any circumstances. The general comments interpreting these conventions, issued with the approval of UN member states, are clear in adopting a broad interpretation of religious liberties that includes freedom of faith, freedom to disclose or not disclose one's religion and freedom of belief, whether traditional or non-traditional, and including a belief in atheism, as well as the freedom to change one's religion or belief. Article 18 of the International Covenant on Civil and Political Rights states:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

In General Comment 22, state parties participating in the 48th session in 1993 resolved the debate over restrictions imposed by some states on religious conversion or the practice of the rites of some faiths, noting that freedom of thought and conscience enjoy the same protection as freedom of religion and belief, and they cannot be infringed even in case of public emergency. The scope of protection includes monotheistic and non-monotheistic faiths and atheism, as well as religious conversion, the adoption of atheistic opinions and the declaration of such, even if these are modern beliefs. The recognition of a religion as the official, traditional or majority state religion should not lead to the obstruction or denial of any right set forth in Article 18.

As is clear from the review above, Egyptian legislation includes penal provisions for the expression of opinion if that opinion criticizes or questions the accepted principles of monotheistic religions. In addition, judges adopt conservative views that support restrictions on worship linking this to the public order, demonstrating the gap between international law and domestic legislation and its use.

In this conservative legal and judicial context, Egyptian Shia face security harassment and prosecution because of their religious beliefs and opinions regardless of whether they make them public, a clear violation of the protections given to freedom of religion and belief. Police forces apprehended a group of Shia citizens who had gathered to pray in a private home, and another Shia citizen was arrested and tried because other citizens in his village refused to allow him to pray in the local mosque. The court that convicted him said that other citizens' seeing him during prayer constituted a provocation that led them to clash with him. Another court convicted a civil servant for his ideas and for taking words out of context during a religious argument.

In other cases, the courts have adopted an expansive interpretation of the defamation provision; instead of acting as legal protection for the weaker party, it has become a means to protect religious ideas themselves. Christians and Sunni Muslims have been subject to criminal and administrative sanctions because of their opinions of certain religious ideas and figures. In this context, we note one unique opinion issued by a court on the notion of protection in the misdemeanor provisions related to religion. The judgment in case 529/2012/Agouza misdemeanor, issued on 26 April 2012, stated that the intent of the criminalization was not to protect ideas and beliefs and therefore prohibit a discussion and debate about them; nor is it to protect the sentiments that are naturally inflamed if a person transgresses established intellectual principles, especially religious prin-

ciples. Rather, the court stated, the provisions provide legal protection for unity and deter civil strife. Faith may be exercised freely as long as it does not impinge on public morals. The protection exists first and foremost for the benefit of society and social peace.

Assault on freedom of opinion and expression and limits on creative freedom and scientific research

Freedom of opinion and expression is the cornerstone and foundation of basic liberties. Without it, one cannot speak of guarantees for democratic systems; hence, international curtailments of this right are effected on an extremely narrow basis in specific, well-defined cases. Article 19 of the International Covenant on Civil and Political Rights states:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others;
 - (b) For the protection of national security or of public order (*ordre public*), or of public health and morals.

The current Egyptian constitution states in Article 45, “Freedom of thought and opinion are guaranteed. Every person has the right to express his opinion orally, in writing, in images, or by any other means of publication and expression.” Article 46 states, “Creative freedom in its various forms is the right of every citizen.”

This right includes not only the receipt of, access to and transmission of information, but also free, open discussion and criticism as an expression of opinion, as well as the transmission of ideas and opinions to others in any form, to aid in the development of human capacities and ensure that all people enjoy their rights. The restriction allowed in this article is conditional on clear, specific laws, which is not the case in Egyptian law, where the statutory language used to prosecute defamation is ambiguous, vague and open to multiple inter-

pretations, making the provisions near unconstitutional. The Egyptian government restricts these liberties and levies the penalty of imprisonment in publication cases, and the violations of citizens' rights are even graver if the expression concerns an opinion on religious matters. One of the few court judgments that has upheld freedom of opinion and expression in the last two years has been that issued by the Court of Administrative Justice denying the petition to revoke the State Appreciation Prize from thinkers Sayyed al-Qimni and Hassan Hanafi. In the judgment issued on 10 July 2012, the court said that "cutting off freedom of reason and thought is the equivalent of cutting a person's throat."

Confiscating defendants' right to a fair trial

Regardless of the crime and the charges against them, all defendants are entitled to a fair trial before a natural, independent, impartial judge. This human right is protected internationally and recognized in the Egyptian constitution, linked to a set of rights and procedures that guarantee free trials. Yet, these were not realized in trials for citizens prosecuted for their religious opinions and beliefs. Article 14 of the International Covenant on Civil and Political Rights states, "All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law."

As such, judges may hold no prior opinions about the subject of the trial and must show no bias or sympathy for or against the defendant. This condition is impossible to meet given the tensions and charged sentiments seen in trials in Egypt. In all trials conducted in Upper Egypt, courthouses were surrounded by mobs of citizens and lawyers carrying signs condemning the defendants and demanding retribution for Islam; these were targeted at the emotions of the judicial panel. In addition, sentences handed down by these courts punished defendants repeatedly for the same act, using various legal provisions to increase the penalty and the number of years of imprisonment. The written judgments often stated that "the court's hands are tied" because the court saw the penalty as less than that merited by the defendant's offense.

May judges also infringed the defendant's right to a defense. Their lawyers were attacked and prevented from entering the courtroom and mounting their defense, while the court took no deterrent measures to protect the defendant's right to a lawyer and ensure counsel's safety. In one trial session, the defendant's two lawyers complained to the judge only minutes before the start of the hearing that the opposing lawyers and citizens in the courtroom were verbally harassing them and then physically assaulted them; the judge took no measures

to protect the rights of the defendant and his lawyers, and the court issued its verdict without the defendant's lawyers making their case, in clear violation of the law. In this case, the verdict was issued in the first trial session even though the defendant's counsel was unable to attend, which violates the defendant's right to an attorney; if the defendant has no lawyer, the court should appoint one for him and give him sufficient time to examine the case and prepare his defense.

Fair trial safeguards also include protecting the defendant's right to humane treatment and preventing torture and cruel treatment. Article 7 of the International Covenant on Civil and Political Rights states, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Article 10, paragraph 1 states, "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

Retaliatory actions and the cruel treatment of the accused are thus a crime and a violation according to these provisions. Yet, this was the fate of several persons accused in these cases. In several instances, police officers insulted and cursed the accused, restrained and assaulted them in the lockup and encouraged criminal detainees to assault them, as was the case with blogger Albert Saber.

Violating the right of property protection, the right to choose one's residence and freedom from forced displacement

State institutions and agencies have a great responsibility to protect citizens and their property and guarantee the enjoyment of their rights. Article 24 of the Egyptian constitution clearly states, "Private property is protected," while Article 80 states that any infringement on rights and liberties enshrined in the constitution is a crime with no statute of limitations for civil lawsuits and criminal prosecution. In reality, however, the security apparatus has failed to prevent wide-scale attacks, which are tantamount to collective punishment, seen in various areas following allegations of religious defamation, although only the individual should bear punishment for his acts pursuant to a final court judgment.

The security apparatus failed to anticipate attacks and take preventive action to protect citizens' property, although the police and executive officials were aware of sectarian tensions. Police forces were at times present in places in which homes, businesses and other facilities were torched and looted, without intervening to prevent the attacks or arrest suspected assailants. This is particularly egregious since many of these attacks targeted people who were not party to the dispute, but only shared the religion or faith of the accused.

Executive bodies and security officials organized customary reconciliation sessions, which were transformed from a popular, supplementary instrument designed to calm social tensions into an alternative to justice and restitution for victims based on the law. The regime of customary reconciliation has become a backdoor means to compel citizens to accept unlawful resolutions as they bargain over the safety of their families or local co-religionists. Customary reconciliation sessions discriminate on the basis of religion: while they impose additional sanctions on those accused of defaming Islam, they provide legal cover for those who engage in collective punishment instead of prosecution in court. All of this takes place without state institutions and society offering compensation and aid for the victims of collective punishment for the harm and losses they sustained.

Forced displacement is the worst of the abuses perpetrated by this reconciliation process. Citizens are made to abandon their homes and property and leave the villages—and at times the district and governorate—where they reside and where their social and economic relationships are centered, to search for a new home and livelihood. This has happened and continues to happen amid state silence and disregard. These evictions constitute a grave violation of human rights and a failure of the state to meet its obligation to protect all citizens from displacement and provide legal protection for them, pursuant to Paragraph 16 of General Comment 7 on Article 11(1) of the International Covenant on Economic and Social Rights.

Conclusions and recommendations

Findings

Two years after a popular revolution demanding freedom, flagrant violations of the freedom of expression—the root of all freedom—continue. Individuals' right to manifest their religious ideas and faiths has been increasingly suppressed, while administrative and judicial sanctions and societal threats of those with non-mainstream religious or sectarian beliefs are on the rise. This circumscription of freedom of belief is complicated by a polarized environment in which religious political currents play a dangerous role and state and executive bodies lack neutrality. Judges have adopted conservative interpretations of Egyptian legal provisions on crimes of religious defamation, which in any case are extremely vague. The most important conclusions of this study are:

- The charge of defamation is often used to achieve political or electoral goals or realize economic and social interests. Although the scope of defamation charges has expanded, victims face disparate levels of threat: religious and sectarian minorities are more vulnerable, while intellectuals and artists less so; the threat is markedly less for those protected by their religious and tribal groups.
- State bodies do not maintain neutrality when dealing with crimes related to religious defamation. Although the Penal Code does not distinguish between the Abrahamic religions, religious discrimination exists on the ground. Swift legal action is taken in the event of any perceived offense against Islam, while legal measures move much more slowly for allegations of defamation of Christianity.
- Persons linked by familial ties, neighborhood, or sectarian or confessional affiliation to those accused of defamation are vulnerable to collective punishment, although they may have no relation to the allegedly defamatory actions or words. This point in particular demonstrates the magnitude of the failure of security and executive bodies, which often take recourse in customary resolutions whose main goal is to bring temporary calm but do not realize complete justice that holds the assailant to account and provides restitution to victims. This approach ultimately stokes sectarian hostility and resentment among adherents of different faiths and religious minorities.

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- Various types of defamation cases demonstrate that as soon as an allegation of defamation of Islam is made, whether it is based in fact or rumor, there is a rush to punishment. If the accused is a civil servant, she is suspended from work, while the lives and property of regular citizens become legitimate targets. If citizens escape attacks, they may be forcibly displaced pursuant to a customary judgment or security decree, or at their own initiative in fear of the safety of their families and selves.
 - The report finds evidence that the investigating bodies hold prior biases against citizens accused of defamation and that they tend to assume guilt without the necessary proof required by the standards of justice. At times, interrogators also broach topics that have little relation to the case, asking the accused about their religious observance.
 - Supporters of some political movements, particularly Islamist, attempt to influence courts, organizing demonstrations and rallies in and outside of courthouses to demand punishment, which erodes the defendant's right to a fair trial and intimidates judges. The negative impact of this is seen in the disproportionately heavy sentences given to defendants in all cases in which demonstrations were organized outside the courthouse.
 - Judgments against defendants in defamation cases illustrate judges' disregard for binding international human rights conventions and international law as a legal reference. Judges prefer to rely on restrictions enshrined in Egyptian laws, at times even adding restrictions. The sole exception to this is a ruling issued by the Court of Administrative Justice denying the petition to revoke the State Appreciation Prize from Dr. Hassan Hanafi and Dr. Sayyed al-Qimni.

Recommendations

Based on this report, the EIPR has several recommendations:

- Guarantee that citizens enjoy legal and judicial protection of their rights and liberties, regardless of their religion and beliefs; judges should comply with the constitution's recognition of international human rights conventions as part of Egyptian legislation and give it priority over domestic legislation.
- Amend legislation restricting liberties, especially religious liberties, and reformulate the language of statutes to eliminate ambiguity and vagueness, to make the text precise and consistent with international human rights standards for restrictions on freedom of belief, religion and expression, which must be in the narrowest bounds.

- Move defamation trials to Cairo to ensure that defendants enjoy their right to a fair trial as long as judges cannot be immunized against pressure and influence amid the inflamed climate that surrounds these trials, especially in Upper Egypt.
- Issue a periodic publication or clear directives to prosecutors explaining the nature of interrogations related to religion cases and the topics that their questions may not address to avoid infringing the rights of the accused.
- Form a judicial inquiry panel to investigate the role of some political currents in supporting false religious or sectarian allegations for political or electoral gain and identify the responsibility of security and executive leaders in facilitating this practice. Those found to be involved in violations and crimes should be referred to trial before their natural judge.
- Provide compensation for damages through committees formed by the bodies responsible for assessing damages sustained by citizens who were not convicted of defamation charges.
- The executive bodies should take immediate action to ensure the return of evicted citizens to their original places of residence and strive to guarantee their safety and that of their property, particularly since these persons left their homes and property in extraordinary circumstances amid threats to their lives.

In conclusion, the continued judicial and societal persecution of people believed to have transgressed taboos or overstepped the boundaries of permissible expression of religious opinions will never succeed in protecting religion or eliminating different opinions. Religions can only be protected through intellectual enrichment and freedom of expression, reason, research and opinion.

Appendices

Appendix 1: Defamation cases

21 March 2011: Coptic school principal accused of insulting the prophet Mohamed
Sohag governorate, al-Maragha

Case no. 2840/2011/Maragha misdemeanor

Facts of the case

Hundreds of Muslims in al-Maragha organized demonstrations in front of the New Preparatory School for Girls, the nearby Rahman Mosque and the Maragha police station after Naima Wahib Habil, the school principal, was accused of defaming Islam. Demonstrators carried signs demanding that she be tried by a military tribunal and repeated sectarian chants.

According to testimonies obtained by the EIPR, the principal instituted a monthly exam for students, which was rejected by both teachers and students, who staged a sit-in in the school courtyard. Refusing to enter the classrooms, they chanted against the principal. Stories differ as to the principal's reaction. One version states that she told them, "Is this what your religion teaches you?" Some say that she did indeed defame the prophet, while others claim that teachers, motivated by personal animus, started a rumor that she defaced a Quran and insulted the prophet.

Habil was the subject of a complaint filed with the Administrative Comptroller's Office a few months prior to the events by the head of the Sohag education department, who said that she had been appointed to the post of principal out of turn. The comptroller found in her favor, and she was appointed principal of the New Preparatory School on 1 March 2011, shortly before the events in question.

As soon as the allegation was made, the education directorate transferred her to the General Office of the Education Directorate and a legal committee was formed to investigate the incident. After the events, the principal took a one-month leave.

Her family was threatened during the events, and groups of Muslims organized in front of her home demanding retribution; security forces and her neighbors dispersed the demonstrators.⁸

Legal action

The Sohag Plenary Prosecution questioned Habil and released her on bail of LE5,000. She was prosecuted under Article 98(f) of the Penal Code on charges of defaming Islam. The first hearing was held on 4 May 2011. On 22 June 2011, the Maragha Summary Court in Sohag, presided over by Judge Motazz Mahmoud, sentenced Habil to two years in prison with labor, setting bail at LE1,000, for defaming Islam and the prophet.

The trial was subject to pressure when dozens of citizens and lawyers gathered in and outside of the courtroom demanding the maximum sentence for the defendant.

Habil did not turn herself in for the execution of the sentence.

2 April 2011: former deputy prime minister accused of insulting the divinity Cairo

Complaint no. 4978/2011/Public Prosecutor petitions

Facts of the case

Lawyer Mamdouh Ismail and others filed a complaint with the public prosecutor against Dr. Yehya al-Gamal, then deputy prime minister, accusing him of verbally infringing on the divinity during an interview on the program “Egypt Today”, broadcast on Egyptian television. The complainant asked that al-Gamal be removed from his position due to lack of fitness to occupy public office, since public officeholders must show due respect for the nature of the Muslim people.

Commenting on election rigging by Arab leaders, al-Gamal had said, “If God himself came down from the heavens and won 70 percent, he would thank God.”

The Public Prosecution closed the complaint after taking a statement from al-Gamal.

Adel al-Said, the official spokesman for the Public Prosecution, said,⁹ “The deputy prime minister’s statement

8- Telephone interview with Kamal Sadeq, Habil’s husband, 12 Oct. 2012.

9- MENA, 2 Apr. 2011.

was taken on remarks he made to the media about Arab leaders' rigging of presidential elections and their receipt of a disproportionately high number of votes impossible for any candidate to receive. He referred to the Almighty in the context of stating his opinion. He has apologized for the misunderstanding."

The spokesman said that al-Gamal had used the phrase about God to coin a proverb, relying on the Islamic legal principle that intent takes precedence over words.

3 April 2011: student demonstrations against a university professor who described the prophet as "secular" Cairo, al-Azhar University

Facts of the case

Some 1,000 Azhar University students organized a march from the university to the head of al-Azhar to protest a remark by Dr. Mohammed Reda Moharram, a professor of engineering and mining at the university, who said that the prophet Mohamed was the biggest secularist in the history of humanity. Participants in the march demanded Moharram's dismissal and carried posters in support of the prophet, including "We are zealous, we are zealous when the chosen one is transgressed," "Why is the sheikh of al-Azhar silent? What is left after our prophet?" and "They say a Muslim libeled the prophet, what will Denmark say?"

The students distributed invitations to the demonstration using the slogan, "Everything but God's prophet: no to those who described God's prophet as a secularist."

Moharram apologized for the misunderstanding and apologized to all Muslims for transmitting unsubstantiated words that were understood as defaming the prophet.¹⁰

University President Dr. Osama al-Abd met with the students and told them that Moharram had been suspended and referred to investigation, but the students continued their march to the Azhar head office, where they were met by the sheikh of al-Azhar, Dr. Ahmed al-Tayyeb, who told them that the professor had been referred to a disciplinary committee.¹¹

10- Badriya Taha, al-Wafd, 6 Apr. 2011.

11- Al-Azhar al-Youm, 3 Apr. 2011, <<http://www.azhar2day.com/vb/showthread.php?t=55087>>.

12 April 2011: author of the book *Where is God* accused of advocating unbelief Beni Soueif and Cairo governorates Complaint no. 660 to the Public Prosecution

Facts of the case

Several lawyers in the Beba district in the southern Beni Soueif governorate filed a complaint with Judge Hamdi Farouq, the public solicitor of the Beni Soueif Prosecutions, against writer and lawyer Karam Saber Ibrahim, the director of the Land Center for Human Rights and the author of the short-story collection *Where is God*, and Ahmed Mohamed al-Husseini, the general director of Nefru Publishers. The lawyers asked for the confiscation of the book and they accused the author of defaming the divinity, advocating atheism and unbelief and using libelous words against the divinity.¹² The complainants argued that the respondent's work was a crime under Article 161 of the Penal Code; the complaint was referred to the Beba prosecution for further action.

On 11 May 2011, the Islamic Research Academy sent a letter to the Beba summary prosecutor saying that having examined the book, it had concluded that it was not fit for publication and circulation. The academy concluded that the author was destroying faith-based, intellectual and moral principles and distorting and tearing the Egyptian social fabric with its Islamic and Christian elements; as such, the book should be banned.¹³ Also on 11 May 2011, a letter signed by Heguman Francis Farid, the secretary for the Beni Soueif bishopric for Orthodox Copts, dated 8 May, reached the Beba prosecution. Titled "An opinion on the novel *Where Is God*," the letter stated:

We condemn the transgression and traducement of the divinity. God Almighty, who has beautiful names and heavenly attributes, should not be described in these terms...We reject the denigration of provisions of Islamic law seen in the discussion of prayer, inheritance and supplication. People must respect the religious laws of others, and no person may mock or belittle the sacred beliefs of another, even through an author's imagination or simply a fictional assumption or creation.¹⁴

The Beba Summary Prosecution referred the complaint and the two letters to the State Security Prosecution, which in turn sent them to Homeland Security for the necessary investigations into the complainants, the author of the short-story collection and the impact of its publication.¹⁵

12- The case file, dated 12 Apr. 2011, is on file with the EIPR.

13- A copy of the letter, dated 7 May 2012 and stamped by the prosecutor as appended documentation on 11 May 2011, is on file with the EIPR.

14- A copy of the letter from the Beni Soueif bishopric, dated 8 May 2011 and stamped by the prosecutor as appended documentation on 11 May 2011, is on file with the EIPR.

15- Telephone interview with Karam Saber, 15 Oct. 2012.

Initially, the Beba police station and Beba prosecution assumed the accused was a Christian, and hence they solicited the opinion of the work from both the Beni Soueif bishopric and Islamic Research Academy. When Saber's attorney appeared before the Beba Summary Prosecution and confirmed that his client was a Muslim, two prosecutors were annoyed and told the lawyer disapprovingly, "Is it right to have written what he wrote? He doesn't even recognize God! You shouldn't even shake his hand, let alone defend him." During the interrogation, prosecutors ask questions about Saber's religion and his beliefs.¹⁶

4 June 2011: journalist, illustrator, editor and others prosecuted on charges of defaming Islam

Cairo

Complaint no. 1757/2011/Boulaq Abu al-Ela administrative and complaint no. 8097/2011/Public Prosecutor petitions

Facts of the case

Several lawyers brought a lawsuit against journalist Ahmed Ragab, illustrator Mustafa Hussein and al-Sayyed al-Naggar, the former editor-in-chief of Akhbar al-Youm, as well as Mohamed Barakat, the former CEO of the paper, accusing them of defaming Islam after the first and second defendants published a cartoon in the paper's 4 June edition (no. 3474) showing a bearded man wearing a robe, a woman and two men speaking to each other.

Legal action

Several lawyers filed complaints with the public prosecutor prior to filing suit. In the complaints, they argued that the cartoon was defamatory, mocked Salafis and incited the public against them, and infringed on the personal freedom of a class of Muslim women who wear the face veil.

On 3 March 2012, the Boulaq Abu al-Ela Summary Court, presided over by Judge Sherif Kamel, denied both the civil and criminal suits because the plaintiffs failed to notify the respondents in the proper legal manner.¹⁷

16- Statement from Mohamed Hegazi, Saber's lawyer, 31 Oct. 2012.

17- Monitoring by EIPR.

18 June 2011: Shia citizen imprisoned for praying in the Gharbiya Mosque, Kafr al-Zayyat

Case no. 13044/2011, entered as no. 1095/2012/Kafr al-Zayyat appellate misdemeanor

Facts of the case

Mohamed Bahloul Abu al-Rus and other residents of the town of Abu al-Ghar in the Kafr al-Zayyat district filed a complaint on 18 June 2011 against Mohamed Fahmi Abd al-Sayyed Asfour, a Quran teacher appointed in the Azhar western zone. They alleged that he had engaged in words and deeds incompatible with custom and religion and had insulted and defamed the prophet's family. He had angered ordinary citizens by trying to persuade them of his ideas, sparking a fight in which villagers gathered until the police came and closed the mosque and dispersed the crowd.

The Public Prosecution charged the defendant with desecrating buildings dedicated to religious rites and asked that he be sentenced under Article 160 of the Penal Code. The Azhar western zone transferred him to an administrative position while the defendant was serving a sentence for the misdemeanor of squandering movable property.¹⁸

According to information obtained by the EIPR, family disputes arose between Asfour and his wife due to his embrace of Shi'ism. They were divorced, but the problems did not end. His ex-wife accused Asfour of squandering movable marital property, leading to a six-month jail sentence.

Sources said that the incident began when worshippers objected to Asfour praying in the town mosque because of his Shia affiliation. Citizens gathered in the mosque and one of them called security forces, which came and dispersed the crowd and closed the mosque.

Legal action

On 24 April 2012, the Kafr al-Zayyat Summary Court, presided over by Judge Osama Moussa, sentenced Mohamed Fahmi Abd al-Sayyed Asfour to three years imprisonment with labor and set a bail of LE100,000; he referred the civil suit to the competent court. The court said that it was persuaded by the investigation report and witness testimony that the defendant had committed the acts attributed to him.¹⁹

18- Testimony of Youssef Qandil, the defendant's lawyer, made at the EIPR offices, 1 Aug. 2012.

19- Judgment of the Kafr al-Zayyat Summary Court in case no. 13044/2011, issued on 24 Apr. 2012.

On 26 July 2012, the Kafr al-Zayyat Appellate Misdemeanor Court accepted the defendant's appeal on form; on substance, the court vacated the judgment under appeal and sentenced the defendant to one year in prison with labor and ordered him to pay all court costs.

The court said that Asfour had committed acts, such as praying with the rosary and striking his chest, which were "evidence of his adherence to the Shia confession, which were disquieting to the worshippers at the mosque, which in turn resulted in arguments with the defendant and, consequently, the desecration of a house of worship."²⁰

The EIPR filed an appeal with the Court of Cassation on 22 September 2012 arguing that the judgment was arbitrary and flawed because it concluded that the defendant's adherence to the Shia confession and his prayer with the rosary necessarily angered Muslims and led to the desecration of a house of worship.

17 August 2011: three years in prison for a Christian citizen on charges of defaming Islam

Cairo

Case no. 5128/2011

Facts of the case

Cairo security forces and the Department of Public Security arrested Ayman Youssef Mansour for establishing a Facebook page that allegedly defamed Islam and Muslims.

According to the case file, the Directorate for the Suppression of Computer and Information Network Crimes received complaints in August over the directorate's hotline and the Ministry of Interior's website that a Facebook account in the name of Elmonadel Mard contained phrases defaming the Quran and insulting the prophet of Islam.²¹

Legal action

The Public Prosecution asked for a sentence pursuant to Articles 98(f), 30, 160/1, 161/1 and 171 of the Penal Code. It brought the following charges against the defendant:

20- Judgment of the Kafr al-Zayyat Appellate Misdemeanor Court in case no. 1095/2012, issued on 26 Jul. 2012.

21- A copy of the case file, the Public Prosecution's interrogations, and the correspondence of the competent bodies are on file with the EIPR.

1. Exploiting religion to propagate extremist ideas with intent to inflame civil strife, defaming and blaspheming the revealed religions (Islam) and defaming the prophet with the creation of a Facebook account in the name of Elmonadel Mard.

2. Infringing Islam, the Quran and the prophet using the internet and publishing Quranic verses with intentional changes that distort their meaning and defame the Quran and Islam.²²

On 22 October 2011, the Azbakiya Misdemeanor Court, presided over by Judge Sherif Kamel, sentenced the defendant, blogger Ayman Youssef Mansour, to three years imprisonment with labor after he was convicted of propagating extremist ideas with intent to inflame sectarian tension and harm national unity, and defaming, infringing, insulting, mocking and blaspheming Islam on Facebook.

In its judgment, the court stated that it was certain that the defendant had intentionally infringed on the dignity of Islam. Namely, he had insulted, defamed and mocked it with his Facebook account.

On 22 January 2012, the Azbakiya Appellate Misdemeanor Court, presided over by Judge Hossam Riad, denied Mansour's appeal and upheld the first-instance judgment.

6 October 2011: Christian citizens evicted due to an image on Facebook
Minya governorate, Ezbat Shaker, Matay district
Case no. 2903/Matay administrative, entered as 11/North Minya Prosecution

Facts of the case

Hundreds of Muslims from Ezbat Shaker and Abu Aziz, located in the district of Matay in the northern Minya governorate, threw stones and bricks at Christian homes in Ezbat Shaker and gathered in front of the house of Christian Nour Ayyad Salib, 32, demanding that he and his family be evicted from the village due to an image that defamed Islam that he had allegedly published on his Facebook page. The image was a cartoon depicting a sexual relationship between a sheikh and a woman.

Police moved the Christian family to the home of a village Muslim, Mohamed Othman, to protect their lives. That same evening, a customary reconciliation session was convened, sponsored by security leaders, in which it was agreed to evict the Christian from the town and fine him LE100,000, to be paid to Ezbat Shaker's Muslims.

22- Letter from the Public Prosecution to the first public solicitor for the North Cairo Plenary Prosecution, dated 20 Aug. 2011, for a review of the file and the referral of the defendant to trial.

The next day, dozens of Muslims attacked the Christian family's home, breaking the doors and windows and looting its contents. On 8 October, Milad Ayyad Salib, Nour's brother, received calls from Muslims asking him to turn his brother into the Minya security directorate. A second customary reconciliation session was held at the city council, sponsored by the Matay police station, during which the Muslim side insisted that Nour's entire family—his wife, parents, siblings and their families, all in all 21 people—be evicted from the village and barred from return. The terms of the agreement included a penalty clause of LE500,000 to be paid by Salib in the event of his return to the village. The family ultimately accepted the agreement, written up as police report no. 2903/Matay police administrative.²³

The family has since tried to return to the village, but to no avail. They sent several appeals to the president and governor and received numerous promises of return, but they are still exiled from the village; their three homes remain vacant, and their agricultural land untilled.

Legal action

Nour Ayyad Salib turned himself in to the Minya security directorate on 9 October and was detained until the public solicitor for the Minya Prosecutions ordered his release on 25 October 2011 on bail of LE5,000. The report of the Interior Ministry's Information and Communications Directorate stated that the image in question was sent to him from a friend, after which Salib deleted it—in other words, he did not post it on his Facebook page. The case is still pending with the prosecution, which has neither closed it nor referred it to trial.²⁴

29–30 December 2011: sectarian violence in Assyout after secondary school student accused of publishing defamatory images

Assyout governorate, villages of Manqabad, Bahig, al-Adr and al-Salam
Case entered as 66/2011/Assyout district misdemeanor and 7/2012/Assyout appellate misdemeanor

Facts of the case

Sectarian violence erupted in four villages in the Assyout district when on 29 December schoolmates of Gamal Abduh Gad al-Sayyed Masoud, a student at the Manqabad Secondary School, objected to images on Masoud's

23- Telephone interview with Father Shenouda Hanna, the priest at the Church of the Virgin in Abu Aziz, Matay district, who participated in the reconciliation session.

24- Telephone interview with Milad Ayyad Salib, Nour's brother, 16 Oct. 2012.

Facebook page, claiming they defamed the prophet. Witnesses say that the school social counselor played a primary role in inflaming the sentiments of the students and local residents by mobilizing the students to demonstrate in protest at the images and demand punishment for the Christian student. In the wake of this, hundreds of Muslim youths gathered in front of the school at 9 am demanding that Masoud be turned over to them for retribution. The school principal refused and contacted security leaders; army and police forces arrived and escorted the student to the police station, where he remained in custody.

The evening of the same day, hundreds of Muslims from the nearby villages of al-Adr (home of Masoud) and Bahig gathered and threw stones and Molotov cocktails at Masoud's home and several neighboring houses. They fired several rounds nearby and attempted to storm the homes numerous times. Army and police forces deterred them; under the leadership of the Assyout security director, the Assyout police chief and the deputy director of the local public security sector, forces surrounded Coptic homes and deployed tear gas to disperse the crowds.

The angry crowd was able to set fire to Masoud's home as well as two livestock pens in neighboring houses in al-Adr. Firefighters brought the flames under control after they had consumed much of the contents of the two houses and several heads of sheep. At approximately midnight on Thursday, security forces were able to restore calm and disperse the demonstrators from the vicinity of the Christian homes.

According to witnesses present in the village, during the Friday prayer of 30 December, some mosque imams condemned the publication of the defamatory image, which prompted dozens of residents of al-Adr and Bahig to again head to Masoud's home to torch it. Security forces deployed in al-Adr the previous day managed to stop them and were able to remove the contents of the home from the village in police trucks, which were pelted with stones by the crowd. Police forces again responded with tear gas to disperse the crowds and repel them from the security cordon around Christians' homes. Local residents then set fire to straw and agricultural waste around the Christians' homes and fired rounds of ammunition.

The tense atmosphere extended to Salam, a village located about 5 km from al-Adr and Bahig, where dozens of angry Muslims set fire to four homes, including the home of Mina Gamil Bishay, a Christian student and classmate of Masoud, after pelting the house with stones and destroying its contents. Some villages prevented the arrival of firefighters, but the security force removed the crowds from the scene and enabled the entry of Civil Defense personnel. The angry crowds then moved to another area of town, setting fire to two more Christian homes, whose residents managed to escape. Several neighbors sustained burn injuries from trying to put out the fire, while several heads of livestock were lost.

The fire also consumed the home of Saber Riad in the southern part of the village, after angry crowds threw Molotov cocktails at his home.

On the evening of the same day, Assyout Governor al-Sayyed al-Borai and security director Mohamed Ibrahim held a meeting attended by several parliamentarians with the Muslim Brotherhood, Salafis and other Islamist groups, as well as a deputy minister with the Ministry of Awqaf, Muslim and Christian clerics and representatives of families in the villages that had witnessed attacks. The governorate technical office issued a statement about the meeting.²⁵

Attendees agreed that the Christian student who had caused the problem should be prosecuted in an expedited trial on charges of religious defamation, while he and his family should leave the Assyout governorate permanently. Priests would issue an official apology in all media, and Masoud's friend, Mina Gamil Bishay, who was alleged to be involved in the incident, would be arrested and the same terms applied to Masoud and his family applied to Bishay and his family.

Legal action

The Public Prosecution charged that on 29 December 2011, in the district of Assyout, Masoud had:²⁶

1. Traduced Islam, a religion whose rites are performed publicly. Namely, he intentionally published a cartoon defaming the prophet on his Facebook page.
2. Intentionally incited to discrimination between people (Muslims and Christians) on the basis of religion. Namely, he intentionally published a cartoon defaming the prophet on his Facebook page that was liable to incite to a disturbance of the public peace.
3. Circulated printed material (the cartoon) defaming the prophet on Facebook, thereby infringing on Islam, which was liable to incite to a disturbance of the public peace.

The prosecution asked that he be sentenced under Articles 160/1, 161/1, 17/1 and 176 of the Penal Code; Articles 2, 95 and 111/4 of the child law (Law 12/1996, amended by Law 126/2008); and Articles 1, 10, 26/2 and 30 of Law 20/1936 on printed material.

25- EIPR was informed of the content of the statement by Khalil Ramzi, a member of the confessional council of the Manfalout bishopric on the day of the events and at later dates.

26- A copy of the case file is on file with the EIPR.

On 3 April 2012, the Assyout Misdemeanor Court ruled in presence to sentence Masoud to three years in prison with labor; the Assyout Appellate Juvenile Misdemeanor Court, presided over by Judge Ahmed Abu Sahli, ruled on 29 May 2012 to imprison Masoud for three years on the first charge and acquit him of the second and third charges.

The court judgment stated that the defendant had transgressed Islam, whose rites are performed publicly, in the way set forth by the legislator and as required to meet the material element of the crime described in Article 161/1 of the Penal Code.

The trial sessions devoted to arguments and the pronouncement of the judgment witnessed verbal attacks by the lawyers for the civil plaintiffs on the defendant's lawyers. The latter said that the climate of the trial was not normal and that they were verbally assaulted; some even attempted to physically engage with them in the courtroom. The defendant's counsel appealed the judgment within the legal deadline, but no date has been set for a hearing.²⁷

17 January 2012: actor Adel Imam sentenced to prison for his films; acquitted on appeal
Giza governorate, al-Haram
Case no. 24215/2011

Facts of the case

Lawyer Asran Mansour filed a suit with the Amiriya Summary Court asking that actor Adel Imam be punished, alleging that he had habitually denigrated Islam in his artistic works in a way that constituted defamation of Islam and portrayed Islam and Muslims in a backwards, reactionary way, as a result of which the civil plaintiff had sustained material and moral harm.

Legal action

The plaintiff petitioned for Imam's prosecution under Article 98(f) of the Penal Code and asked that Imam be ordered to pay LE51 as temporary compensation, as well as all court costs and attorney fees. The plaintiff submitted documentation containing segments from several of Imam's films, including "The Terrorist," "Terrorism and Kebab," "Hassan and Morqos," "Morgan Ahmed Morgan," and "The Yaqoubian Building."

27- Testimony of Peter al-Naggar, attorney for the defendant, to the EIPR, 18 Oct. 2012.

On 9 July 2011, the Amiriya Court ruled that it had no jurisdiction over the case and referred it to the Giza Primary Court, the competent court.

On 17 January 2012, the Pyramids Misdemeanor Court, presided over by Judge Mohamed Abd al-Ati, sentenced Imam in absentia to three months imprisonment and fined him LE1,000 on charges of defaming Islam in his artistic works and mocking the gallabiya and beard. The same judgment was issued in presence on 24 April 2012.

The Pyramids Appellate Misdemeanor Court on 12 September 2012 overturned the judgment and acquitted Imam, ordering the civil plaintiff to cover all lawyers' fees and court costs.

The court stated that it had examined the charges and the film clips that the plaintiff alleged were defamatory to Islam and found that the defendant had done nothing constituting defamation, but had rather portrayed various types of erroneous conduct in society.²⁸

19 January 2012: violence following charges that a Christian shop owner defaced a Quran
Qena governorate, Nagaa Hamadi

Facts of the case

Several residents of the village of al-Rahmaniya in the Nagaa Hamadi district, located in the Qena governorate, fired shots in the air toward the houses of the Coptic Naggarin family in an attempt to appropriate a plot of land owned by the family behind the village phone central. This led to clashes that devolved into sectarian clashes between local Christians and Muslims, which left several homes and vehicles in flames.

The village had been the scene of tension between Muslims and Christians during the third round of the People's Assembly elections, held on 3–4 January, during which a number of Christian citizens were assaulted and prevented from voting, on the grounds that the local Christians were voting for Khaled Khalaf Allah and Fathi Qandil and did not vote for the village candidate. During this, Romani Khalaf and Mina and Sameh Mansi were attacked. They filed a report at the Nagaa Hamadi police station documenting the assaults.

28- A copy of the written judgment issued on 17 Jan. 2012 in misdemeanor no. 24215/2011 is on file with the EIPR; EIPR also attended the trial sessions.

During the events, village Salafis led by one Sheikh Gaber accused Christian Shenouda Finhas, the owner of a barbershop, of defacing the Quran. His shop came under attack, forcing him to close it. The Nagaa Hamadi police station summoned him and questioned him about the incident, which he denied; he was released the same day.

The attacks left two homes near the plot of land torched, along with a livestock pen owned by a Copt and several Coptic-owned cars and motorbikes. A telephone exchange owned by a Muslim was also torched. Abdullah Adel Mohamed (16) and Zaghoul Fawi (40) were injured, as was Inji Wagih (from smoke inhalation) and Habish Ghali (30). Security forces intervened and fired tear gas to disperse the crowds at the entrance to the village.

Customary action

The Nagaa Hamadi Family House convened a meeting to calm matters between Christians and Muslims on 9 March 2012, attended by Father Kirolos, the bishop of Nagaa Hamadi, and Sheikh Ahmed Abd al-Latif, the Nagaa Hamadi director of endowments, as well as Muslim and Christian religious and popular leaders. They agreed that Finhas, accused of defacing the Quran, would be prohibited from working at his barbershop, to be replaced by his brother Mina or another person; this was after the Muslim witness retracted his statement that he was certain he saw Finhas defacing the Quran. After signing the reconciliation agreement, Sheikh Gaber promised to protect the shop when it resumed operations, but when Finhas attempted to re-open the shop, several local Muslims gathered and began chanting religious slogans, such as “Islamic, Islamic,” and prevented him from opening the barbershop.²⁹

24 January 2012: Shia citizen suspended from work because of his religious belief

Qena governorate, Esna district

Case no. 115/20JY, filed by the Administrative Prosecution

Facts of the case

Mohsen Mohamed al-Saghir from the village of al-Qaraya filed a complaint on 24 January 2012 with the director of the Esna education directorate against Mohsen Aba Zeid Ahmed, a resident of the village of al-Namsa,

29- Telephone interviews with Father Angelios Mikhail, the priest at the Mar Girgis Church in al-Rahmaniya.

located in the Esna district, who is a science teacher at the Komer Preparatory School in Esna and works for three days a week at the al-Qaraya Preparatory School. The complaint accused Ahmed of challenging well-established religious principles and inciting strife in the village; he also allegedly said that the caliphs Abu Bakr al-Siddiq and Omar Ibn al-Khattab, as well as Aisha, were hypocrites and corrupted.

The incident began on 20 January 2012 when Ahmed was subjected to a trial of inquisition. The complainant al-Saghir and several other citizens went to the Ahmed family's courtyard at 11 pm and asked to speak with Ahmed.

Judicial and administrative developments

As recorded in the interrogations of the Administrative Prosecution, each party to the dispute had a different version of events. According to al-Saghir:

I heard and learned that Mohsen Aba Zeid is a Shia, so, being zealous in religion and seeking to enjoin the good and change the evil, on 20 January, I and Ahmed Metwalli went and met in the home of my brother, the accused, with 10–12 people. We asked him to attend and the following conversation took place:

I said: Are you a Shia. He said: I'm a Shia.

I said: Are you a Twelver? He said: I'm a Twelver.

I said: Are you a rafidi? He said: I'm a rafidi.

I said: What do you say about Abu Bakr? He said: A corrupt hypocrite.

I said: What is your opinion of Omar? He said: A corrupt hypocrite.

I said: What is your opinion of Aisha? He said: A corrupt hypocrite.

According to the statement of the accused during the interrogation:

The complainant said: I heard that you're cursing the companions of the prophet. I responded: I'm not cursing anyone.

The complainant said: Are you a Shia rafidi? I responded: These are confessional matters. Every person is free to choose his confession.

The complainant said: What is your opinion of Abu Bakr, Omar and Aisha? I said: They're companions of the prophet.

He then left the courtyard after threatening to kill me, saying if you go to the Qaraya school, they'll kill you.

The Esna education directorate referred complaint no. 301 on 27 February 2012 to the Administrative Prosecution, in which al-Saghir complained that Ahmed challenged well-established religious principles, inflamed civil strife and verbally insulted Abu Bakr al-Siddiq, Omar Ibn al-Khattab and Aisha.

On 12 May 2012, Ahmed Sayyed Qenawi, the director of the Esna Administrative Prosecution, referred Ahmed to disciplinary trial.³⁰ The prosecution submitted the interrogation file and the charge sheet, alleging that on 20 January 2012, in the home of his brother in al-Namsa in the Esna district, he had engaged in misconduct unbefitting the necessary professionalism. Specifically, he made inappropriate, defamatory remarks about Abu Bakr, Omar and Aisha to Mohsen Mohamed al-Saghir Bahnas, a teacher at the Qaraya Preparatory School. The Administrative Prosecution asked the head of the Qena Disciplinary Court to set a disciplinary hearing for the accused pursuant to Articles 76/3, 78/1, 80 and 82 of the public employees regulations 47/1978, amended by Law 115/1983.

On 24 December 2012, the Qena Disciplinary Court, part of the State Council, presided over by Judge Ahmed Faroud Qayed, ruled to suspend the defendant from his job for six months at half salary.

The court relied on the statements of complainant Mohsen Mohamed, Ahmed Mohamed Metwalli and Khaled Atiya al-Naggar, while the defendant denied the allegations. The court explained that the sanction was not directed at the defendant's faith or his embrace of Twelver Shiism, but because he cursed Aisha, the Mother of the Believers, Abu Bakr and Omar in front of Muslims, which is tantamount to impugning religion and shaking the faith of Sunni Muslims.

9 February 2012: six years in prison for school secretary following a religious discussion

Assyout governorate, Abanob

Petition no. 454/2012 Abanob administrative, entered as no. 1589/2012

Facts of the case

A discussion took place in the Deir al-Gabrawi Preparatory School between Makarem Diab Said, a 54-year-old Christian and the secretary of the Deir al-Gabrawi School, located in Abanob district of the Assyout governorate, and two of his Muslim colleagues about religion. During the discussion, Said asked his colleagues why the prophet had married so many women. The conversation ended without incident. The two Muslim teachers later told a colleague of theirs, Abd al-Hamid Imam Abd al-Rahman, a recent addition to the school faculty, about the conversation. A Salafi known for his religious strictness, Abd al-Rahman in turn told Salafi and Gama'a Islamiya sheikhs in Abanob about the conversation.

30- A copy of the case file is on file with the EIPR.

A few days later, on 23 February, 11 teachers at the school sent a memo to the Abanob education directorate and the police station accusing Said of defaming Islam and insulting the prophet. Dozens of Salafis then assembled in front of the Abanob city council demanding Said's arrest and punishment.³¹

Legal action

The security apparatus arrested Said at dawn on Thursday, 24 February, without explanation to him or his family. The Public Prosecution questioned him and filed charges against him, alleging that on 8 February 2012, he:

1. Traduced the Islamic religion, whose rites are conducted publicly. Namely, he intentionally repeated false words that defame the prophet and did so publicly at the Deir al-Gabrawi Preparatory School in Abanob.
2. Intentionally incited to discrimination against a class of people on the basis of religion. Namely, he intentionally repeated false words publicly at the Deir al-Gabrawi School that defamed the prophet, which in turn disturbed the public peace.

The prosecution asked that he be sentenced pursuant to Articles 160/1, 161/1, 171/1 and 176 of the Penal Code. According to statements from the defendant's family and his lawyer, Ahmed Sayyed al-Gebali, a local Muslim, he and others contacted the security directorate and Salafi leaders in an attempt to contain the situation by convening a customary reconciliation session on 29 February—the first day of the trial. The defendant offered to issue an official apology, insofar as the incident involved no insult of any kind to the prophet or Islam, which the defendant and his family esteem, and since the incident was merely a discussion that included a question.

The defendant's lawyer added that the first trial session was scheduled the day of the customary session without his knowledge. When he went to the Abanob Summary Court, he found more than 2,000 people gathered chanting religious slogans and demanding retribution from Said. More than 80 Salafi lawyers were gathered in front of the courtroom door. They prevented other lawyers from entering, including the defendant's lawyer, and did not permit him to meet his client.³²

The EIPR sent letters to all People's Assembly representatives for the Abanob district and southern Assyout, including two Islamist parliamentarians, informing them of events at the trial and cautioning against further popular pressure on the court and barring the defendant from making his defense when the Assyout Appellate Misdemeanor Court heard the case on 15 March.³³

31- Various statements obtained by EIPR from Said's family and colleagues, Feb. 2012.

32- Testimony of lawyer Ahmed Sayyed al-Gebali to EIPR, 29 Feb. and 3 Mar. 2012.

33- The EIPR sent the letters on 12 Mar. to all parliamentarians for the second district of Assyout, where Abanob is located.

Fearing heightened sectarian tension, the EIPR asked the MPs to take swift action to petition for a change of trial venue from Assyout governorate to guarantee justice and preclude any reaction against the judgment, and to meet with religious leaders to contact the organizers of the demonstrations and protests to put the incident in perspective as a discussion between coworkers. The EIPR asked MPs to make the organizers aware that these actions in such a charged atmosphere might have serious consequences that the governorate and Egypt would be unable to bear in the transitional period and its difficult security conditions.

On 29 February, the Abanob Summary Court, presided over by Judge Taha al-Dali, sentenced the defendant in presence to six years in prison, three of them with labor, and fined him LE500 for the first charge, in addition to three years with labor for the second charge, and also ordered him to pay all court costs. The sentence was issued less than one week after Said's arrest, although his attorney was unable to attend the first hearing.

On 4 April, the Abanob Appellate Misdemeanor Court, presided over by Judge Shehab Karim, upheld the six-year sentence. Citizens in the courtroom prevented the defendant's attorneys from defending him and assaulted them.³⁴

Adel Ramadan, the legal officer for EIPR's civil liberties unit, and Ahmed Hossam, an EIPR lawyer, were assaulted prior to the trial session by lawyers for the civil plaintiffs and ordinary citizens. The two lawyers entered the courtroom as soon as the court convened to hear cases prior to Said's case. Ahmed al-Gebali, the defendant's lawyer, was prevented from entering the courtroom, as several other lawyers, some of them bearded, stood and denied him entry. With time, some of those present in the courtroom realized that Ramadan and Hossam intended to defend Said, and several of them began verbally and physically harassing the two attorneys, while the court was in session hearing cases. The two men notified the court of this more than once. After one such time, the presiding judge told them, "Don't worry, you're in Assyout," adding that he would hear the case last.

As soon as the judges finished hearing the other cases, they entered chambers, whereupon a large number of people present in the courtroom, most of them bearded lawyers, began attacking Ahmed Hossam and Adel Ramadan, hitting them and tearing their clothing. Hossam managed to get out of the courtroom and went to the office of court security, where he asked security to intervene quickly to protect his colleague. Security intervened ten minutes later and took them to the Assyout security directorate, where security officials refused to file an incident report, saying that such reports must be filed at the police station and that the directorate could not take the two attorneys there in fear of their lives. Security then asked them to leave the governorate and return to Cairo.

34- A copy of the judgment issued by the North Assyout Appellate Misdemeanor Court in misdemeanor no. 1742/2012, entered as no. 1579/2012/ Abanob misdemeanor, is on file with the EIPR.

24 February 2012: a comparison between ElBaradei and al-Huweini leads to the expulsion of a pharmacist from his village
Minya governorate, Saft Abu Garg, Beni Mazar
Report no. 1236/2012/Beni Mazar

Facts of the case

Several Muslims in Saft Abu Garg gathered in front of a pharmacy owned by Dr. Momen Magdi Shehata, a Christian, after a rumor spread accusing him of defaming Islam on his Facebook page. It was said that the pharmacist posted an image on his page titled “Resolving poverty and Egypt’s problems.” On the left, he put a picture of Sheikh Abu Ishaq al-Huweini and quoted part of a television interview in which the sheikh said, “We carry out two or three raids a year so each of us ends up with some dinars, a few hardy slaves and slave girls. When we need to, we sell them.” On the right, he put a picture of Dr. Mohamed ElBaradei and quoted him saying, “I will bring the best experts in every field and we’ll draft a program for advancing Egypt. Our priorities will be education, scientific research, security, the economy, health and justice.”³⁵

Witnesses said that Sheikh Mahmoud Khalil and Sheikh Sherif, Salafi leaders in the town, incited locals to assemble in front of the pharmacy. The local police were then notified by the Beni Mazar district to shut down the pharmacy and summon Shehata to the Beni Mazar police station. Incident report no. 1236/2012/Beni Mazar was filed.

While Shehata was held at the police station—from 7 pm, Friday, 25 February, to 3 am Tuesday—he was insulted by Homeland Security officers and was told to leave Beni Mazar and go to Cairo and stay there. A Homeland Security officer at the police station told him, “I know you have a sister in Cairo. Go and stay there a few months. You don’t know what you’re doing to the town.”³⁶

The chief of investigations at the Beni Mazar police station and an official with Homeland Security forced Shehata to sign a customary reconciliation agreement, which stated that the session was conducted between the first party, a Christian, and the second party, a Muslim. The terms of the agreement included the closure of the pharmacy and Shehata’s eviction from the village, and no action to be taken against his family. Two Salafi sheikhs and a local Muslim Brotherhood leader signed the reconciliation report.

35- A copy of the post is on file with the EIPR.

36- Interview with Momen Magdi Shehata.

The next day, Shehata's father was notified by the district to remove the sign from the pharmacy and sell the drugs inside. Shehata's family faced harassment at work because of rumors that he had defamed Islam, and he was forced to sell the pharmacy for a pittance. He was still unable to return to the village at time of writing.

28 February 2012: Sawirus acquitted of charges of defaming Islam

Cairo

Case no. 6586/2010/Qasr al-Nil misdemeanor court

Facts of the case

Several lawyers filed suit against businessman Naguib Sawirus accusing him of using his personal webpage and YouTube to post a picture of a bearded mouse and another mouse with a headscarf, which they considered a disturbance of the public peace.

Legal action

The plaintiffs deposited a claim written by the court clerk asking for the maximum sentence against Sawirus as set forth in Article 176 of the Penal Code, in addition to LE10,001 as temporary civil damages. On 20 September 2011, the civil plaintiff advanced several arguments to establish the harm he had sustained due to the defendant's actions. The plaintiff argued that he was an adherent of Islam and that the defendant's action had harmed him because he has a beard and believes in the duty of the headscarf, which the defendant mocked with the image, taken from Sawirus's webpage and submitted in court.³⁷

The defendant's lawyer submitted a brief to the court on 31 January 2012 arguing that both the civil and criminal suit be denied due to lack of standing based on the absence of harm or interest.

The Qasr al-Nil Misdemeanor Court, presided over by Judge Ehab Youssri, denied both suits on 28 February 2012 due to lack of standing. The court ordered the plaintiff to pay court costs and LE50 in attorney fees.³⁸

The judgment stated that the civil plaintiff's arguments to prove harm from the defendant's act were general and did not constitute personal harm to the plaintiff, for the image that the defendant uploaded to his webpage had no relation or connection to the civil plaintiff.

37- EIPR researchers observed the case.

38- A copy of the written judgment from the Qasr al-Nil Misdemeanor Court, issued on 28 Feb. 2012, is on file with the EIPR.

3 March 2012: defamation suit against businessman denied for the second time Cairo governorate, Boulaq Suit no. 2834/2011/misdemeanor defamation/Boulaq Abu al-Ela Summary Misdemeanor Court

Facts of the case

Several suits were filed against businessman Naguib Sawirus on the same issue as the previous suit: the publication of a Mickey Mouse cartoon that portrayed Mickey with a beard and Minnie Mouse wearing a face veil, which was considered defamation of the prophet's sunna by Islamist lawyers. In one suit, Ali Ahmed Dorgham, a lawyer with the Center for Global Human Rights Law, filed a civil suit naming Naguib Sawirus asking for the maximum sentence allowed by the Penal Code and LE10,001 in temporary relief. The plaintiff said that the defendant had published two images defaming Islam on his webpage, showing Mickey Mouse with a beard and Minnie Mouse in a veil, an act of defamation that merited punishment.

Legal action

In the hearing of 14 January 2012, the court found that interrogations had been appended to the case files by the Public Prosecution. The prosecution conducted the interrogations into the same incident, but took no action. Several lawyers were in attendance and asked to be registered as civil plaintiffs, while the defendant and several of his attorneys were present.

The hearing saw an argument between the civil plaintiffs and the defendant's lawyers. Dorgham described the defendant as "a criminal who intentionally derided and defamed Islam." The civil plaintiffs asked for a continuance to declare their suits, while the other lawyers in attendance asked for a continuance to file suit against Dorgham for libel. They also argued that the suit be denied due to lack of standing and lack of criminal intent.³⁹

The court adjourned until 11 February 2012, when both parties were in attendance. The civil plaintiffs asked for LE10,001 each as temporary civil relief for the defendant's defamation and libel of Islam and his public incitement to defamation, pursuant to Articles 161, 176, 302, 306 and 307 of the Penal Code. The defendant's counsel argued that the suit be denied since the claim did not have identifying details and did not elucidate the charges; counsel also argued for a denial of the criminal and civil suits due to lack of standing and interest.

The Boulaq Abu al-Ela Misdemeanor Court, presided over by Judge Sherif Kamel, ruled on 3 March 2012 to deny the criminal and civil suits and ordered the civil plaintiffs to pay all civil court costs and LE50 in attorney fees.

³⁹- Based on EIPR's observance of the trial and the testimony of Mamdouh Abd al-Gawad, attorney for Sawirus, 17 Oct. 2012.

The judgment stated that the Egyptian Penal Code drew a distinction between two types of crimes: the first were crimes that harmed the general welfare while the second were crimes against individual persons. The latter are the type that may entail direct individual harm, while only the Public Prosecution has the right to file and prosecute criminal suits in regard to the first set of crimes in consideration of the public interest. The civil suit before the court therefore failed to meet the most important condition for acceptance: that the plaintiff demonstrate direct, personal harm, which was not proven to the court. The suit also did not meet the condition that it not be preceded by a criminal suit. Documents before the court proved that the Public Prosecution had received several complaints against the same defendant on the same issue, after which the prosecution filed a criminal suit and launched investigations into the incident on 28 June 2011, entered as case no. 2248/2011/Central Cairo petitions. The prosecution questioned some of the complainants and the investigation was pending when the civil plaintiff filed direct suit on 5 July 2011, thus appropriating the Public Prosecution's right to conduct its investigations. Finally, the direct misdemeanor suit did not include the articles of indictment.⁴⁰

11 April 2012: for third time court acquits businessman of defaming Islam
Menoufiya governorate, Quweisna
Misdemeanor no. 14050/2011/Quweisna Summary Court

Facts of the case

A citizen brought a direct misdemeanor suit against Naguib Sawirus pursuant to a claim filed by the court clerk on 17 July 2011 seeking the maximum penalty under to Articles 98, 161, 176 and 197 of the Penal Code, as well as temporary civil compensation of LE5,001. The suit claimed that in June 2011, he published images in a national newspaper and on Twitter and Facebook blaspheming and defaming Islam.

The court, presided over by Judge Ahmed a-Damrani, acquitted the defendant of the charge and rejected the civil suit, ordering the civil plaintiff to pay all court costs and LE50 in lawyers' fees.

In its ruling, the court stated that having reviewed the case files and documentation, the complaint filed by the civil plaintiff contained no evidence that the defendant had personally committed the criminal act or that the images had been published by him personally with the intent to harm the civil plaintiff.⁴¹

40- A copy of the ruling issued by the Boulaq Abu al-Ela Misdemeanor Court on 3 Mar. 2012 is on file with the EIPR.

41- A copy of the ruling issued by the Quweisna Summary Court on 11 Apr. 2012 is on file with the EIPR.

26 April 2012: six film workers acquitted of religious defamation and insulting Islamic clerics

Giza

Case no. 529/2012/Agouza Court

Facts of the case

Osran Mansour Mohamed bought a direct suit with the Amiriya Summary Court on 13 October 2011 against Adel Imam, Nader Galal, Lenin al-Ramli, Sherif Arafa, Wahid Hamed and Mohamed Fadel alleging that the accused had traduced Islam and Muslims by exploiting religion in their works to promote extremist ideas with intent to inflame civil strife and defame Islam, specifically Islamist groups, which harms national unity.

Legal action

The plaintiffs asked that the defendants be sentenced pursuant to Article 98(f) of the Penal Code and sought LE51 in compensation, as well as court costs and attorney fees. On 13 October 2011, the court ruled it had no jurisdiction over the case and referred it to the Agouza Court.

The Agouza Court, presided over by Judge Ahmed Samih, denied the civil and criminal suits for lack of a crime and ordered the plaintiff to pay court costs and LE50 in attorney fees.

Availing itself of the court's authority, the court offered an interpretation of Article 98(f) of the Penal Code, opining that the object of protection under the article was national unity and social peace, not the revealed religions or confessions of these religions, in order to defuse crises and prevent friction between different classes of one people.

The court added that the use of a broad measure such as "extremist thoughts," which contains no definition or rule on what is or is not extremist, threatens to create a legal system tantamount to inquisitorial tribunals into ideas, and therefore beliefs, and to forbid them on the grounds of heresy in the Christian tradition and apostasy and atheism in the Islamic tradition. This would take society back to the dark ages of stagnation and lead to a totalitarian embrace of one particular idea and hence thwart aspirations for the development of religious discourse, which is incompatible with freedom of expression and belief.⁴²

42- A copy of the judgment is on file with the EIPR.

9 June 2012: clashes between Muslim and Christian students at the university dorms in Assyout

Assyout governorate, female student dormitories

Facts of the case

Several Christian and Muslim students clashed in the university dorms in Assyout. Eyewitnesses told different versions of the circumstances surrounding the events. One version claims that a Christian student, Sanaa Aqladios, engaged in a religious discussion with Muslim students in a dorm building, which provoked them and sparked clashes. A second version claims that the Christian student placed religious leaflets in the Muslim students' rooms titled "God Guides You" and "The Ship of Deliverance." Christian students, on the other hand, said that the leaflets belonged to them and they did not distribute them.

The clashes left 12 students and dorm counselors with various head and body injuries, the counselors having intervened to break up the fight. Dozens of Salafis also gathered in front of the dorm to demand the expulsion and punishment of the Christian student.

Sanaa Aqladios lived in the dorms temporarily during the examination period, after she obtained special permission from the dorm administration due to the security vacuum and the difficulty of moving around Upper Egypt. She was a student at the Faculty of Law, open education, and comes from the distant district of al-Qou-siya. Students in the open education track are not eligible to reside in the dormitories.

After the clashes, Muslim students gathered in the dorm courtyard, while dozens of Salafis organized a protest in front of the university dorms demanding the expulsion of Christian students; the Christian students went into their rooms and banged on the doors.

The university president, security chief Gen. Mohamed Ibrahim, Sheikh Bayoumi Ismail (an MP for the Gama'a al-Islamiya) and Shaaban Ibrahim (a Gama'a al-Islamiya official) arrived. The leaders held two separate meetings with the Christian and Muslim students and agreed to calm matters and open an investigation into the events by the university administration.

Sheikh Bayoumi Ismail, a former member of the People's Assembly for the Gama'a al-Islamiya, told the EIPR⁴³:

A Christian student spoke with her Muslim peers about religion and Quranic verses, and she distributed Christian leaflets to them. There was a fight and a rumor spread that she had thrown a Quran on the ground. That

43- Telephone interview with Ismail on 10 Jun. 2012.

did not happen at all. Talk gets spread but it's incomplete. I went with officials to the dorm and met with the students. We asked them to calm things down, especially considering the difficult conditions in the country. It's not in anyone's interest to inflame such matters. We agreed to conduct an administrative investigation so that the students would feel that some action was being taken.

Assyout University decided to punish the Christian student and expel her from the dorms; four students and one counselor were referred to administrative investigation to discover the causes of the issue, but a decision was made not to escalate by bringing the matter to the legal authorities.

Dr. Mustafa Kamal, the president of Assyout University, told EIPR⁴⁴:

The problem was a simple one between a student who deviated from the rules who is a temporary, rather than official resident and we expelled her. It was said that the Christian student was proselytizing, but that did not happen. She was defending her religion. Four students—three Christians and one Muslim—along with a building counselor were referred to administrative questioning. We did not file a police report, to protect the students' future and so there would be no uproar or escalation between people in this serious issue.

10 July 2012: refusal to revoke the State Appreciation Prize from two Islamic thinkers because of their religious views

Cairo

Case no. 48575/63JY and case no. 52478/63JY, State Council, Court of Administrative Justice, first circuit

Facts of the case

The Ministry of Culture of 26 June 2009 awarded the annual State Appreciation Prize in the social sciences to Dr. Sayyed al-Qimni, Dr. Hassan Hanafi and Dr. Niamat Ahmed Fouad. As soon as the names were announced, two lawsuits were filed with the first circuit of the Court of Administrative Justice, the first by Sheikh Youssef al-Badri (no. 48575/63JY) and the second by Tharwat al-Kherbawi (no. 52478/63JY); they were joined by several other complainants.

44- Telephone interview with Kamal, 10 Jun. 2012.

The plaintiffs asked that the prize—both the award itself and the prize money—be revoked from al-Qimni and Hanafi because of their views of Islam. The suits named the minister of culture, the head of the Supreme Council for Culture and the head sheikh of al-Azhar, all in their official capacity.

The suits alleged that the respondents had no interest other than impugning Islam, its judgments, rites and symbols, and insulting the Islamic belief system, and that the Ministry of Culture had insulted the sensibilities of Muslims by awarding them the prize.

The suits stated that al-Qimni had denied prophecy, revelation and things necessarily known from religion, and had put forth a distorted reading of Islamic history. It noted that the Islamic Research Academy had recommended banning the circulation of his works. The suits also alleged that Hanafi rejected the idea of God and all aspects of the unseen world, and that he had erred in the doctrine of divinity, the Quran and the prophet.

The court, presided over by Judge Abd al-Salam al-Naggar, denied the two suits and ordered the plaintiffs to pay all court costs.⁴⁵

The judgment stated that international conventions joined by Egypt and enjoying the force of law upheld every individual's freedom of thought and the search for knowledge. Respect for these rights is therefore an international obligation, and every infringement of human freedoms by the state makes it subject to condemnation and diminishes its status in the international community.

The court added that no person has the right to investigate the beliefs of another or excavate his ideas, taking things out of context that cast doubts on his faith and then accusing him of unbelief, atheism, some defect of religion or corruption of belief.

The court stated that knowledge and thought do not advance through repetition and reiteration but rather through forging ahead into unknown paths, exercising the mind and setting it free of its artificial restraints; cutting off freedom of thought and rational thinking is the equivalent of cutting a person's throat, the court said, because it deprives a person of his freedom and his humanity.

45- The EIPR observed the case and a copy of the judgment is on file with the EIPR.

29 July 2012: six years in prison for a Christian teacher for insulting Islam and disparaging President Morsi

Sohag governorate, Tama

Police report no. 3119/2012, 29 July 2012; case no. 1763/2012/Tama appellate misdemeanor, entered as no. 10814/2012/Tama misdemeanor

Facts of the case

An agricultural engineer accused a colleague of disseminating demeaning messages over his Facebook account that insult and defame Islam and the prophet. During trial proceedings, protestors from the districts of Tama and Tahta gathered carrying black banners and chanting religious slogans and attacked the defendants

Legal action

Mohamed Safwat Tamam Mahmoud, an agricultural engineer from the village of Salamoun in the Tama district, filed a police report against Bishoy Kamil Kamel, known as Bishoy al-Beheiri, born on 14 February 1987, because he used his Facebook account to send out demeaning, libelous messages. When Mahmoud entered the page, he found content defaming Islam and the prophet. Lt. Col. Essam Nabil, the chief of Tama investigations, summoned Kamel and took his statement at 12:30 pm, 30 July, in the presence of Mahmoud, the complainant.

During questioning by the Public Prosecution on 30 July, Kamel denied any connection with the page containing the defamatory images and said that he was not the owner of the page; his information been hacked, he said, and the page hijacked. He said that he received phone calls from friends chiding him for receiving defamatory messages on his account and he denied doing so. He wrote a comment on his alleged page denying any relation to the front page since 27 July, prior to the submission of the police report. The prosecution ordered him detained for four days pending investigation.

There were protests in front of the Tama prosecution office in the Tama Summary Court, as Salafi lawyers assembled and chanted slogans championing the prophet. Some stormed into the hearing for the renewal of the defendant's pretrial detention and began chanting "There is no god but God," "Retribution," and "I will sacrifice my father and mother for you, O prophet."

On 1 August, the Tama Misdemeanor Court, convened in the Tahta courthouse, considered detention renewal and ordered Kamel detained for an additional 15 days pending investigation. During the hearing, protestors from Tama and Tahta gathered carrying black flags and chanting religious slogans. They also threw stones and bricks at the police transport truck, with Kamel inside.

On 2 August, Maged Mufid and Bishoy Nathan told the chief of Tama investigations that they had important information on the case. They reported that they had identified the person who had actually established the Facebook page on which the defamatory material was posted. They alleged it was Michael Atef Naim, who set up the page using the defendant's information and posted the defamatory images and that he had published an apology to all Muslims for the offense while Kamil was in detention. Lt. Col. Nabil told them, "Michael or Bishoy—what difference does it make?" This attitude did not satisfy Kamel's father. The two witnesses went to the Public Prosecution, made a statement and submitted an audio recording of Naim admitting his responsibility for the defamatory page. They also submitted two copies of the Kamel's page that contained a written apology to all Muslims, and they asked for an investigation into the circumstances of the incident to discover the truth.⁴⁶

Angry protestors demanding retribution from the defendant again assembled during the remand hearing on 15 August at the Sohag courthouse. Kamel was again ordered detained for 15 days, although he did not attend the hearing following warnings from security bodies that his life might be in danger.

On 22 August, an expedited investigation was launched into the circumstances and the testimony of Nathan and Mufid. On 26 August, a seizure order was issued for Kamel's computer, and an order was issued for an expedited investigation into his statement; Michael Atef Naim was summoned for expedited questioning.

The Public Prosecution charged that Kamel, on the day prior to 27 July 2012, in the district of Tama in the Sohag governorate⁴⁷:

1. Traduced the Islamic religion, which conducts its rites publicly. Namely, he willfully published cartoons that defamed the prophet on his Facebook page.
2. Willfully incited to discrimination between groups of people (Muslims and Christians) on the basis of religion. Namely, he willfully published cartoons that defamed the prophet on his Facebook page.
3. Circulated printed copies of cartoons that defamed the prophet and Islam and were likely to disturb the public peace.
4. Insulted the president of the republic. Namely, he published an image of him, a public symbol of the Arab

46- Interviews with Kamil Kamel, Bishoy's father, and his friends, 1 Aug. 2012.

47- A copy of the case file is on file with the EIPR.

Republic of Egypt, with a defamatory comment of him on his social media page.

5. Published cartoons on his page likely to offend public decency.

6. Intentionally angered the victim and all adherents of Islam by abusing communications devices.

The prosecution asked that he be sentenced under Articles 161, 171, 176, 178, 179 and 306 of the Penal Code, and Articles 1, 5/4, 6, 13/7 and 76 of Law 10/2003 on communications.

The Tama Misdemeanor Court convened for Kamel's trial on 1 September 2012, while Islamist movements organized marches around the courthouse demanding the maximum sentence for the defendant. The judge postponed the case for one week, and the police were unable to bring the defendant to the trial session. Kamel did not attend the session of 8 September as well due to difficult security conditions, and the assembled crowds attempted to assault his attorney.

On 11 September 2012, demonstrations were held outside the courthouse, during which several protestors carried black flags and attempted to attack the police transport truck holding the defendant. The court heard his defense counsel, who submitted an audio recording of Michael Naim admitting that he set up the Facebook page. On 18 September, the verdict was issued.

The court sentenced Kamel to three years in prison with labor on charges 1, 2, 3 and 5, two years with labor on charge 4, and one year with labor on charge 6. The court also ordered the defendant to pay the civil plaintiff a sum of LE500 as temporary civil relief. The defendant's signature was taken for his appeal during the session without consulting his attorney, and the hearing was set for 27 September.

On 20 September, Minister of Justice Ahmed Mahmoud Mekki issued Decree 8335/2012 ordering the Tama Appellate Misdemeanor Court hearing case no. 1763/2012/Tama appellate misdemeanor on religious defamation charges against Kamel be convened at the Sohag Primary Court starting from Thursday, 27 September 2012.⁴⁸

On 27 September, the Tama Appellate Misdemeanor Court upheld the conviction and sentence against Kamel and the sum of LE500 as civil relief.

The court devoted a special session to the case, and security forces denied entry to the courtroom for everyone but lawyers. Dozens of citizens organized a demonstration outside the court and chanted religious slogans

48- Official Gazette, no. 225, 1 Oct. 2012.

demanding retribution as well as slogans against Adel Ramadan, the legal officer of EIPR's civil liberties unit, and Mohamed Khidr, an EIPR lawyer, who were defending Kamel. Demonstrators chants included, "Tell the truth, lawyer, are you a Muslim or not?"

After the court adjourned, security asked the lawyers to wait in the office of courthouse security. While doing so, a Salafi leader known to the security bodies came in and told Khidr, "You're not a Muslim, you're an atheist."

10 September 2012: death sentence for seven Christian citizens in the case of the defamatory film

Cairo

Case no. 6542/2012/Abdin felonies, entered as case no. 636/2012/South Cairo plenary

Facts of the case

On 10 September 2012, the Supreme Body of the Coptic State in America announced a trial of Mohamed, the prophet of Islam, in Pastor Terry Jones's church in Florida on the anniversary of the 11 September 2001 attacks. It added that it was dedicating the first film depicting the life of Mohamed to Coptic martyrs and the wounded, detainees in the Brotherhood's prisons and girls held in al-Azhar prisons. According to the body's statement, the trial panel was comprised of Father Wayne Sapp, Ted Habib and Usama Dakdok, with Morris Sadek, Ilia Basseley and Ehab Yaqoub acting as observers.⁴⁹

As soon as the announcement was made, Father Bakhomius, the patriarch of the Orthodox Church, issued a statement, declaring:

The church has learned that some Egyptians residing in the diaspora are taking action to sow divisions between sons of the nation by defaming Islam and its prophet...The church states in the clearest and strongest of terms that it rejects and condemns the defamation of Islam. It respects Islam and Muslims, partners in the nation and humanity, and it rejects offense to their feelings, beliefs and religious symbols. The church declares that it absolves itself of the actions of such persons that entail religious defamation. This is a crime punishable by law and contravenes the authentic Egyptian character and Christian traditions.

Several Islamist movements, among them the Coalition for the Voice of Wisdom and the Salafi Front, organized demonstrations in front of the US embassy in Cairo to condemn the film, stop the screening of it and try those responsible for it.

49- Statement, 10 Sep. 2012.

On 11 September 2012, several thousand people demonstrated in front of the US embassy demanding an official apology for the film. Several climbed the wall, took down the American flag, and set fire to it, placing in its stead a black flag declaring “There is no god but God and Mohamed is His prophet.” They chanted, “With blood and spirit, we will redeem you, Islam,” “Down with Americans,” and “God is great,” and held aloft posters saying, “We are your redeemers, prophet of God” and “No to the Crusader criminal.” Police and army forces managed to bring down demonstrators from the embassy’s walls.

The Holy Synod of the Orthodox Coptic church issued a second statement on 12 September noting that in the past several other Western films defaming Christ and Christianity had been produced and screened. The Holy Synod declared that religious defamation contravenes Christian values and the teachings of Christ and the Gospels, as found in the bible. It added that anyone with proven involvement in producing, screening or promoting these defamatory films should be held account for their departure from Christian values under canon law, and that religious defamation and blasphemy is a crime that everyone should prohibit and suppress.

Members of the Holy Synod added in the statement that diaspora Copts had strongly condemned the defamatory film and that the Egyptian people in its unity—Muslims and Christians—would overcome this tribulation by a common expression on all levels of everyone’s rejection of the unfortunate incident.

President Mohamed Morsi stated, “Islamic sanctities and the prophet, may peace be upon him, are a red line for all of us Muslims. All of us Egyptians reject any traducement or defamation of our Prophet Mohamed, peace and prayers be upon him, whom we all shall redeem with all our spirit and heart.”⁵⁰

While the US embassy in Cairo warned its citizens of ongoing demonstrations and closed its doors and services, tens of thousands of Egyptians organized demonstrations and marches in several governorates on Friday, 14 September, demanding the expulsion of the US ambassador and the suspension of relations with Washington. A massive demonstration was held in Tahrir under the banner of “championing the prophet.”

Sheikh of al-Azhar Ahmed al-Tayyeb sent a message to UN Secretary-General Ban Ki-Moon asking for the drafting of laws similar to laws banning anti-Semitism and Holocaust denial, as well as an international resolution criminalizing defamation of Islamic religious symbols and sanctities. Al-Tayyeb said:

The time has come to issue this resolution criminalizing the defamation of Islamic symbols and the symbols of other global religions following this aggression against them that has disturbed global peace and threatened

50- Morsi, Egyptian Channel 1, 13 Sep. 2012.

international security. This is the first responsibility of the organization that oversees its safety, and this to safeguard against the recurrence of these serious events in the future.⁵¹

Legal action

On 12 September 2012, Public Prosecutor Abd al-Megid Mahmoud placed nine diaspora Copts and one American pastor on the travel watch list after they were charged with treason and attempting to divide the country in five complaints referred to him. The accused parties were: Pastor Terry Jones, Father Morqos Aziz, Esmat Zaklama, Morris Sadek, Nabil Bisada, Ehab Yaqoub, Jack Atallah, Nahed Metwalli, Ilia Basseley and Adel Riad.

Mahmoud also ordered the State Security Prosecution to investigate the charges related to the defamation of Islam.

Assistant Public Prosecutor Adel al-Said, speaking on behalf of the Public Prosecution, said that he had received five complaints from lawyers and individuals regarding clips of a film published on Facebook pages and YouTube that defamed the divinity, Islam, the prophet and the Egyptian authorities.⁵²

Lawyer Mohamed Hamed Salem filed lawsuit no. 60690/66JY with the Court of Administrative Justice, naming the prime minister and the minister of communications, seeking the blocking of YouTube in Egypt, which would entail blocking all websites and links that carried clips of the defamatory film.

On 18 September 2012, the public prosecutor referred eight defendants to the South Cairo Felony Court and ordered them arrested and detained in connection with the case, after the Public Prosecution completed its transcription of the CDs containing the film produced and distributed online. The prosecution also questioned complainants in ten complaints and charged the accused in the case with perpetrating crimes that infringed on national unity and independence and defaming and traducing Islam.⁵³

The defendants were:

Morris Sadek Girgis Abd al-Shahid, 69, lawyer and founder of the National Coptic Association

Morqos Aziz Khalil, 67, anchor of a religious program

Fikri Abd al-Masih Zaklama, known as Esmat Zaklama, 73, physician

51- Luay Ali, al-Youm al-Sabia, 15 Sep. 2012.

52- MENA, 12 Sep. 2012.

53- Office of the Public Prosecutor, statement on 18 Sep. 2012.

Nabil Adib Bisada Moussa, 64, media coordinator for the National American Coptic Assembly

Ilia Basseley, known as Nakoula Basseley, 55, graduate of Cairo University (all of the above US residents)

Nahed Mahmoud Metwalli, known as Phoebe Abd al-Masih, 67, physician, resident of Sydney, Australia

Nader Farid Fawzi Nakoula, 59, BA in business, resident of Toronto, Canada, with a residence in Heliopolis (all of the above Egyptian nationals)

Terry Jones, 71, pastor of the Dove World Outreach Center in Florida, US

In the referral order, the Public Prosecution alleged that the defendants, from 27 August 2012 to 12 September 2012, in and out of Egypt,

I. Defendants 1–7

1. Willfully committed an act that led to the infringement of the country's unity and its territorial integrity. Namely, they advocated, in a statement disseminated on the internet, the division of the country into statelets based on religion and ethnicity with intent to harm the country's national unity.

2. Exploited religion to propagate extremist ideas with intent to inflame strife, defame and disparage a revealed religion and its adherents, and harm national unity and social peace. Namely, they defamed by referring to some Quranic verses and the prophetic sunna and introducing them into a film distributed on the internet to propagate ideas whose basis challenged the revealed nature of Islam and the prophecy of its prophet, impugned the truth of revelation, claimed the earthly nature of Quranic verses and perverted them, slandered the prophet's companions and family and libeled the tolerance of the religion. The intent of this was to inflame civil strife, defame Islam and harm national unity by producing and promoting a film that defamed Muslims' prophet, confirming in the media that they were responsible for making and promoting the film, and refusing to deny or absolve themselves of any connection with it. Indeed, they issued statements from the Coptic State highlighting the film as a "celebration" against Islam.

3. Willfully disseminated false and tendentious news and rumors. Namely, they produced the film in question which contained scenes of events that they alleged had made Christians subject to religious persecution by some state institutions and they broadcast these over the internet. This was liable to disturb public security and harm the public interest.

4. Publicly traduced a religion whose rites are performed publicly. Namely, they produced and broadcast a film over the internet that defamed Islam, and impugned the prophecy of the prophet and the truth of revelation.

II. Defendant 8 (Terry Jones)

Participated by agreement, incitement and aid with the other defendants in the commission of the crimes. Namely, he incited to and agreed with them to produce and broadcast the film in question and aided them by supplying the necessary funds. The crime was committed pursuant to this agreement and aid.

The Public Prosecution asked that they be sentenced under Articles 40, 41, 98(f), 102(bis)(1), 161 and 171/3 of the Penal Code, having committed felonies and misdemeanors under these articles.

The 16th circuit of the South Cairo Felony Court, presided over by Judge Seif al-Nasr Suleiman, convened its first session in the trial on 21 October 2012. After hearing the Public Prosecution, the court ruled to postpone the case to 25 November to inform and notify the defendants.⁵⁴ The civil plaintiffs moved that Joseph Nasrallah and Zakaria Botros be added to the list of defendants.

The prosecution's evidence in the case included a detailed report on the incidents from Homeland Security; correspondence from the Passports and Immigration Department identifying the defendants and the date of their exit from the country and providing other information on them; and the testimony of an officer with the technical aid section of the Interior Ministry's General Directorate for Information and Documentation and Publication and Publication, Computer and Internet Crimes. The testimony was based on the section's transcription of the CDs in question, confirmation of the CDs' authenticity and the absence of manipulation by the technical committee examining them, an examination of information published online and the re-transcription and viewing of the material by the State Security Prosecution.

On 28 November, the court referred the case files of the first seven defendants to Egypt's state mufti and set a date of 29 January 2014 for the pronouncement of the judgment.

The court opened the sealed evidence, consisting of CDs holding the film in question, a telephone interview with defendant Morris Sadek on a talk show in which he stated that he wrote the film's introduction, and an interview segment with defendant Esmat Zaklama in which he declared the establishment of the Coptic state.

On 29 January, the court sentenced the seven Egyptian defendants to death on charges of defaming Islam and

⁵⁴ The primary researcher attended the trial session.

harming national unity, and sentenced the eighth defendant, a US national, to five years in prison.

The court stated that the penalty for the American defendant was the maximum sentence for misdemeanor religious defamation and that he, unlike the other defendants who received the death penalty, was not charged with dividing the country into four statelets.

11 September 2012: trial of Islamist preacher, his son and a journalist on charges of defaming Christianity

Cairo

Complaint no. 11166/Public Prosecutor petitions, 20 September 2012

Facts of the case

Lawyers al-Sayyed Hamed Mohamed and Nasser al-Asqalani filed a complaint asking for legal action against Ahmed Abdullah, known as Sheikh Abu Islam, the director of the Islamic Enlightenment Center, because he committed the crime set forth in Article 98(f) of the Penal Code.

Legal action

The Public Prosecution on 22 September questioned the defendant, his son Islam and journalist Hani Mohamed. During questioning, the sheikh stated that he had defaced and burned a copy of the bible in English. The public solicitor for the Supreme State Security Prosecution referred the case to the Nasr City Misdemeanor Court. The Public Prosecution charged Ahmed Mohamed Mahmoud Abdullah (Abu Islam), Islam Ahmed Mohamed and Hani Mohamed Yassin under Articles 40/2, 41, 98(f), 160/2, 161/1, and 171 of the Penal Code, alleging that from 11 to 15 September 2012, in the district of the first Nasr City police station:

I. Defendants 1 and 2

1. Exploited religion to propagate extremist ideas by word with intent to inflame civil strife, defame and show contempt for a revealed religion and its adherent confessions, and harm national unity. Namely, he defamed Christianity by promoting ideas he claimed were derived from the precepts of Islamic law, with intent to inflame civil strife, defame and show contempt for Christianity, and harm national unity.

2. Defaced and defiled a symbol held sacred by a confession of people (a copy of the bible)

3. Publicly traduced by word and deed a revealed religion that performs its rites publicly. Namely, he publicly

set forth in al-Tahrir newspaper words that defamed Christianity and its sacred book and defaced of copy of it on a public road.

II. Defendant 3

Participated by agreement and aiding the first defendant to commit the crimes set forth in the first count. Namely, he agreed to conduct an interview with him that included the same extremist ideas and traducement of Christianity and in so doing helped him to propagate them by publishing the article in al-Tahrir.⁵⁵

On 30 September, the court convened the first trial session. It ruled to adjourn until 30 September to review the documentation, which was later postponed to 21 October. At the third session, the court ruled to postpone the case to 4 November pending a motion for the recusal of the court panel, which was requested by the defendants' attorneys.⁵⁶

In its oral argument, the Public Prosecution asked for the maximum sentence for the defendants.

Lawyers for the defendants said they moved for recusal because the court refused to grant their motions to summon the acting pope to ask him whether the copy of the bible that was defaced and burned was venerated by Egyptian Christians.

On 4 November, the Nasr City Misdemeanor Court adjourned to 17 November pending adjudication of the recusal motion.

During the trial, supporters of Sheikh Abu Islam organized protests outside the courthouse, carrying signs calling for support for Islam and the prophet and retribution against the producers of the defamatory film. Several of the protestors said that Abu Islam had defaced a deviant bible that had no relation to Christianity in Egypt. These protests witnessed limited clashes with lawyers and several Christians who were present during the trial.

On 17 November, the eight circuit of the Appellate Court considered the motion for recusal. The court adjourned until 16 December for the submission of documentation; the recusal motion was still pending at time of writing.

55- A copy of the referral order is on file with the EIPR.

56- EIPR observation of the case.

13 September 2012: trial and expulsion of blogger

Cairo governorate, Marg

Case no. 408/2012/Zeitoun administrative

Facts of the case

Dozens of Muslims in the Marg area gathered under the building where Albert Saber Ayyad lived, located at 4 Sayyed Abd al-Hadi Street, chanting hostile slogans and demanding that he come down. They accused him of defaming Islam and the prophet, claiming he had participated in promoting a defamatory film about the prophet Mohamed on his Facebook account.

Several of the protestors attacked Saber's apartment and attempted to break down the door and enter by force. Saber's mother, Kariman Masiha, called the police emergency line for more than an hour. The police only responded when she informed them that the protestors had threatened to burn down the Church of the Virgin and the Archangel Michael, located near her home. A force from the Marg police station arrived at around midnight, and an officer informed her that they could not protect her son at home and would take him to the police station for protection.⁵⁷

The security force accompanied Saber to the Marg police station, where they filed a police report (no. 6099/2012/Marg administrative), stating that several locals had filed complaints with the station accusing him of publishing content on social media that entailed religious defamation, but the report did not identify the persons who filed these complaints.

While Saber was detained at the station, a lieutenant, Mina Mina Shenouda, urged other jailed prisoners to beat him up. One prisoner attacked Saber and cut his neck with a razor.

A few hours before the crowds gathered around his home, Saber had spoken with several youths from Ezbat al-Nakhl, who asked him if he had linked to the defamatory film on his social media accounts. Albert denied this, showing them the content of his blog and Facebook and Twitter accounts. After he left them, crowds began gathering around his building.

On Friday morning, 14 September 2012, Kariman Masiha was shocked by three young men breaking into her home; they demanded she leave and not return for three or four days, telling her that dozens of people intended to inflict bodily harm and burn her house down after the Friday prayer. She decided to leave, fearing for her life.

57- Kariman Masiha's statement to EIPR.

Legal action

Albert Saber Ayyad was brought before the East Cairo Incidents Prosecution on Friday, 14 September 2012, which charged him with religious defamation and libel of the prophet. The Public Prosecution ordered him detained four days pending investigation. On 16 September, he was brought before the Heliopolis Appellate Misdemeanor Court, which extended his detention for 15 days.

Saber's mother went to visit her jailed son at the Ain Shams police station, where the station chief informed her that he had been referred to an unknown detention facility for the remainder of his pretrial detention.

On 18 September, eight rights groups filed a complaint with the public prosecutor against the interior minister and several policemen at the Marg station regarding Saber's arrest and detention without a warrant from the prosecution and in the absence of a crime in progress, on the grounds that several local residents had accused him of religious defamation. The rights groups also referred to Masiha's expulsion from her home by force and threat and the incitement of several Marg residents against her and her son, who had been beaten, tortured and injured in police custody in order to compel him to falsely confess before the Public Prosecution. The rights groups also referenced how Marg police had broken into his home and entered when no one was there while executing a warrant to search the apartment and, finally, his detention in an undisclosed location for 15 days and the inability of his family to visit him or be assured of his safety.⁵⁸

During questioning, Saber accused Lt. Mina Shenouda with the Marg police of urging, agreeing with and aiding jailed prisons to assault Saber with a razor, due to which he sustained an injury in the neck.⁵⁹

On 24 September, Saber was charged in a misdemeanor case pursuant to Articles 98(f), 160/1, 102, 161/1 and 171/1, 3 and 5 of the Penal Code because, the charges alleged, he had:

1. Exploited Islam and Christianity to propagate extremist ideas in word and writing. Namely, he established webpages, among them "Screwing the Gods," "The Mad Dictator," and "Egyptian Atheists," to which he posted writings, images and audio and visual segments advocating atheism, which included libels of the divinity, called into question sacred texts and mocked Islamic and Christian prophets and rites. Namely, he described god as "weak," saying he was unable to protect his sanctities.
2. Propagated these ideas and publicly proclaimed them in public forums on internet sites, including Facebook, Twitter and YouTube, with intent to inflame strife between Muslims and Christians, defame the revealed religions and harm national unity.

58- EIPR was one of the eight groups that filed the complaint.

59- A copy of the case file is on file with the EIPR.

On 26 September, the Marg Misdemeanor Court convened to hear the case. The court ruled to adjourn to 17 October to review the defense's case documents. In the second hearing, some observers in the courtroom held signs proclaiming, "Stop trials of inquisition in Egypt" and "Freedom in Egypt=Prison."

The court adjourned until 14 November.

The court set 28 November 2012 for the pronouncement of the verdict. Saber's lawyers argued that the procedures were invalid and that Article 98(f) of the Penal Code, under which he was tried, was unconstitutional.

On 12 December, the court sentenced Saber to three years in prison with labor and a bail of LE1,000 to suspend the sentence. The court rejected the civil suit and ordered the plaintiffs to pay court costs.

The defendant's lawyers posted Saber's bail the same day, but the court sent him to prison and obstructed the release procedures without cause, failing to take any measures to retrieve him from prison to release him after payment of bail. Saber was released on 17 December.

17 September 2012: security expels the family of a diaspora Copt for supporting defamatory film
Giza governorate, Manshiyat al-Dahab

Facts of the case

Several residents of Dahab Island in Giza went to the home of the family of Christian broadcaster Joseph Nasrallah, the owner of the Tariq channel and a resident of the US, to ask about reports of a link between their émigré brother and the defamatory film. The family denied any links, saying none of them had anything to do with the film. An hour later, a Giza police force raided the family's home and demanded that they leave immediately, saying that a group of Salafis was on the way to burn and demolish the house.

Boulos Nasrallah, Joseph's brother, said, "Several security men told us to leave the house immediately. We asked to be able to gather our things, but security forcibly ejected us from the area, even though several locals told them to let us be and that they would protect us. The locals found out about my brother from security, which should ostensibly protect us."⁶⁰

The family asked the police officers for some time to arrange their affairs and collect their personal belongings (money, gold, medicine and clothing). The officer agreed to give them a chance to do so, but told them to rush.

60- "al-Ashira Masaan," Dream channel, 18 Sep. 2012.

On 23 September, the family contacted one of the police officers who was present to inquire about their return. The officer told them that they could not return at the moment because the situation was unsafe; when he felt that matters were settled, they would be able to return home.

Fifteen days after they had left their home, a person from the area called them and asked them to sell their home, citing the incident. He offered the low price of LE1,000 per sq. meter, which the family rejected. They said they did not want to sell and were waiting to return. They asked state agencies to protect them and their private property as their fundamental right.

The family filed a complaint with the National Council for Human Rights noting that they were unable to return to their home. The council's ombudsman corresponded with the Interior Ministry and the Public Prosecution regarding the family's expulsion and asked for an investigation into their claims.

18 September 2012: administrative court blocks YouTube for one month for its publication of the defamatory film

Cairo

Case no. 60993/99JY/Court of Administrative Justice, seventh circuit for disputes and investment

Facts of the case

Mohamed Hamed Salem filed a suit with the Court of Administrative Justice against the prime minister, the minister of communications and information technology, and the chief of the National Telecommunication Regulatory Authority (NTRA), all in their official capacity. The suit sought a suspension of the passive decision to refrain from blocking YouTube in Egypt, all websites hosting the defamatory film and all online sites carrying anti-Islamic video material.

The plaintiff stated that the film was tantamount to a declaration of war against Islam and Muslims, disparaged established Islamic principles and caused sectarian strife in Egypt.

On 9 January 2013, the NTRA sent a letter to internet service providers asking them to block links to the film on Google and YouTube and prevent access to the film in Egypt.

In a statement, rights groups, including the EIPR, described the ruling as a dangerous precedent that threatens freedom of opinion, expression and publication, noting that it opens the door to a standing block on YouTube,

insofar as what the court viewed as offending material would not be removed. The statement also noted that the block would not prevent access to the site through other technologies and that the block was inappropriate for a site as big as YouTube. The rights groups also stated that the penalty deprived citizens of access to information.⁶¹

Legal action

On 9 February 2013, the seventh circuit of the Court of Administrative Justice ruled to suspend the passive decision to refrain from taking measures to block YouTube for one month, as well as all websites and links to the defamatory film; the court ordered the respondents to pay all court costs.⁶²

The court stated in its judgment that it was proven that the website was still carrying the defamatory film, which undermined all religious beliefs and moral values. While championing the principles and values on which media is based within the scope of responsible freedom of opinion and expression, the court asked the administrative body to protect society's values, morals and beliefs from defamation and slander of religious symbols and the revealed religions.

27 September 2012: Christian teacher questioned for explanation of a textbook lesson on the prophet Assyout governorate, Manfalout

Facts of the case

On 27 September 2012, student Mohamed Mustafa Ahmed Hashem's father—a member of the Salafi Call—filed a complaint with the Hussein Preparatory School in the Manfalout district of Assyout against Nevine Nadi Gad al-Sayyed, the social studies teacher, asking that she be investigated for defaming the prophet during her discussion of the lesson on the life of the prophet the day before in her second year preparatory class.

The school administration investigated the incident and questioned several students, but they learned of no specific incident; statements were contradictory as to whether she engaged in religious defamation.⁶³

Several parents and teachers at the school assembled demanding that the teacher be punished, while several

61- Statement, 13 Feb. 2013, <<http://eipr.org/pressrelease/2013/02/13/1624>>.

62- A copy of the judgment, issued on 9 Feb. 2013, is on file at the EIPR.

63- Statements taken by EIPR from Nadi's family.

teachers filed a complaint asking for her investigation. Motazz Bashank, the media officer for the Nour Party in Assyout, said that the Salafi Call accompanied students as they filed a police report at the second Assyout station, demanding legal action against the teacher. Police report no. 21/status/309/2012 was filed against the teacher accusing her of defaming the prophet and Islam.⁶⁴

The education department transferred the teacher and the school principal to administrative posts in the Assyout education directorate pending the resolution of the investigation.

On Sunday, 30 September, a security force arrested Nadi in her home, drawing the attention of area residents and sparking fears among her family of angry reactions, especially in light of the small crowd already assembled in front of the prosecution office. The family left their home as a result, while Nadi, who was nine months pregnant, was detained in the police station barracks. Her file was later referred to the second Assyout prosecution.

When Nadi was questioned by the public solicitor of the Assyout Prosecutions, Judge Mohamed Nagib, she stated that the student may have been absent on Wednesday and Thursday, the days in question. Her lawyer asked for an official certified letter from the education directorate detailing the student's attendance record for those two days, which later did confirm that he was absent. The public solicitor released Nadi and the case was closed as a false complaint.

Nadi's family left their home and moved to a new area.

30 September 2012: two children accused of defacing Quran

Beni Soueif, Ezbat Marco, al-Fashn

Police report no. 6009/2012/al-Fashn police, case in the Beni Soueif Child Court

Facts of the case

On 30 September 2012, Sheikh Ibrahim Mohamed Ali, from the village of Ezbat Marco, located in the al-Fashn district of Beni Soueif, caught Nabil Nadi Rizq (9) and Mina Nadi Farag (10) playing with sheets of paper they had found in the village dump. Holding on to one of the children, he went to the Church of the Virgin and Archangel and met with Father Ishaq Qastour, the local priest, during the Sunday mass. The sheikh

64- Haitham Badri, al-Youm al-Sabia, 30 Sep. 2012.

complained that the children had two dirty pages from the Quran and that someone had urged them to deface the holy book. The priest calmed the sheikh and hit the two children, telling the sheikh that Christians respect and honor the Quran and no rational person would incite the children to do such a thing. The children denied that they had ripped out the two pages and denied knowledge of the papers' content; one of them, Mina Nadi Farag, had never been enrolled in school, while the other had dropped out in the third grade, and neither could read or write.⁶⁵

That evening, the sheikh filed a report at the al-Fashn police station (no. 6009/2012) accusing the two children of defacing pages of the Quran. The police arrested the boys early Monday morning and detained them at the police station for two days. On the third day, they were referred to the al-Fashn prosecution.

Prominent Muslim and Christian families in the area held a customary reconciliation session under security auspices in the home of a local resident. Muslims at the meeting chided Christians, saying that the priest had not gone to their homes to offer reassurances; the priest explained this by referring to his illness. It was agreed not to escalate matters, and the fate of the police report against the two boys was not discussed. Residents asked that the priest not work in the village again, a demand to which village Christians yielded. Nevertheless, on Tuesday, the al-Fashn prosecution placed the two boys in a care facility in Beni Soueif for one week pending questioning.

Nearly 100 Salafis came to the village from around the district of al-Fashn on Thursday, 4 October, and prayed the evening prayer in the village mosque. They urged locals to seek retribution and hold fast to their righteous claims, while unconfirmed stories circulated that some said that those who insulted the Quran should be killed. After the prayer, local Muslims affirmed that they would protect local Christians and reiterated that the incident was before the prosecution and should not be escalated.

The next day, Sheikh Abd al-Latif Hassanein, a member of the Fatwa Committee at al-Azhar, gave the Friday sermon at the Imam Ali Mosque. He spoke of the meanings and values that Islam promoted and how the prophet interacted with non-Muslims, and he encouraged local residents to forgive. Calm was maintained after the prayer after several villagers intervened.

The children spent a period of time away from the village before they returned. Their families do not allow them to go out alone.⁶⁶

65- Statement from Father Ishaq Qastour, 1 Oct. 2012.

66- Statement of Nadi Farag, father of Mina Nadi, mid-Oct. 2012.

Legal action

On Tuesday, 2 October 2012, the al-Fashn prosecution placed Rizq and Farag in a care facility in Beni Soueif for one week, prior to bringing them before the prosecution on charges of religious defamation.

Following pressure from the media and advocacy groups, Judge Hamdi Farouq, the public solicitor of the Beni Soueif Prosecutions, ordered the boys' release on 4 October. Both were turned over to their parents' custody with pledges given to respond to all summons.⁶⁷

Farouq said the children were released due to their young age, which demanded mercy and in fear of problems in the care facility. He noted that the case was proceeding along the normal channels and had not been closed. The children would be questioned by the authorities if necessary, and their parents had pledged to ensure their appearance in written statements to the prosecution.

On 9 October, the public solicitor referred the children to trial in the Child Court pursuant to Article 160/2 of the Penal Code. The first trial session was convened on 10 December, and after four sessions, on 4 February the court turned the children over to the care of their parents, a recognition that the court was persuaded that the children had committed the crime, but had handed down the most lenient sentence.

The Appellate Child Court on 24 February denied the appeal filed by the children's lawyers citing the impermissibility of appeal.⁶⁸

1 October 2013: Ahmadi citizen accused of violating Islamic religious teachings and transferred

Sohag governorate, Tama

Police report no. 4018/2012/Tama administrative and no. 314/2012/investigation

Facts of the case

Al-Husseini Hassan Hussein, the father of Abdullah al-Husseini, a student in the sixth grade, filed a petition against Mustafa Hassan Ahmed Hassan, an activity advisor at the Manshiyat al-Tahrir Primary School in Tama, saying that the teacher had entered first period on Sunday, 30 September 2012, and defamed the Quran and Islam. The petition alleged that he had propagated ideas and information antithetical to Islam and the sunna

67- Statement of Karam Ghabriyal, the children's attorney.

68- Telephone interview with Karam Ghabriyal, 24 Feb. 2013.

and questioned Quranic verses, which undermined the students' religious thought and beliefs and promoted thought destructive of their belief. The petition asked that the necessary action be taken given the social danger of this destructive thought.⁶⁹

On 1 October, al-Dardiri Hassan Ali, the school supervisor, questioned the teacher, who denied the incident and said that it was a lie and a fabrication. The Tama education directorate sent a memo on 3 October to the Sohag education director saying that the school had filed a memo with the directorate noting that Hussein, the parent of sixth-grade student Abdullah, had filed a complaint against Hassan, saying that the latter had entered the classroom on 1 October and defamed Islam and the Quran.

Several parents and teachers sent letters to the school about the teacher's ideas, noting that "his thought is alien to the book [Quran], sunna and the Islam that came naturally to them." Talaat Ahmed Suleiman, a teacher, filed a complaint with the school principal saying that Hassan had discussed a group known as the Ahmadis with him. He belonged to this group, which was spread across the republic. He said that the fifth caliph was Mirza Ahmad, from India, and that he was the messiah and the Mahdi.

The legal affairs division of the Tama education directorate questioned the teacher on 3 October. It then removed him from the school and placed him in the department of basic education for the public interest, as noted in the administrative investigation.

On 1 October, Hussein filed a second complaint with the Tama prosecution, saying that the teacher denied the Quranic story of the people of the cave and claimed it was untrue and a legend. He alleged that the teacher said they did not sleep for such a long time in the cave, but slept and awoke and also that the prayer was simply movements and gestures.

The Tama prosecution questioned the teacher. He denied the incident and the prosecutor's charge that he had disseminated false news willfully about Islam that defamed it and disturbed public security. He also denied the charge of traducing Islam. The prosecutor ordered Hassan detained at the Tama police station and ordered police to investigate the circumstances and veracity of the incident.

The next day the Public Prosecution released Hassan on bail of LE300. The police investigation concluded that the incident could not be verified and it could not be confirmed whether the teacher had spoken as alleged during questioning.

69- A copy of the case file is on file with the EIPR.

4 October 2012: woman accuses her daughter and daughter's friend of atheism and defamation of Islam

Zaqaziq governorate, Faqous

Case no. 7517/2012, entered as no. 419/2012

Facts of the case

Basma Rabia Abd al-Azim, a student at the Faculty of Humanities, media department, filed a police report at the Faqous police station against Sana Mansour Ahmed, Ahmed Rabia Abd al-Azim and Reda Abd al-Azim Mohamed, accusing Ahmed, her mother, of attempting to put poison in her food and her brother and uncle of beating her and threatening to kill her because she rejected their ideas. Basma's mother filed a police report alleging that her daughter had libeled the Quran and defamed Islam and the prophet, and that a young man with the Socialist Alliance Party had aided her in this.

Legal action

On 5 October, the Faqous prosecution opened investigation 7517/2012/misdemeanor. The prosecution questioned the accused about her beliefs, including the following questions, according to the interrogation report:

What do you say about the allegation that you hold extremist ideas with intent to defame Islam?

Are you a believer in Islam?

Do you perform the five prayers as required by Islam?

The prosecution also questioned Hamdi Gamal Ali Sayyed, a student at the High Technology Institute, asking about his relationship with Basma and his religious beliefs.⁷⁰

Prosecutor Motazz Atef ordered Basma Rabia and Hamdi Gamal detained for four days pending investigation and released Sana Mansour Mohamed and Ahmed Rabia Abd al-Azim. The prosecutor also requested the final police investigations into Gamal's propagation of extremist ideas.

The investigations of Sherif Hamada, the chief of investigations at the Faqous police station, concluded that Basma had differences with her family due to her many relationships with young men, her atheism and apostasy from Islam and her libel of the prophet and traducement of the Quran. The investigations found that

70- A copy of the Faqous prosecution's interrogation files is on file at the EIPR.

Gamal was engaged in a romantic relationship with Basma and held the same ideas, but without disclosing them publicly. The investigations did not find that she had engaged in acts constituting defamation of Islam.

On 7 October, the judge at the Faqous Summary court released Basma and Gamal on bail of LE100 each; the Faqous prosecution subsequently decided to charge them both with religious defamation on 2 January 2013.⁷¹

13 October 2012: Christian lawyer questioned on charges of defaming Islam
Assyout governorate, Assyout

Complaint no. 4570/2012/Assyout second administrative

Facts of the case

Radwan Touni Ibrahim, a lawyer and the secretary of the Building and Development Party in Assyout, along with lawyers Ahmed Mohamed Abd al-Rehim, Mohamed Farghali and Mustafa Mohamed Arab, filed a complaint with the Assyout police alleging that during a discussion in late May 2012 about the presidential elections and electoral alliances, and later the inimitability of the Quran, lawyer Romani Murad, a Christian, had defamed the Quran and its verses. The lawyers were angered but they told him they would pursue legal action and subsequently filed a complaint with the police, who referred it to the Public Prosecution.⁷²

Judge Ahmed Fathi, the public solicitor with the Assyout Plenary Prosecutions, issued an order to arrest lawyer Murad for questioning on the lawyers' allegations that he defamed Islam and the Quran during a discussion in the Lawyers Syndicate office in Assyout. Murad did not turn himself in to the Public Prosecution.⁷³

71- On 24 Apr. 2013, the Faqous Summary Court sentenced Hamdi Gamal to three months in prison on charges of inciting Basma Rabia Abd al-Azim to defamation of Islam. Abd al-Azim was referred to the Public Prosecution to set a trial date before the child court, since she was under 18 at the time the case began.

72- Telephone interview with Radwan Touni, 16 Oct. 2012.

73- On 21 Mar. 2013, the public solicitor referred Khalil to the Assyout Misdemeanor Court on charges of insulting the divinity and mocking the Quran.

23 October 2012: teacher transferred to administrative post for disseminating ideas antithetical to Islamic teachings Beheira governorate, Itay al-Baroud

Facts of the case

On 22 September 2012, in the second week of the academic year, student Ala Khaled and her father, a Salafi, complained that Maher Ramadan, the religion teacher, had spoken beyond the official Ministry of Education curriculum in class. Mona Makram, the social worker, summoned Ramadan and asked him about the complaint filed with the school administration.

Ramadan said that his teaching method was based on understanding rather than rote memorization. In a lesson on justice in the Quran, a student had asked him if God made judgments based on intention. He responded in the affirmative and cited the Quran and sunna. The next day, the students protested and demanded that he be transferred for spreading Shia thought, as they called it. The curriculum advisor listened to the students' statements on 18 October. He refused to allow the teacher to face the students and documented this in an official report on the incident.⁷⁴

The same day, relying on a Salafi teacher at the school, the Nour Party newspaper in the Beheira governorate reported that Ramadan was spreading Shia thought in the school. A delegation of curriculum advisors and a representative of the Beheira governor suggested that the teacher leave the second-grade class and move to the third grade, but this proposal was rejected by the school's Arabic language teachers and Alaa Amer, then an MP for the Nour Party, who asked that the teacher be removed from the school. Several students filed a complaint with the education directorate the same day asking for the teacher's transfer, alleging that he was disseminating Shia thought and erroneous information about Islam, including claiming that the prophet was not infallible and that a woman's testimony was equal to that of a man.

Ramadan had faced a similar incident four years earlier and had been subject to administrative sanctions (15 days docked pay and removal from the school); he challenged the decision and his pay was docked for only five days.

On 31 October, the educational directorate ordered Ramadan transferred to an administrative post without his knowledge, without pursuing official clearance procedures and without an administrative investigation.

⁷⁴- Based on an interview of Ramadan by EIPR lawyer Hamdi Khalaf, 1 Nov. 2012; a copy of the complaints against the teacher is on file with the EIPR.

Beheira Governor Mukhtar al-Hamalawi issued an order on 23 October transferring Ramadan, a teacher at the Lutfi al-Usta Girls' School, to an administrative position in the Itay al-Baroud education directorate, pursuant to complaints from several students alleging that his teachings were contrary to Islam and following the intervention of Salafi leaders in the governorate.

8 November 2012: university professor barred from teaching after discussion about Aisha

Minya governorate, Minya University

Facts of the case

Students in the Arabic language and Islamic studies departments at the Faculty of Humanities organized a protest on Wednesday, 7 November, in front of the college demanding the dismissal of Dr. Younes Khodari, an assistant professor in the Islamic studies department. The students chanted slogans in support of the prophet and submitted a brief to the dean alleging that the professor had disseminating Shia teachings and defamed the prophet's companions and Aisha during his lectures.

The students objected to some sections of Khodari's book, *Studies in the History of Arab States*, which he had taught the previous year, although he had not distributed the book to his students that year. The most prominent objections were:

The historical treatment of the wars between Ali Ibn Abi Taleb and Muawiya Ibn Abi Sufyan, which led to the founding of the Umayyad state. Discussing Muawiya's supporters, among them Aisha, Talha and Zubeir, the professor said that many historians had found that Aisha was performing the lesser pilgrimage in Mecca when Othman Ibn Affan was killed. When she returned to Medina, she accused Ali Ibn Abi Taleb because of his stance in the affair of the necklace.

The prophet failed in his journey to Taif, which the protesting students believed was incorrect.

Some of the prophet's companions were angered when Othman Ibn Affan collated the Quran into one volume, among them Abdullah Ibn Masoud, a deviant belief in the students' view.

In a statement to the EIPR, Khodari denied that he had defamed the prophet and companions or spread Shia ideas. He said that he was a follower of the Sunni rite and since 2001 had taught Islamic history to students

in the Arabic language and Islamic studies departments at Minya University. His specialty was in three eras of Islamic history: the prophetic state, the state of the four rightly guided caliphs and the Umayyad state.

He added that he had cited strong scholarly references, including al-Tabari, who was a Quranic exegete before he was a historian. He added that the students wanted to change history, deny the facts and set the academic curriculum based on their preconceived ideas. He referred to a university professor who was hoping to occupy the post of dean for educational affairs, which had been vacant since 25 October, saying that he had goaded the students to exploit the incident for his own benefit. Khodari said that the university president and the dean of the Faculty of Humanities had yielded to the students' demands only to calm things down.⁷⁵

On 13 November, the students in the history department organized a protest in front of the dean's office demanding that Khodari be barred from teaching the second-year class on historical texts because he had defamed the prophet the previous year, although the class in question contained no religious content and focused on the Islamic conquests of the subcontinent and Andalusia.

On 8 November 2012, Dr. Mohamed Ahmed al-Sayyed, the dean of the Faculty of Humanities, removed Khodari from the classroom because of the students' objections to the content he was teaching as part of Islamic history.

University President Mohamed Ahmed Sherif formed a committee to examine the second-year textbook for Islamic studies and Arabic taught by Khodari, to assess its academic and historical content and whether it conformed to the recognized rules and standards for university instruction.⁷⁶

Khodari was notified by telephone that he had been referred to investigation and was barred from teaching pending the outcome of the investigation. This was in violation of the universities law, which does not permit university administrations to levy sanctions prior to the conclusion of investigations of faculty members.

75- Telephone interviews with Younes Khodari, Nov. 2012.

76- Minya University website, 8 Nov. 2012, <<http://www.minia.edu.eg/MPA/index.php/2012-01-20-01-33-03/2011-12-29-01-53-14/401-2012-11-08-11-13-56.htm>>.

13 November 2012: three citizens in Aswan accused of forming group advocating for an unknown religious sect

Aswan governorate, Hasaya al-Tunab, Edfu district

Facts of the case

Security forces in the Edfu police district arrested Ahmed Mahmoud on 13 November following a complaint from a resident of Hasaya al-Tunab signed by 15 other villagers accusing Mahmoud, known as Ahmed al-Deifi, of forming a secret group with Yassin Abd al-Fattah Badawi and Yasser Mohamed Nour. According to the complaint, the group advocated an unknown religious sect described as “similar to unbelief.” Mahmoud allegedly claimed to be the long-awaited Mahdi and advocated banning the Friday prayer and wife swapping. He also claimed that he had been released from the duty to fast and give alms, and had allegedly set up a headquarters that advocated these ideas.⁷⁷

Prior to the complaint, the village had seen attacks on the accused. On 8 November, Mahmoud was assaulted by Mahmoud Hussein Mohamed, his brothers and group of bearded men, who beat and cursed him while he was working in the home of Yassin Abd al-Fattah, also one of the accused. The next day, Friday, Mahmoud Hussein, his brother Mustafa and others went to Mahmoud’s home and assaulted him. They then took him in a tok-tok to a guesthouse owned by the family of Mahmoud and Mustafa Hussein, where they tied him up and brutally beat him, causing serious injuries to his face and body. When Sayyed Mahmoud, the victim’s brother, went to the guesthouse, he found Yassin Abd al-Fattah tied up, bruised and injured. An army colonel, Yasser Mohamed Nour Ahmed, Abd al-Fattah’s brother-in law, also went to the guesthouse, where the Hussein brothers also beat him, causing an injury above his right eyebrow.⁷⁸

A police car arrived and took the victims to the Edfu police station, where they were kept until 11 pm before being referred to the hospital for the necessary medical exams.

They were returned to the station and detained awaiting their appearance before the Aswan Military Prosecution on Saturday, 10 November. On Tuesday, Ahmed Mahmoud was released and returned to his home in Hasaya al-Tunab, but he was again arrested following the aforementioned complaint against him by local townspeople. The head of investigations at the Edfu station, Lt. Col. Mohamed Ezz, proposed that the accused reconcile with the Hussein brothers and withdraw their police reports. When they refused, Ezz responded, “So it must be true, what’s in the complaint,” and Ahmed Mahmoud was taken into custody.

77- A copy of the complaint is on file with the EIPR.

78- Interview with Sayyed Mahmoud Mohamed, the victim’s brother, in Hasaya al-Tunab, 19 Nov. 2012.

According to Abd al-Salam Sadeq al-Basri, whose name appeared on the complaint, he had met with Mahmoud and a group of Sufis every day since 2009 in a rented house that they dubbed “the space” to discuss love of God and Sufi matters. They continued until 2011, when two members of the group left who had allegedly advocated wife swapping and banning prayer in the mosque. After the lease expired on the rented house, Yassin Abd al-Fattah suggested that they set aside part of his home for a new meeting space. They began to prepare the area and build a separate entrance to the space. While Ahmed Mahmoud and Abd al-Fattah’s younger brother were working on the space, Mahmoud Hussein interrupted them and assaulted Mahmoud.⁷⁹

Legal action

On 9 November, a police report was filed against Mahmoud Hussein and others for their assault on Ahmed Mahmoud Abu al-Haggag, Yassin Abd al-Fattah and Yasser Mohamed Nour. The Edfu Military Prosecution assumed charge of the investigation since the latter victim worked in the armed forces.

On 12 November, the Military Prosecution released Abd al-Fattah and Mahmoud, and detained Abd al-Hafiz Hussein Mohamed for 15 days pending investigation; an arrest warrant was put out for Mahmoud Hussein, Abd al-Aziz Hussein and Mohamed Hussein.

On 16 November, the chief prosecutor with the Assyout Plenary Military Prosecution referred the case files to the public solicitor for the North Aswan Public Prosecutions.

On 14 November, the Edfu prosecution investigated the complaint submitted by the villagers, including the assailants, accusing the victims of forming a group that advocated a new religious sect. Ahmed Mahmoud and Yassin Abd al-Fattah were detained four days pending investigation, later extended an additional 15 days. They were released on 30 November 2012.

On 6 December, Abd al-Fattah filed a complaint with the Interior Ministry inspector in the Aswan governorate against the chief of Edfu investigations for his failure to execute the prosecution’s warrant in case no. 184/2012/military administrative, which ordered the arrest of Mahmoud Hussein and other members of his family, although the chief of investigations had been present at work daily since the warrant was issued on 12 November.⁸⁰

On 18 February 2013, the Edfu Summary Prosecution closed the file against Ahmed Mahmoud and others.

79- Interview between EIPR researcher Boula Adel and Abd al-Salam Sadeq al-Basri, at the latter’s home in al-Ratag, Edfu district, 19 Nov. 2012.

80- A copy of investigations by the Edfu Military Prosecution and the Edfu Summary Prosecution, as well as the complaints and Edfu police investigations are on file with the EIPR.

16 November 2012: arrest of a group of Shia
Giza governorate, Doqqi
Police report no. 15585/Doqqi station misdemeanor

Facts of the case

While 31 Shia Muslims were performing the Friday prayer in an apartment in a building on Haroun Street in the Doqqi area, a police force from the Doqqi station and other Interior Ministry directorates, including the Passports and Immigration Department and Homeland Security, raided the apartment. As soon as the force entered the premises, an officer said, “You people are making a Shia husseiniya.”⁸¹

The security force divided the worshippers into two groups, Egyptian nationals and non-nationals, and the officers asked the non-Egyptians for their passports and the reasons for their presence, after which they took down the information of all the persons in the apartment.

The building is comprised of five apartments. The building owner has rented the space to foreign Shia of various nationalities since November 2011. For about a year previously, they organized a group prayer every Friday for their friends from outside the building. When the apartment was raided, five Egyptians (among them minors) were also present, as well as two Egyptian-Americans and an Egyptian-Lebanese.

Four hours after the security force entered the apartment and collected information on all those present, they arrested eight persons: Onor, a German of Turkish origin; Javid, a Brit; Alan, a Swede; Igor, a Serb; Ofont, a Spaniard; and Nabil, a Tunisian, as well as Ahmed Shawqi and Mustafa Hilal, both Egyptians. A police report was filed for the six non-Egyptians (no. 15585/Doqqi station misdemeanor) for their violation of residency rules. They were brought before the Doqqi Prosecution, which released them after bringing them before the Passports Department. They left Cairo on Sunday, 18 November, pursuant to an order from the Interior Ministry’s Passports and Immigration Directorate.

81- Interview with several Shia in the EIPR offices.

36. 14 November 2012: Christian teacher jailed on charges of advocating neglect of prayer

Sohag governorate, Tama

Complaint no. 4636/Tama police administrative, 20 November 2012

Facts of the case

Several families of students at the Zahra Primary School in Tama, located in the Sohag governorate, objected to remarks about prayer made by social studies teacher Mina Okiyan Randal in a sixth-grade civics class.

According to complaint no. 4636, filed on 20 November 2012 by Sayyed Farghali, Khaled Mohi al-Din and Abu al-Hassan Ahmed, parents of children at the school, their children told them that the teacher had said that the prayers impeded their studies at home and he told them not to neglect their homework for the prayer.

The Sohag education directorate suspended the teacher. The school director informed the head of the education directorate in Tama that he had received a phone call on 21 November from the chief of the Tama police station asking him and Mina Okiyan to appear regarding the teacher's sixth-grade civics class on 14 November and his behavior in and outside the school.⁸²

Dozens of Muslims gathered around the courthouse demanding the maximum penalty for the teacher for defaming religion. The courtroom also saw friction between the attorneys for the civil suit and counsel for the defendant.

On 21 November, the Public Prosecution heard the statements of the complainants, in which they reiterated their allegations. The prosecution then ordered the arrest of the teacher.⁸³

The next day, the Public Prosecution heard the statement of the defendant, who denied that he had addressed the prayer during the class. He claimed that he had said that prayer and work are both parts of religious practice and are both positive things.

On 22 November, Tama chief prosecutor Ahmed Qenawi ordered Mina Okiyan detained four days pending investigation. The prosecutor brought the following charges:

1. Exploitation of Christianity to propagate extremist ideas by word with intent to defame Islam and harm national unity.

82- Letter from the principal of the Zahra Primary School to the head of the Tama education directorate, 21 Nov. 2012.

83- A copy of the investigations of the Tama Summary Prosecution in police report no. 4746/2012 is on file with the EIPR.

2. Traducement by word on Islam, whose rites are performed publicly. Namely, he incited the children not to perform the prayer because they would waste time, intending by this to mock the prayer.

3. Discrimination against a class of people, Muslims and Christians, on the basis of religion and belief. Namely, he asked the Christian students to take the Muslims students to lessons at the church. This was liable to disturb the public peace.

On 26 November, Judge Ahmed Kedwani with the Tama court ordered the defendant's release on bail of LE1,000 and set the trial date. The prosecution is still waiting for the findings of the Homeland Security investigations.

Appendix 2: The legal debate

International organizations and the approach to defamation

Any discussion of criticism of religion or the defamation of religion sets out from a given state and society's view of individual rights. These are rights the individual enjoys regardless of his social, religious or ethnic affiliations, and they take precedence over collective and state rights. The crux of the issue can be distilled into two viewpoints: the first holds that the individual's right to freedom of opinion, expression and belief, and privacy is based on equality; these rights are prior to the state's codification of individual rights. The second view holds that individuals cede part of their rights and liberties for the good of the overriding social structure.

In Muslim-majority states, including Egypt, the conditions under which the Islamic state emerged still prevail. Individualism necessarily means deviating from the forms of submission and control in whose orbit the individual moves, including the family, the tribe, the school, the social circle and religion. In turn, this threatens the forms of social organization that control the individual in these nations. It also posits a new understanding of protection insofar as the dominant idea is that individuals cede some of their rights in return for protection. Thus, the right of the Islamic group and the Islamic state take precedence over citizens' rights in Islamic states. This raises a question: what is being protected?

The UN has settled the question by resolving that protection goes to the weaker party. Naturally, in our situation, it is individuals who require protection rather than organizations, states or ideas. Protection is granted to freedom of belief and the freedom to express it, which includes criticism of religion. Here the UN distinguishes criticism from unacceptable hate speech, which advocates discrimination, hostility and violence.

A close reading of international human rights charters and the conditions of their issuance demonstrates that international humanitarian law establishes and advocates guarantees for individual human rights first and foremost, supporting them against the tyranny of states and dominant religious institutions and groups. As such, international conventions uphold individuals' right to choose and change their religion and beliefs, en-

gage in religious rites and teach them to their children, and form the necessary institutions to do so, as well as criminalizing discrimination and bigotry on the basis of religion and belief. These conventions do not uphold rights for religions or beliefs or protect them from criticism, aside from the fact that the sheer multiplicity and diversity of religions beliefs makes this practically difficult.

For a full decade, from 2001 to 2011, international forums were the site of a fierce battle between two currents: the first sought to compel international law toward the restriction of freedoms, ostensibly to suppress blasphemy and religious defamation, while the second defended the fundamental individual rights to freedom of belief and expression, cautioning against the supremacy of those who would protect the authority of ideas and groups over the rights of individuals. International and Egyptian human rights organizations played an important role in highlighting the impact a law criminalizing religious defamation would have on freedom of opinion and expression, the mother of all freedoms, particularly since states advocating such a law already use domestic laws to violate minority rights and suppress freedom of opinion and expression and creative freedom. These organizations succeeded in persuading other states that in early years voted for such resolutions to change their stance; other states moved from the ranks of abstention to rejection.

The Organization of the Islamic Conference (OIC), led by Pakistan and Egypt, spearheaded several of these battles in the UN Human Rights Committee and later the Human Rights Council, pressing for the adoption of a law that would criminalize religious defamation and blasphemy. They justified their demand by citing protection for religions and the sensitivities of their adherents, the defense of religious minorities and the protection of minorities from racist practices and hate speech. They exploited the climate after the terrorist attacks of 11 September 2001 and the need for an international response to Islamophobia, which resulted in discriminatory practices against Muslims in Western nations and a general tendency to link violence and terrorism with Islam. The Danish cartoon crisis of 2006, which set off a wave of protests and demonstrations in Islamic states, gave new impetus to the demand for international legislation criminalizing defamation.

Those who reject an international resolution prohibiting religious defamation offer the following arguments:

Religions, beliefs and ideas have no private reputation, and international conventions provide protection for individual rights and liberties, not groups or societies.

Criminalizing religious defamation necessarily restricts the right to freedom of expression, which is protected by Article 19 of the International Covenant on Civil and Political Rights.

Such a resolution may be used to incite to violence, discrimination or hate on the basis of nationality, ethnicity or religion. The ban may be abused to suppress the opinions of religious minorities and those who do not believe in the religion of the majority.

On 25 March 2010, the UN Human Rights Council adopted a resolution to suppress religious defamation that restricts freedom of opinion and expression on the grounds of combating or suppressing defamation. The resolution was based on a draft resolution to suppress tarnishing the image of religion, proposed by Pakistan on behalf of the OIC. The resolution was resisted and rejected by a large number of states, which rights organizations considered a positive development in voting behavior. The resolution was adopted by a slim majority, reflecting the relative success of NGOs' pressure, which had helped to sway the stances of some governments. In the final count, 20 states voted for the anti-free expression resolution, while 17 states voted against it and 8 abstained.⁸⁴

A total of 47 local, regional and international civil society organizations, among them the EIPR, announced on 18 March their opposition to the draft resolution and its proposed supplementary standards for the International Convention on the Elimination of All Forms of Racial Discrimination. In a letter, the organizations urged representatives of member states on the UN Human Rights Council to vote against any resolution that would diminish freedom of expression on the pretext of preventing religious defamation or the adoption of the draft supplementary rules to the Convention on the Elimination of All Forms of Racial Discrimination.

On 24 March 2011, the UN Human Rights Council unanimously issued Resolution 16/18 combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence, and violence against persons based on religion or belief. The resolution concluded a decade of debate in the UN on the means to suppress hate speech and separate this from religious defamation, thereby denying Islamic states the international legal cover for domestic penal provisions against religious defamation. The resolution did not refer to the defamation of religion, but instead offered protection for individual rights.⁸⁵

The resolution calls on states to take proactive measures to suppress religious intolerance instead of pressing for legal measures to limit public debate. It urges governments to condemn hatred while encouraging open debate and religious freedom, teaching human rights and fostering interfaith and intercultural dialogues.

84- Statement from EIPR, Cairo Institute for Human Rights Studies and Article 19, 18 Mar. 2010.

85- A copy of the resolution is on file with the EIPR.

Egyptian legislation and defamation

The philosophy underpinning Egyptian legislation on liberties is a conservative one, particularly after Article 2 of the 1971 constitution was amended in 1980 to make Islamic law the primary source of legislation. The addition of the defining “the”—Islamic law was previously merely a source of legislation—has since permitted restrictions on liberties in various laws. In the new constitution of 2012, Islamic law was further defined as Sunni orthodoxy. This conservatism is reflected in issues of religious freedom and freedom of opinion and expression, entailing an expanded use of the terms religious defamation and blasphemy.

Inscribing inquisitions of faith in the constitution

Article 46 of the 1971 constitution stated, “The state shall guarantee freedom of belief and freedom to practice religious rites.” This guarantee was unqualified, thus representing an advance on previous constitutions that had made worship—the public exercise of religious rites—conditional on the public order. This right was diminished when late President Anwar al-Sadat amended Article 2 to make Islamic law the primary source of legislation, as part of political deal to ensure the passage of an amendment extending presidential terms. It was further undermined by the restriction of the right to expression within the bounds of the law and constructive criticism (Article 47), which was used to prosecute writers, artists and Egyptian citizens and justify the refusal to recognize other faiths and deny freedom of worship—to Shia, Quranists, Ahmadis and others—on the grounds that this constitutes religious defamation and violates society’s values and customs. In addition, these restrictions cannot be understood in isolation from the rise of Islamist groups, their increasing control over universities and their relations with President Sadat, and their imposition of a conservative social model that is hostile to pluralism and free thought. The insertion of “the” in Article 2 of the constitution proved to be the entryway for lawsuits on moral grounds and provided the authority to curtail liberties through restrictive laws and repressive practices.

Freedom has been a fundamental, persistent call since the first moment of the revolution of 25 January 2011. Revolutionaries raised their demand in the face of political tyranny, but the 2012 constitution reflected a divergent vision based on religious discrimination and prejudicial restrictions of freedoms, and, in turn, inscribed a system of moral guardianship and oversight on Egyptians. Islamist movements, brought to power, moved to make their beliefs and narrow religious views ascendant, as demonstrated by the constitutional provisions defining the relationship between state, society and the individual, by which they gave the state broad powers

to bring individuals to account. Seven articles are particularly relevant to our topic of religious defamation.

Although Article 2 remains unchanged from the 1971 constitution, its interpretation and application is subject to Articles 4 and 219. Article 4 states that “...the opinion of the Body of Senior Scholars in al-Azhar shall be solicited on matters related to Islamic law.” Article 219 interprets the principles of Islamic law to include “its general [scriptural] evidence, its principles of law and jurisprudence, and sources deemed reliable in the Sunni schools of law.” These articles allow Islamic religious institutions to play new roles, first and foremost the power to authorize citizens’ beliefs and expand oversight of Egyptians’ written and artistic works.

The other four articles pertaining to freedom of religion, belief, opinion and expression further restrict these rights. The right to worship and build houses of worship is limited to the three revealed Abrahamic religions (Article 43), a flagrant infringement of human choice. It is further curtailed by the conditions that it be practiced “in accordance with the law,” which recalls State Security’s arrest of citizens for simply assembling together or engaging in a rite that was guaranteed to all by the previous constitution regardless of their beliefs, even if was not a revealed religion. The Public Prosecution has since charged citizens with religious defamation simply because they are Shia or Ahmadis.

The limitations on rights also affect adherents of the Abrahamic religions, insofar as the constitution states that freedom of opinion and expression may not conflict with the fundamental components of state and society (Articles 45 and 81). In a move unprecedented in any Egyptian constitution and reflecting the inflexible thought of the state, Article 44 prohibits “the defamation or insult of all messengers and prophets.” This article casts doubt on the intentions of the framers, particularly since religions naturally hold negative views of the beliefs and rituals of other religions. This thus allows broad scope for legal action against historians, writers, thinkers, intellectuals and religious minorities.

The problem of penal statutes

In the Penal Code (Law 58/1937), the Egyptian legislator designated a chapter—Articles 160 and 161—as “misdemeanors pertaining to religions” in book two on felonies and misdemeanors damaging to the public interest. Article 98(f) on religious defamation was later added to the code. In recent years, in some cases the Public Prosecution has also relied on three other articles in the chapter on press crimes to extract a heavier sentence for the same crime.

Penal Code provisions used to charge defendants in defamation cases

Article 98(f)

A term of imprisonment of no less than six months and no more than five years or a fine of no less than LE500 and no more than LE1,000 shall be levied against any person who exploits religion to propagate, by word, in writing, or by any other means, extremist thoughts with intent to inflame civil strife, defame or show contempt for a revealed religion or its adherents, or harm national unity.

Article 160

A term of imprisonment or a fine of no less than LE100 and no more than LE500, or both, shall be levied against:

1. Any person who disturbs the exercise of the rites of a religious community or one of their religious celebrations or impedes it by violence or threat.
2. Any person who destroys, breaks, defaces or desecrates buildings outfitted for the exercise of religious rites, or symbols or other things held sacred by the members of a religious community or a group of people.
3. Any person who violates or desecrates the sanctity of graves or cemeteries.

The penalty shall be a term of imprisonment of no more than five years if any of the crimes set forth in Article 160 are committed in execution of a terrorist purpose.

Article 161

These penalties shall be levied for any infringement that takes place in one of the ways set forth in Article 171 on a religion whose rites are performed publicly and which is subject to the provisions of this article.

1. Printing or publishing a book held sacred by adherents of a religion whose rites are performed publicly if the text of this book is intentionally distorted to change its meaning.
2. Holding a religious celebration in a public place or a public meeting with intent to mock it or for attendees to watch it.

A quick reading of these articles shows that the political environment in which the provision emerged and the religious background of the legislator played a clear role in the framing of the text. Article 98(f) was intro-

duced and Article 160 amended following the sectarian incidents in al-Zawiya al-Hamra, in which dozens of people were killed and injured. This came less than a year into the rule of Hosni Mubarak following Sadat's assassination by Islamists. The salient features of these articles are:

- The three Abrahamic religions—Islam, Christianity and Judaism—are distinguished from and given precedence over other religions by the legislator's prohibition of the defamation of revealed religions or perversions of their sacred texts or rituals.
- These articles criminalize thought, making citizens subject to prosecution because of their religious ideas, even if they entail no action.
- The articles lack the necessary specificity and clarity, using undefined, elastic terms that lend themselves ambiguity, including extremist thoughts, exploit, defame, show contempt for and disturb. This vagueness gives the judge a wide berth to interpret the text and use his discretionary authority, which leads to divergent sentences for defendants in similar cases. It also allows defendants to be tried on the basis of values rather than criminal statutes.
- These articles violate clear, established constitutional rights, particularly Article 98(f), which infringes equal protection under the law, does not meet the necessary constitutional standards for criminalization and restricts rights and liberties.⁸⁶

⁸⁶- For more information see EIPR's brief on the unconstitutionality of 98(f) of the Penal Code, Adel Ramadan.

