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THESIS

**THE *DHIMMI* NARRATIVE:
A COMPARISON BETWEEN THE HISTORICAL
AND THE ACTUAL
IN THE CONTEXT OF CHRISTIAN-MUSLIM RELATIONS
IN MODERN EGYPT**

by

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December 2009

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A COMPARISON BETWEEN THE HISTORICAL AND THE ACTUAL
IN THE CONTEXT OF CHRISTIAN–MUSLIM RELATIONS
IN EGYPT TODAY**

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ABSTRACT

Religious texts, narratives, and history often provide the template by which religious leaders and their communities of faith frame actual events in modern times. In 2007, while conducting interviews in Egypt with leading figures from the Muslim and Christian communities, the author noted frequent comparisons, both favorable and unfavorable, between the *dhimmi* experience lived by Christians as separate millets in the past to describe the present conditions of the sizeable Christian minority living in Egypt today. This thesis investigates to what extent the parallels and analogies between the past and the present are valid and illuminating, and to what extent they are actually confounding, conflating, and obfuscating what is really going on. After identifying the hallmarks of the historical system by which the dominant Muslim authority managed its religious minorities in terms of spirit, ethos and practice, there follows a comparison of the main characteristics of the historical experience based on chronicles of Christians living as citizens in the modern Egyptian state. The thesis argues that although the origins of some current practices can be validated in some particulars, the *dhimmi* narrative as analogy is largely essentialism, and a rhetorical device, largely because it lacks the systemic, discriminatory intentionality and application exemplified by the millet system. As a way of understanding historical connections between the present and the past, it has limited and circumscribed utility. Deployed as narrative or analogy by which to make meaning out of the present, it reinforces stereotypes, confounds attempts at conflict resolution, and infuses the future with an unwarranted sense of pre-ordained path determinacy. It leaves much to be desired as a useful analogy, but is useful in terms of developing taxonomy of attitudes and positions regarding the place of Christians in today's Egyptian state.

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I. INTRODUCTION

A. PURPOSE

For four months in 2007, I had the privilege of conducting research on Christian-Muslim relations in Egypt. In my conversations with a variety of religious leaders, I was struck by how frequently they made reference to the *dhimmi* experience and the historic religio-juridical system by which the Muslim majority managed relations with non-Muslim members of their societies. It was clear they were drawing parallels between this historical experience and current interactions between Christians and Muslims living in modern Egypt.

The term *dhimmi* or *ahl al dhimma*, like many historical references, comes laden with multiple meanings and connotations, depending on the interlocutor and the audience. Because of the frequency of the reference to the *dhimmi* history and because it was deployed by both Muslims and Christians, and not just in a pejorative way, but also in a positive way, I came to formulate the hypothesis that this might not just be a simple rhetorical device or hyperbole. Hence, in this thesis, I have evaluated the extent to which it is valid to deploy this historical and religio-juridical term to describe current Christian-Muslim interactions in Egypt. I attempt to get behind the rhetoric and determine the extent to which such an analogy is sustainable by facts, and the extent to which it is not. If grounded in fact, then one would expect to see a significant degree of correlation between past and present, i.e., historical continuity. From the outset, this study envisioned the following possible outcomes:

1. A high degree of continuity between the past and the present, thus validating the use of the analogy.
2. An insignificant degree of continuity and, correspondingly, a high degree of discontinuity between the past and the present, indicating that such a comparison is spurious.
3. Varying degrees of both continuity and discontinuity are present between past and present.

4. Differential treatment, as applied to non-Muslims in the past, indeed exists today, but the conditions and practices are so different from those found in the historical record that the application of the *dhimmi* label today in this context is inaccurate.

I will argue that the treatment of non-Muslims in the past as *dhimmi* was far from being a uniform and universal expression of Muslim-Christian relations in all contexts. In order to avoid deploying what, in effect, is an essentialism, one must exercise great care in characterizing all apparent discrimination as analogous with the historical record, and thus, refrain from generalizations based on a few specifics. I will argue that while, in fact, there exists a high degree of correlation between certain *specific* historical moments and *specific* practices, and certain aspects of these practices, and this is still far different from the intentional, systemic and institutionalized approach to governing non-Muslim minorities as represented by the millet system. One can justify the claim that individual discriminatory practices have historical roots in the *dhimmi* experience, but one cannot say that this is tantamount to “dhimmitude,” just as it would be inaccurate to assert that slavery still existed in the United States based on discriminatory practices that persisted in segregated areas of the U.S. nearly a century following the emancipation proclamation. The cognitive, political, and historical power of the term is undeniably potent and thus tempting to deploy. While it is correct to recognize the legacy of individual practices that carry an historic weight, one should not confuse the footprints, with the feet.

The historic *dhimmi* experience was an intentionally institutionalized system, expressed in ways normative and regulatory, religiously sanctioned and officially implemented. It regulated or delegated for regulation the public life of the minority religious community. I, thus, posit that in Egypt today, though largely discriminatory and usually (though not always) disadvantageous to the Christian population, current practices should be considered fragments of historical residue to which the term *dhimmi* or *ahl al dhimma* should not be applied. Though it leaves much to be desired as a useful analogy, is useful to understand how it is deployed and by whom and for what purposes. The deployment of the narrative provides insight into how various sectors in Egyptian

society understand the past, how they relate in the present and how they envision the future. It is thus useful in developing taxonomy of positions regarding the place of Christians in today's Egyptian state.

B. IMPORTANCE

Christian-Muslim relations in Egypt merit study for many reasons. First, Egypt has the longest continuous, documented history of Christian and Muslim relations. Moreover, to be able to study Christian-Muslim relations in modern times, one must be able to find actual situations where sizeable and well-defined Christian and Muslim communities consciously interact with each other, not just as individuals, or through their religious leaders, but corporately, communally, and on multiple levels to include the economic, educational, the artistic, the cultural, and the political. Egypt, perhaps unlike other places on the globe, provides an opportunity to study both historic, as well as significantly sizeable populations that interact according to modern and well as ancient lines, and respond to political issues still today based on constructed notions of sectarian identity. Finally, the fact that there is not a clear-cut separation of religion and governance also means Egypt is even more of a living laboratory for studying the political aspects of how non-Muslim religious minorities govern their common life together.

Religious history, especially in the Egypt, provides a rich repository, a veritable goldmine of schemata with which to frame reality. Moreover, religious history is no ordinary history, but contains the potency of divine sanction. It has the power to confer a sense of the sacred, of the numinous, of the divinely ordained and anointed order, derived from immutable, transcendent truths. As such systems and causes that seem to be grounded on their principles and leaders that invoke their divine power or quote from their sacred scriptures have infinitely greater power than if they were to use secular analogies and parallels. Religious leaders and their communities draw on this history and attribute meaning to events based on shared memory and an internally validated system of making meaning—a system of “coding.” It is not just how words are used, but also the

authority and the *gravitas* of the interlocutor who deploys the narrative that reveals much about how they and their community (audience) construct the past, present, and future.

Kees Hulsman, sociologist and co-founder of the Center for Arab-West Understanding (CAWU), told Daily News Egypt (*Misr al –Yaum*) that in the same way that Muslims are becoming more assertive in America, Copts are becoming more assertive in Egypt and that this puts a strain on Muslim-Christian ties around the world. Hulsman added that “whatever happens in Egypt between Muslim and Christians, will have an effect in the West because these are not domestic issues; they have effects outside of their borders.”¹ I believe that Hulsman is correct. Because historical references abound in the contemporary discourse of Christian-Muslim relations, I assert that in the case of modern Egypt, the parallels drawn to the *dhimmi* experience, whether true or false, are not simply diagnostic, but play important roles in terms of justification and policy advocacy. I am convinced that studying and questioning the terms of discourse and the ways that Christians and Muslim go about understanding their shared past, and more importantly, construct and imagine their present and future is essential to generating light, where sometimes all that has existed is a great deal of heat.

C. LITERATURE REVIEW

According to Hastings, “language, ethnicity, nationalism, and religion are four distinct and determinative elements within world history.”² They are core concepts for every human and they help guide individual and group motivations while determining how these entities will react to certain situations. All four are closely linked to each other, as Hastings argues, and in examining the nature of modern Christian-Muslim relations in Egypt, they are difficult to separate one from the other. However, to Hastings’ list, I would also add another element: history itself. History operates, at least in the case of this thesis, as both stage and actor. In every encounter that I witnessed between Christians and

¹ Ruqqaya Izzidien, “Analysis: Drawing parallels between Copts in Egypt and Muslims in the West,” *Daily News-Egypt*, August 14, 2009, <http://thedailynewsegypt.com/article.aspx?ArticleID=23841> (accessed September 11, 2009).

² Adrian Hastings, *The Construction of Nationhood* (Cambridge: Cambridge University Press, 1997): 1.

Muslims, history cast its shadows or beamed its spotlights, and in every scene, history made its appearance and recited its lines. In culling through the primary and secondary sources, I found much had been written about Christian-Muslim relations in Egypt from both Muslim and Christian viewpoints. As this study is a comparison of the present to the past, the review of the literature became like a large, extended, fractious family reviewing generations of scrapbooks, where one aunt exclaims, “Look how the baby is smiling; he is the spitting image of your father!” —to which her son-in-law retorts, “I don’t think he looks much like anyone in our family; I think he’s all yours!”

Historical accounts written by Egyptians and Christians, as well as secular sources, from the classical to the modern periods, documented quite well how the dominant Muslim society managed its non-Muslim minorities during specific periods and/or how Christians and other non-Muslims survived or coexisted under Muslim rule. Yet, there seems to be a gap in the literature where little has been done to comprehensively compare treatment of Christians in modern Egypt to the treatment of Christians as *dhimmis* under the historical millet system. I did, however, find numerous incidental claims about the analogy based on one or two parameters, such as church repair, conversion, or citizenship. Some tended to support the analogy’s validity, finding evidence of “dhimmitude” in many of the negative aspects of modern Egyptian society. Others vehemently denied any evidence of continued historically based discrimination, and if anything pointed to what they saw as the more favorable aspects. They saw the historical experience in a positive light and felt it still suitable as a model by which to govern inter-religious relations. A few championed or denounced singular practices, advocating in the name of universal citizenship that these residual aspects of the millet legacy should be abolished. Most interestingly, the various attitudes cut across sectarian lines, indicating that Muslims and Christians were not of one mind. Somewhat surprisingly, there were Muslims who denounced the past and the present practices as violations of human rights. Likewise, there were Christians who viewed the past system (or at least certain aspects of it) with nostalgia, recalling only the protections and privileges, and rejecting any attempt to categorize Copts as historical minorities or

insinuate that they were other than full citizens. As Nielsen points out, the system as a model for inter-religious relations still has its fans, not just detractors:

With regard to non-Muslim minorities, there are some scholars and activists who advocate the traditional practice of tolerating *ahl al-kitab*, Christians and Jews, as protected communities with specific rights, privileges, and duties. These scholars view such protection and toleration as a favour towards communities that are in essence subjugated. Contemporary proponents of this tradition rightly point out that this Treatment was far better than that which religious minorities generally experienced in Europe until the eighteenth and nineteenth centuries.³

The more people I interviewed and the more I read, the more blurred the lines became. Just when I thought I understood the various motives behind the convergences and the cleavages an even more nuanced position would appear.

I will cite some of the more recent scholarly voices as a way of demonstrating the variety and range of positions to be found in contemporary secondary sources. Because the number of sources who are simply documenting a particular historical moment are so numerous, I will restrict myself to those authors, who in terms of the treatment of non-Muslim religious minorities have not only attempted to chronicle and illuminate particular historical periods, but have also attempted to *compare* the different historical records as well.

Bruce Masters characterizes the way in which modern Egypt, in dealing with its Christian minority stands at a cross roads between the present and its Ottoman past. Egypt, for him presents a living laboratory by which to examine the ways in which authorities manage interaction among religious groups across cultures. He identifies the very palpable tension in a society “both ruled by a pragmatic government and organized around a dominant, public, religious identity—the Islamic.”⁴ For Masters, modern Egypt is a study in contrasts and historical convergences, and is like looking at a double-

³ Jorgen Nielsen, “Contemporary Discussions On Religious Minorities in Muslim Countries,” *Islam and Christian-Muslim Relations* 14, no. 3, Carfax Publishing (July 2003): 338.

⁴ Bruce Masters, *Christians and Jews in the Ottoman Arab World: The Roots of Sectarianism*, Cambridge Studies in Islamic Civilization (Cambridge, Cambridge University Press, 2001): 39.

exposed photograph where one observes “the uneasy coexistence between a pluralistic social environment and a demand for religious unity in both times [Ottoman and modern].”⁵

Hugh Goddard, renowned modern scholar of the Crusades and Islam, in his book, *A History of Christian-Muslim Relations* in many ways frames the larger question that this thesis, in considering patterns of continuity and discontinuity, seeks to address. Goddard, in taking note of the Copts in Egypt as one of the “ancient, once-dominant Christian minorities” asks if the now dominant Muslim community will persist in its classical and medieval view of Christians as *dhimmis* who “should be brought low” or will they “move away from the classical concept of the Christian as *dhimmi*” and towards the “fuller equality and participation envisaged by the Constitution of Medina.”⁶ Note that Goddard does not claim that full equality can be obtained, only “fuller.” Goddard holds a generally positive view of the Muslim world’s capability to deal with democracy and pluralism and is openly critical of authors like Bat Ye’or, who, make frequent negative references to the historic *dhimmi* experiences, having coined the neologism “dhimmitude” to describe the life of Christians under Abbasid and Ottoman rule. Goddard insists that such authors are unduly harsh and wrong to judge medieval Islam by the standards of the UN Declaration of Human Rights.⁷ Bat Ye’or is the pseudonym of a Jewish author who in *The Decline of Eastern Christianity under Islam: from Jihad to Dhimmitude*, suggests that minorities are beginning to confront Islamic leaders and to ask questions regarding their history and future. She claims that radical Islamist movements are nothing new, but represent something coded into the DNA of Islam, which compels Muslims to conquer and through jihad to impose of “dhimmitude.”⁸ She believes that the “approach of the Egyptian government to tackle Islamic extremists will not succeed

⁵ Masters, *Christians and Jews in the Ottoman Arab World*, 39.

⁶ Hugh Goddard, *A History of Christian-Muslim Relations* (Chicago, New Amsterdam Books, 2000): 188.

⁷ Ibid., 68.

⁸ Bat Ye’or, *The Decline of Eastern Christianity under Islam: from Jihad to Dhimmitude* (Madison, NJ: Fairleigh Dickinson University Press, 1996): 220.

without. . . “a complete recasting of mentalities, the desacralization of the historical jihad and an unbiased examination of Islamic imperialism.”⁹ While her negative, and sometimes hostile characterizations of Islam have been challenged by Goddard and others, there are those who feel the term “dhimmitude” to be a perfectly accurate mode of description for the historic conditions of most non-Muslims.

Prominent contemporary Christian scholars and observers of Christian-Muslim relations such as Sydney Griffith, and Richard John Neuhaus, editor of the American Catholic magazine *First Things* are both Catholic who are critics of both modern Islamism and find the evidence for dhimmitude compelling: Griffith writes:

The very mention of the legal disabilities that theoretically applied to Christians living within the Islamic polity forcefully reminds one of the sorrows of Dhimmitude, which Islamic law and practice imposed on the Jews and Christians, was a costly witness, and at times it entailed real martyrdom. While Christian martyrologies in Syriac, Coptic, Arabic and even Greek and Latin from the early Islamic period are not numerous, there are nonetheless some very important ones, which help the modern reader gain a better understanding of the sometimes precarious position of Christians in early Islamic society.¹⁰

Griffith and Neuhaus, like the French theologian, Jacques Ellul, who is a Protestant, defend her neologism of dhimmitude as an accurate description of Islamic political and cultural hegemony and as indeed being analogous to current times. The latter, in reviewing her books applauds Ye’or scholarship as a counter to the “Islamophile histories” currently the trend and he emphasizes his conviction that from the beginning to the present, “Bat Ye’or persuasively demonstrates...Islam’s spectacular spread was brought about by brutal military conquest, rapine, spoliation, and slavery, joined to a regime of “dhimmitude” that was based on deep contempt for the subject infidels, including the Peoples of the Book.”¹¹

⁹ Bat Ye’or, *The Decline of Eastern Christianity*, 218–220.

¹⁰ Sydney Griffith, *The Church in the Shadow of the Mosque: Christians and Muslims in the World of Islam*, (Princeton: Princeton University Press, 2008): 146.

¹¹ Richard John Neuhaus, “The Approaching Century of Religion,” *First Things*, October 1997 <http://www.firstthings.com/article/2008/09/the-approaching-century-of-religion-12> (accessed August 12, 2009).

While it may be easy to classify characterizations like Bat Ye'or's "dhimmitude" as biased and highly agendized, it is much more difficult to dismiss the writing of S.S. Hassan, a female, Muslim, Egyptian scholar with access to Pope Shenouda and the Coptic hierarchy, as well as the Mubarak regime. In Hassan, we find a powerful, authentically Egyptian voice who chronicles in great detail the vicissitudes of Egypt's Christian community in modern times. In her book, *Christians versus Muslims in Modern Egypt: A century-long struggle for equality*, this author describes the Islamization process under Sadat with the accompanying wave of popular anti-secular preachers, who intimated that secular ideology was a Coptic program intended to divide the country and obstruct the revival of true Islam. Using the historic reference to the *dhimmi* experience, she forecast the contours of the future if the state failed to remain secular:

In the Islamic nation, the Christian minority would have the status of second-class citizens: dhimmis, or protected people, and if Islamic Law (sharia) were applied to the Christians not only in general areas, but in family law as well, as the Islamic militants advocate, it would most probably entail the fragmentation of the Christian family units and their eventual assimilations in the Islamic community.¹²

Hassan's comments above indicate that the *dhimmi* theme is not only retrieved to describe present conditions, it is also deployed in a prophetic manner to forecast and frame the future. Other Egyptian secular Muslims also find aspects of the *dhimmi* legacy alive in the here and now. According to Saad'Eddine Ibrahim, the noted Muslim Egyptian professor of sociology and long-time critic of the Mubarak regime, there is good reason to believe that in spirit and, indeed, in some specific cases, the treatment of Christians according to a historical model of tutelage and domination persists. He decries the fact that until 2005, the Humayonic which required a presidential permit for the building or repair of churches was still on the books as "the remnants of an Ottoman law" and "deeply entrenched religious discrimination in Egypt."¹³ However, while lamenting the persistence the historical legacy, Ibrahim stops short of claiming that in modern Egypt

¹² S. S. Hasan, *Christians versus Muslims in Modern Egypt: The Century-Long Struggle for Coptic Equality* (New York: Oxford University Press, 2003):106.

¹³ Sa'ad Eddine Ibrahim, "Christians Oppressed," *Wall Street Journal* (Eastern Edition) New York, November 18, 2005, A.16.

Christians live officially as *dhimmis*. Ibrahim, for many years director of the Ibn Khaldun Center in Cairo, feels that while the Egyptian constitution holds all members of the three heavenly religions to be equal citizens, in reality, Christians are effectively not equal. To Ibrahim and other secularists they suffer the plight of the minority at the hand of the majority. He and his center advocate for them to be legally classified as minorities and, by law, to receive certain protections in the name of ensuring minority rights. Ironically, his position has been opposed by many Christians, most prominently the Coptic leader, Pope Shenouda, who like many Copts, but also liberal Muslims, feels that this is a reduction of Copts once more to de jure *dhimmi* status—something very negative. The pope states that “we are not a minority in Egypt. We don’t like to consider ourselves a minority and do not like others to call us a minority.”¹⁴ Ibrahim, on the other hand, feels that despite the constitutional affirmation that Copts are full citizens, they live as unprotected and subjugated minorities. According to his version, the Pope Shenouda rejects the categorization because it smacks of a return to official *dhimmi* status and the Mubarak government rejects the classification because it would be an embarrassing admission; that the government has failed to develop a truly egalitarian society.

Not all Copts agree with their pope either. Shawky Karas, President of the American Coptic Society insists that as long as the Egyptian state privileges Islam as the official religion and the constitution maintains the shari’ah as the main source of the civil code then discrimination and conflict is inevitable. Christians will always be second-class citizens because in his view, the “injunctions of the Qur’an constitute no less than a comprehensive blueprint for society.”¹⁵ Karas suggests that the desire to make Christians *dhimmis* under Islamic rule remains. He believes that President Mubarak, while paying lip service to equality for all, has been continuing the same policy of religious oppression and discrimination against Egypt’s Christians as Sadat did, but without sanctioning or encouraging physical attacks.

¹⁴ Pope Shenouda, *Human Rights Watch*, 1994, 37, in Paul Sedra, “Class Cleavages and Ethnic Conflict: Coptic Christian Communities in Modern Ethnic Conflict,” *Islam and Christian-Muslim Relations* 10, no. 2 (1999): 219.

¹⁵ Shawky Karas, *The Copts since the Arab Invasions: Strangers in their own Land* (Jersey City, N.J.: American Coptic Association, 1985): 93.

Egypt's officially sanctioned and government sponsored Islamic institutions are synched. Al Azhar and Pope Shenouda, sing a similar song. Ali Gomaa, the Grand Mufti of Egypt and a modernist prefers to focus on the spirit of the law and dismiss abuses as incidental and aberrant manifestations that reflect an imperfect level of education among the general population. The Grand Mufti, while recognizing there is widespread discrimination, asserts that the Egyptian constitution and the *shari'ah*, too are both completely compatible with the values of democracy and the French Enlightenment. He adamantly denies that such abuse and practices are a function of the system (*Lesa ka nazzam*).¹⁶

It is also important to understand how Pope Shenouda's claims of full Coptic equality have been in some ways undermined by the Western media and scholars who cannot help but see the Christian community as victims of Islamist oppression and characterize their situation as anything but that of full citizens. Western scholars of Egyptian Islamism note the resentment that radical Islamists feel towards Copts to whom the "secular" government has given at least on paper equal citizenship, something which they believe the *shari'ah* forbids. For example, Gilles Kepel, the noted French journalist and author of numerous books on radical Islam writes that "for the Islamist movement, to assault the Copts is to assault the state."¹⁷ While crediting the government with attempting at least in public to uphold constitution, in his *Muslim Extremism in Egypt*, Kepel identifies the gap between the actual versus the ideal. Like many skeptical Westerners, Kepel here has identified true center of gravity in terms of inter-religious relations, an inconvenient truth for the some Copts.

There are other modernist Muslims, however, who are not secularists but Post-Islamists. They see the way forwards is to get back to the pristine times of the early Muslim community. While denouncing discriminatory practices, they feel that secularism

¹⁶ Ali Gomaa in G. Martin "An Interview with Ali Gomaa, Grand Mufti of Egypt," *The Army Chaplaincy: Professional Bulletin of the Unit Ministry Team*, Ft Jackson, S.C (Winter-Spring: 2009): 54-57.

¹⁷ Gilles Kepel, *Muslim Extremists in Egypt: The Prophet and the Pharaoh*, trans. J. Rothschild (Berkeley, CA: University of California Press, 1993): 240.

has been tried and found wanting. The radical Islamist solution that deploys the classical juridical formula to subjugate non-Muslims is even more repugnant to Muqtader Khan. A former fellow at the Brookings Institute and director of International Studies at Adrian College in Michigan, Khan asserts that in a true Islamic state “communities with different religious orientations enjoy religious autonomy which essentially is wider in scope than the modern idea of religious freedom.” Claiming that “the principles of equality, consensual governance and pluralism are enmeshed in the “Compact of Medina” these values can actually be “an excellent model for developing modern Islamic democracies.”¹⁸ For them, a truly Islamic state with a “modified” *dhimmi* based on the original Quranic ideal would be best.

Admittedly, folks like Khan are somewhat removed from the reality of Egypt, and one could easily critique his views as presenting the ideal and not the real. Yet, his view is not unique. Most interesting in this regard is the nuanced and highly controversial position of Rafiq Habib, a Coptic Evangelical, the son of a former bishop and one of the founders of Egypt’s Islamic Party, *Hizb al Wasat al Islami*. The *Wasat* or the “middle party” also seeks a third, post-Islamist way of co-existence, and broke off from the Muslim Brotherhood in 1996, who they saw as unrealistically and un-Islamically clinging to worn-out road maps for international and inter-religious relations, such as *Dar al Harb* and *Dar al Islam*. The fundamental point that makes *Wasat* post-Islamist for our purposes, is that instead of defining Islam as a religion, it defines it as a culture, or civilization, which is inclusive of minorities. Thinking of Islam as a culture is similar to how certain people in the West refer to the West as “Judeo-Christian,” while still leaving room for Muslims, Hindus, Buddhists, and others to practice freely therein. Thus, Habib, the chief ideologue of the party for many years, envisions an Islamic culture which belongs to Christians as well as Muslims. In Habib’s thought, to be a *dhimmi* is to be an essential Christian minority member of an Islamic culture and society. Habib believes the

¹⁸ Muqtader Khan, “Prospects for Muslim Democracy: The Role of U.S. Policy,” *Middle East Policy* X, no. 3 (Fall 2003): 86.

Shari`ah can be viewed as a tool to facilitate modernity, if interpreted properly by democratically elected religious officials, not state-appointed ones as those currently ruling from al-Azhar.

Randall Henderson, a Christian, though secular scholar is cautious in approaching the easy labeling of discrimination as tantamount to “dhimmitude.” Moreover, he reminds the reader the not all aspects of the *dhimmi* experience were negative and that in many ways the past system had many advantageous over the present one. In many ways, his scholarship strengthens the post-Islamist solution and that of the *Wasatiyya*, including Rafiq Habib’s. Henderson, in suggesting that it would be inaccurate to characterize the historic *dhimmi* experience as a negative one, claims it would be wrong to use the term *dhimmi* as a synonym for present forms of injustice against Christians. He points out that certain advantages for Christians existed in the historical contexts that, in fact, do not exist in Egypt today. Henderson warns:

...while it is tempting to conclude that this system worked against them, Copts and Jews [they] often took their family litigation to Islamic courts which were open to all religious groups during the Ottoman period. There they could achieve a divorce or litigate other problems that Church court would not have permitted. This was particularly beneficial to non-Muslim women who were locked in unwanted marriages.¹⁹

In conclusion, the literature is rich enough to allow a comparison between the two historical moments, and to determine if any pattern can be discerned by comparing multiple common practices and policies. It also reflects many more nuanced positions than I expected to find and thus lends itself to analysis on a variety of levels.

D. METHODOLOGY

I should note that I intend this to be a “thick,” descriptive and comparative study, rather than an analytical undertaking with clearly labeled dependent and independent variables. I will identify the main characteristics, policies, ethos and norms of the historical *dhimmi* experience in Egypt and compare them to current state of affairs among

¹⁹ Randall Henderson, “The Egyptian Coptic Christians: The Conflict Between Identity and Equality,” *Islam and Christian-Muslim Relations*, 16, no. 2, Routledge (April 2005): 157.

Coptic Christians living in Modern Egypt to see if the analogy is valid. The comparative case-study methodology lends itself well to the study of similar phenomenon across time, and is one of the basic techniques used to establish general empirical propositions and discover empirical relationships among variables. As Stretton posits, “comparison is strongest as a choosing and provoking, not a proving, device; a system for questioning, not answering.” Generalizations drawn from a comparative case study, even one of few cases, can perhaps assist with further theory development when tested within a wider sample.²⁰ Thus, I intend to engage in a certain amount of comparative historical analysis in which I will place the statements and actions of contemporary religious leaders about current political and social issues in modern-day Egypt in historical perspective. I also hope that once such a descriptive study is complete that certain hypotheses could be formulated about correlations, if not causality, with possible indicators of inter-religious strife or harmony. This study then would lay the groundwork for a future, more analytical study with even some quantitative aspects.

My first task, as demonstrated above was to conduct a review and establish the contours of the discourse. How is the *dhimmi* narrative being retrieved? By whom and for what purposes? What are the political and religious positions and do they follow sectarian cleavages?

In Chapter II, “Key Characteristics of the Historical *Dhimmi* Experience,” I turn first to the Qur’an and the *ahadith* and then survey a variety of historical accounts from the Pact of Umar up to the *firmans* of the Ottoman Millet system. While careful not to essentialize and create the appearance of a universal application of norms to non-Muslims in all places at all times, I believe I have been able to eliminate situational idiosyncrasies, localized manifestations and particulars, and to distill from the record those aspects of the *dhimmi* experience which transcend any cultural context or historical moment and instead are universals. I go back as far as the time of Mohammed and move forward to the end of the Sadat era. Thus, the historical *dhimmi* experience against which I compare the case of

²⁰ H. Stratton in Arendt Lipjhart, “The Comparable-Cases Strategy in Comparative Research,” *Comparative Political Studies* 8/2 (July 1975): 160.

Copts in modern Egypt is focused on eight normative social and political categories. These are the general areas wherein Christians, according to classical Islamic jurisprudence and custom, as religious minorities, traditionally received different treatment from Muslims:

- a. Religion's Constitutional relationship to the state
- b. Legal Status of Citizens
- c. Government/Military Service
- d. Taxation
- e. Church building and repair
- f. Religious Practices
- g. Communal representation
- h. Conversions and Apostasy

Once having identified and defined the overarching norms that characterize the historical *dhimmi* experience, taking into account geographic and temporal variations, I take actual statements about Christian-Muslim relations made by contemporary religious leaders and place them and analyze them in their cultural and historical context. These comments come from interviews that I conducted while in Egypt during the summer of 2007. As a priest of the Anglican Communion, I was able to avail myself of relationships and contacts that are the fruit of pre-existing ecumenical agreements between my church and Muslim leaders. Thanks to the ecumenical accords that existed between my church leaders (particularly the Archbishop of Canterbury) and the Grand Imam of al-Azhar, I was able to interview many influential and key members from both the Muslim and Christian communities most of whom here will remain anonymous with the exception of Dr Ali-Gomaa, the Grand Mufti of all Egypt. In addition to the aforementioned official contacts, I also spoke "off-line" to a variety of clergy and religious leaders, local journalists, politicians, and diplomats at the U.S. Embassy in Cairo, and other secular subject matter experts who also provided valuable insights. Some interviews were conducted in English, others in Arabic depending on the level of fluency and preference of the person being interviewed. I also monitored the local press, and perused the

archives of the Al-Ahram Center for Strategic and Political Affairs. The comments will serve as a springboard into the historical, and if necessary, the theological issues, context, and backdrop against which they can be better understood.

After summarizing my findings, I move on to Chapter III where I compare the historical record with contemporary relations, beginning with the rise to power in 1981 of President Hosni Mubarak, following the assassination of President Anwar Sadat. A summary of the findings concludes the chapter.

In Chapter IV, I engage in a point-by-point comparison of each of the above-mentioned categories. I analyze the *dhimmi* experience, historical and modern, and report my findings in terms of continuity or discontinuity with the past, noting specific practices, traceable or not to the historical experiences. I note similarities and dissimilarities and with the historical record, attempting to distinguish simple unrelated sectarianism and discrimination, from that rooted in patterns of historical behavior. I employ reports from human rights groups, the U.S. State Department, and Egyptian historians and sociologists. I provide an interpretation of the findings and a contextualization of the findings in the political life of modern Egypt. In this chapter, I explain those who have the most to gain from continuing to perpetuate the *dhimmi* narrative and conditions, and those who have the most to lose if it were to be challenged, questioned, circumscribed or even abandoned. I also offer possible explanations and relate them to theories of human behavior and cognitive theory where possible.

In my conclusions, I analyze how the *dhimmi* analogy is deployed, what it means to those who deploy it, and how it currently shapes modern sectarian relations, and develop taxonomy of positions.

II. THE HISTORICAL *DHIMMI* EXPERIENCE

A. THE ETHOS

Any attempt to analyze the historical record and distill from it the key aspects of the *dhimmi* experience is fraught with challenges simply because of the variations in time, culture, and location. Has there been a universal *dhimmi* experience? I think that questions such as this that inveigh one into binary thinking are most unhelpful here. I have steered away from looking for specific rules and regulations but rather aspects of social differentiation that indicate an ethos, a pattern, and a set of norms. Thus, I prefer to wrestle with a more nuanced question in mind: *to what extent* can one identify common themes, stances, attitudes, and policies that could reflect the presence of a set of universally accepted norms for governing relations between Muslims and non-Muslims in a Muslim society? Since my intent is to eventually compare the historical *dhimmi* experience with the actual one, I am intentionally casting a wide net. I do so with the conviction that, because specific cases and regulations vary in the details and contexts, the only legitimate way to determine the validity of the *dhimmi* analogy, is to examine primarily the norms, and only secondarily the specific rules, and only to the extent that the specific can suggest something universal and general. The documentation regarding the practices commonly applied to non-Muslims is extensive, and far beyond the scope of this paper to catalogue and classify all of them. Nevertheless, in surveying the record, it is possible to identify several key and influential policies that were formulated, and that laid the foundation for a comprehensive tradition that allowed local adaptation and modification. I will move through the categories outlined in the first chapter and then conclude with a summary of my findings as a way of establishing a baseline for comparison.

B. SCRIPTURAL GUIDANCE: NON-MUSLIMS

Even before Muhammad's death in the year 632 CE, interactions between the growing Muslim community and the local 'People of the Book' who were living in the environs of the new city-state of Medina, had reached a point where Qur'anic verses were

needed to dictate a principle to establish norms that addressed the relationship between the Muslims, the Jews, and Christians. The occasions for the revelations (*asbab al nuzul*) suggest that these Quranic directives came down in response to conflict and jihad between the Muslims and their fellow citizens of Medina. Within the Qur'an there is usually clear distinction made between polytheists (*Mushrikoon*) and People of the Book, with much greater respect shown to the latter and for our purposes, then we will only look at specific references to *ahl al kitab* or *ahl al dhimma*, careful not to conflate them with other categories of non-Muslims. Nevertheless, the specific Quranic references to the *ahl al-dhimma* establish early on their inferior status in society, primarily for their seeming recalcitrance shown to the Quranic message and the new prophet. Their beliefs moreover are errant and misguided. Thus, we see that in the nascent period of Islamic history, while still under the prophet, the precedents for the management (toleration, subjugation and protection) of Jews and Christians, as the *ahl al-kitab*, first became formulated. The Quranic text tells the Muslims:

Fight those among the 'People of the Book' who do not believe in Allah and the Last Day, who do not forbid what Allah and His Messenger have forbidden and do not profess the true religion, till they pay the poll-tax out of hand and submissively. The Jews say Ezra is the Son of God, while the Christians say the Messiah is the son of God. Such are their assertions, by which they imitate the infidels of old. God confound them! How perverse they are! (Q:IX:29-30)

While some interpreters say that the verses above were largely addressing non-Muslims outside Medina, there are other early references to questions concerning the status of monotheistic non-Muslims who lived within the Medinan Islamic community as well. These, too, appeared during the life of Mohammed, especially once he and the community moved to Medina where Muhammad offered a settlement, known as the "Constitution of Medina," which allowed other Jews and some non-Muslims in the area to retain their own law and religion. The first use of the term "*dhimma*," referring to security for protected peoples, appeared in this agreement. Regarding the meaning of the term itself, there is even some variation in shade of meaning. Some prefer to find the meaning in the verbal root of the Arabic word, which basically means "to affix blame" or

“to find fault.” However, others have suggested that *dhimma* means, rather benignly, “to be under the care of” or to be “protected” i.e., under the protection and responsibility of the Islamic government. In classical Islamic times the *dhimmi* populations were to be governed through the offices of their own leaders who were then held responsible for both the taxes and the good behavior of those under their care.

C. EARLY RULINGS

Based on the early conception of *dhimma*, Christians and Jews received the right to worship and retain their own religious customs in exchange for the *jizya*, a head tax, which marked the *ahl al-dhimma*. There seems to be multiple reasons for this tax. One motive, as articulated in the Quran was that of humiliation for failing to accept the prophet’s revelation, and one might infer as a way of applying social pressure to encourage conversion. Another reason, cited by some is that later on it became a charge levied in lieu of the obligation to perform military service. Be that as it may, if the *ahl al-dhimma* refused to pay the *jizya* he was considered by all jurists to have not kept his end of the agreement, which automatically restored to the *umma* its initial rights of war—to kill and to dispossess the *dhimmi*, or to expel them, because they dared to revert to their status of being an unsubjected infidel. Courbage and Fargues write:

Before launching an attack he (Muhammed) would offer them three choices—conversion, payment of a tribute, or to fight by the sword. If they did not choose conversion, a treaty was concluded, either instead of battle or after it, which established the conditions of surrender for the Christians and Jews—the only non-Muslims allowed retaining their religion at this time. The terms of these treaties were similar and imposed on the *dhimmi*, the people ‘protected’ by Islam, certain obligations.²¹

Moving in the early life of the community in the first centuries after the death of Mohammed, we find that, despite some evolving differences in the four schools of Islamic Sunni jurisprudence, there appears near unanimity in matters concerning the *dhimmis*. We read of them extensively in Abu Yusuf (731-98), a follower of Abu Hanifa

²¹ Youssef Courbage and Philippe Fargues, *Christians and Jews under Islam* (London: Tauris Publishers, 1995):2.

(d. 767), who was the founder of the Hanafi school of jurisprudence. He explained his views at length in a treatise written for the caliph Harun al-Rashid (786-809). In his book on the *kharaj* (land tax), Abu Yusuf declared that the governor should not exempt any Jew, Christian, or other *dhimmis* from the *jizya*: “and no one can obtain a partial reduction. It is illegal for one to be exempted and another not, for their lives and belongings are spared only because of payment of the poll tax.”²²

Here we see how the classical view developed by the *qadi* and *madhahabs* holds that the tax is to be considered the price to be paid by the “People of the Book” for the “covenant of protection” (*adh-dhimma*) which the Islamic government provides for them. There evolved the notion of the *dhimmi* as a community towards which Muslims had a special responsibility- as one does towards one’s dependents. However, many would say, this was not always so benign and certainly not without a note of condescension, subjugation, and sometimes mistreatment.

From these origins, a much more tightly regulated structure for the *ahl al-dhimma* would develop under the Abbasid caliphs as the *shari’ah* expanded into a comprehensive system of law for Muslims as the empire expanded and incorporated large numbers of non-Muslims and many Christians.²³ In these later Islamic times, jurists created a statutory principle, using scriptures to support a social policy that discriminated between Muslims and the “People of the Book.” In recent times, some modern Islamic scholars have come to insist that these classical jurists, like Abu Yusuf cited above, in their eagerness to oblige the caliph and support the program of conquest, *illegitimately* expanded and twisted scriptures to facilitate subjugation of the non-Muslim community. Moreover, they decry the way that this legacy has reverberated across the centuries, and still today is retrieved and reworked by militants. Abdul Aziz Sachedina observes the following:

²² Abu Yusuf Ya’koub, *Le Livre de l’Impot Foncier (Kitab el-Kharad)* Translated from Arabic by E. Fagnan (Paris, 1920):189.

²³ C. E. Bosworth “The ‘Protected Peoples’ (Christians and Jews) in Medieval Egypt and Syria,” *Bulletin of the John Rylands University Library of Manchester* (Manchester:1979): 11–36, 41.

. . . the political situation of Muslim societies had far-reaching consequences for the ways in which the Qur’anic teachings about pluralism were sometimes ignored in order to gain control over conquered peoples. The active employment by contemporary militant Muslim leaders of the violent precedents that were set at those dark moments of Muslim history points to the tension that exists between the qur’anic principles of justice and fair treatment of non-Muslims and the demands of maintaining the political vision of an ever-expanding *dar al Islam*.²⁴

By the year 732, just one hundred years after the death of Muhammad, Muslim military forces had consolidated their control over a large stretch of territory outside of Arabia which thereafter would become the heartland of what some now call the “Islamicate” societies.²⁵ This expanse of territory, embracing major portions of the Roman and Persian empires of Late Antiquity, included numerous Christians. It is important to note that perhaps 50 percent of the world’s confessing Christians from the mid-seventh to the end of the eleventh centuries found themselves living under Muslim rule.²⁶

D. RELIGION AND THE STATE

Having briefly outlined the earliest and foundational norms and experiences that over the centuries influenced Muslim-Christian relations, I will not begin to look at those areas that I have identified as being representative of the larger, systemic dhimmi experience. The first I will address is the relationship between religion and the state.

Once Mohammed and his community arrived in Medina, Islam became political and the fledgling state took on a religious identity. However, the religion expanded to embrace a political agenda as well. The earliest notion that Islam is both a religion and a state i.e., *din-w-dawla* can be traced back to this time. After Mohammed’s death in 632

²⁴ Abdul Aziz Sachedina, “The Qur’an and other Religions,” in *The Cambridge Companion to the Qur’an*, McAuliffe, Jane (ed) (Cambridge: Cambridge University Press, 2006):296.

²⁵ Marshall Hodgson, *The Venture of Islam*, vol. I-III (Chicago: The University of Chicago Press, 1974). Hodgson coins a term that he hopes describes the political system and a culture that encompassed great ethnic, linguistic and religious diversity.

²⁶ Ibid.

CE, in the Sunni model, the scholarly class—the *Ulema*—wielded power, particularly legal-judicial and religious power over the caliph, or *amir al-mu'miniin*. This caliph wielded the sword and was the representative of the temporal authority. Without going into a long description of the various ways in which the *ulema* and the *amir al mu'miniin* co-operated and the spheres in which they operated, suffice it to say that there was a kind of mediation between culture and religion and the needs of the state.

In the Islamic polity, unlike foundational Christianity or the modern secularism to which it gave birth, religion is not divorced from the public agenda, leaving adherents of competing doctrines free to pursue their beliefs engenders an inherent tension between religious communities that has to be resolved through state regulation. Contrary to the pluralistic spirit of the Qur'an, Muslim jurists encouraged a state-sponsored institutionalization of the inferiority of non-Muslims, including the monotheist *ahl al-dhimma*, as necessary for the well-being of the Muslim public order. Operationally, too, because in the Islamic polity, religion is not divorced from the public agenda, the need for public order has to be balanced and resolved through state regulation. Historically, in the name of order, this included the state regulating religious expression and practice. Muslim jurists encouraged a state-sponsored institutionalization of the inferiority of non-Muslims, including the monotheist *ahl al-dhimma* as necessary for the well-being of the Muslim public order. For these classical legal scholars, unbelievers had been offered Islam and rejected it. Therefore, it followed that their inferiority was not imposed, but freely chosen. Rulings related to non-Muslims were thus formulated in the context of Muslim states in control of defining its relation with those ruled by them. The rulings in large measure, reflect politico-social situational aspects of interpersonal relations in juridical decisions, rather than the theological underpinnings of interfaith relations in the Islamic creed. The Islamic tradition evolved into an instrument for the simple furthering of the Muslim political and social agenda for power. i.e., the Muslim state's hegemonic control over other groups and nations. This pattern persisted, not just as an artifact of medieval Muslim conquest, but as a system that continued through to Ottoman time until the *Tanzimaat* reforms.

....the position of Islam at the emergence of the Ottomans and its institutionalization at the height of empire made it so that religion was adapted to the needs of the state, and contributed to the segmented integration of groups into the state. In their construction of the imperial realm Ottomans separated and differentiated between religion as institution and religion as a system of beliefs. ²⁷

The policy with the most far-reaching effects was the Pact or Covenant of Umar. According to A. S. Tritton, the scholar who has done to this day the most in-depth work on this agreement is that the Pact of Umar is a collection of norms dealing with management of the Non-Muslim minorities attribute to Umar of which there were several and some of whom were caliphs. According to Tritton, “the conclusion forced on one is that no one knew what the covenant of Umar was; and that any collection of peace terms might be glorified with his name.” ²⁸ However, for the most part the stipulations came originally from the treaties concluded between the Muslims and the cities and garrisons that the Muslim armies conquered in the seventh century in the time of the second caliph, ‘Umar I (634-644); hence the name of the compilation of these and later stipulations.

Some claim that the Pact was also named for caliph Umar ibn Abd al- Aziz’s (717-720). His program, for the most part, was aimed at promoting the equality of all Muslims, be they Arab conquerors or new converts to Islam,²⁹ yet, socially speaking, it had a significant impact Christians living under the caliphs’ rule. The *Pact* or *Covenant of Umar* drew visible, and well-articulated, public distinctions between Muslims and non-Muslims in terms of power, access, prestige, and privilege. Historically, after the conquest and the consolidation of Islamic rule in the conquered territories, this pact gradually came into being to govern and enforce the laws that mandated a low social profile for Christians, Jews and others who paid the tax. According to the pact, protected peoples—i.e., Jews and Christians—acquired the privilege to worship, to own property,

²⁷ Karen Barkey, “Islam and Toleration: Studying the Ottoman Imperial Model,” *International Journal of Politics, Culture and Society*, Springer Science 19 (May 2007): 9.

²⁸ A.S. Tritton, *The Caliphs and their Non-Muslim Subjects: A Critical Study of the Covenant of Umar* (London: Oxford University Press, 1930): 12.

²⁹ Ibid., 15–18.

and to pursue their occupations in return for acknowledging the authority of the Muslim government, swearing loyalty to the Muslim state, and paying the *jizya* as well as any other financial assessments. In addition, the pact prohibited Christians and Jews from marrying Muslim women and making any public religious display, such as exhibiting imagery, ringing bells, making processions, issuing proclamations, and undertaking new construction or repairs on synagogues or churches. Jews and Christians could not proselytize, teach the Qur'an, nor prevent family members from converting to Islam. *Dhimmi*s could not imitate Muslims in appearance, bury their dead in Muslim cemeteries, build homes that overlooked those of Muslims, own slaves previously owned by Muslims, hold political office, ride horses or camels, testify against a Muslim in a criminal legal case, sell alcohol, pork, or carrion to Muslims. In addition, Jews and Christians in some places were to identify themselves by wearing a girdle over external clothing, shaving the front of their head (males), and using distinctive headgear, saddles, and mounts.³⁰

One can certainly argue that considering the times, the degree of respect and toleration afforded non-Muslims as religious minorities in Muslim lands was much greater than that afforded non-Christians in Christian lands. Even though the legal disabilities which governed these *dhimmis* required subservience, they received certain guarantees and protections not so available to others in the Christian West. Yet, while specifics have varied, there seems little doubt that in view of the stipulations of the *Pact of Umar*, the *dhimmi* populations of Christians in the Islamic world were what we would now call today second-class citizens, and as a consequence, over the course of time, the number of bishoprics, churches, monasteries and schools gradually decreased, as a result of a privileged position and priority given to official establishment of Islam. Syria, Palestine and Egypt, i.e., areas where the largest populations of the speakers of Arabic lived³¹ at the end of the ninth century, were still largely Christian; however, under Muslim rule these populations gradually decreased. Some would say they converted,

³⁰ Op Cit, Masters: 21 Many Western scholars believe that the more stringent stipulations were added during the Abbasid caliphate, which took a harsher line against religious dissent.

³¹ Op Cit, Griffith: 11.

others would say they succumbed. It is clear, however, that in many respects, the slow erosion of Christian numbers had to do with motives other than purely spiritual or religious appeal. To a large extent, it had to do the practical advantages of the new religious identity that brought with it greater social status, upward mobility, and financial rewards. These were positive incentives, yet negative incentives. The negatives and positives i.e., the application of the carrot or the stick varied according to time and place. For instance, after the time of the Crusades and the Mongol invasions of the thirteenth century, anti-Christian policies became more pronounced under the influence of rigorous and strict constructionists of the *Covenant of Umar*, like Ibn Taymiyya (1263–1328)³². As negative incentives and sanctions were imposed, Christians began to decline precipitously in numbers in the Islamic world. Later, under the Ottomans and the implementation of the semi-autonomous millet system Christians lived with many more freedoms, independence and power—positive developments, which, as we shall see, are even today looked upon with some nostalgia.

E. LEGAL STATUS OF CITIZENS

The aforementioned Pact of Umar provided the *dhimmi* with a conditional indulgence to worship, to own property, and to pursue their occupations. In return, they were required to acknowledge the authority of the Muslim government, and swore loyalty to the Muslim state. This still did not confer upon them the status of citizens. Indeed, the concept of citizen itself was not a category that existed. There were only Muslims and non-Muslims. Among the non-Muslims there were several categories, the most socially respected and socially useful were the *dhimmis*. According to Abdel Aziz Sachedina, “that the *shar’iah* has never developed the concept of citizenship,”³³ at least not in way that Western Europe did. Judges upheld the spirit of the Pact of Umar, if not always the letter, and often intervened in the affairs of the *ta’ifa* (*sect*) when they deemed it necessary to keep order and to protect the Islamic identity of society.

³² Paul Heck, “Jihad Revisited,” *The Journal of Religious Ethics* 32, (2004): 122.

³³ Abdel Sachedina, in *The Force of Faith: Part I: The Impact of Religion on Military Operations*, The Defense Language Institute, Foreign Language Center, (Monterey, CA, 2010).

Christians and Jews possessed no inherent rights, could not give testimony against a Muslim in criminal cases, and were required to demonstrate their subservience in a variety of ways.

It was during the Ottoman times, however, after the millet system came into being that a kind of citizenship developed wherein Christians and Jews were granted rights and privileges as long as they stayed within their circumscribed areas or *milla*. Bruce Masters's study of the Ottoman Arab provinces has drawn attention to the paradoxical character of religious privilege and political subordination for Jews and Christians. The *ahl al-dhimma* acquired a measure of autonomy to form their distinct communities that ran parallel to the dominant Muslim one. This communal organization prefigured the more strictly controlled millet system of the eighteenth and nineteenth centuries.³⁴

While functioning within the parameters of this semi-autonomous and in some ways imagined sphere, the *dhimmi* achieved a kind of limited, indeed, legally mandated millet citizenship. If a Christian or Jew committed a crime against a member of another community, the law of the injured party applied. However, any dispute involving a Muslim fell under their *shari'ah*-based law. However, the courts during Ottoman times practiced a kind of de-facto recognition of their *dhimmi* subjects, if not treating them as full citizens. Court records indicate that there were numerous cases throughout the Ottoman Empire of Jews and Christians who brought their cases to *shari'ah* courts thus expressing confidence that they would mete out justice, which they usually did.³⁵ Nevertheless, this did not imply equality: the Ottomans retained the same highly condescending attitude toward the *ahl al-dhimma* as their Arab predecessors. According to Columbia University's Karen Barkey, the hallmarks of the Ottoman millet system's attitude towards its religious minorities is that they were to be "separate, unequal and protected"³⁶ This approach to interfaith relations solidified a hierarchy of privilege that allowed Christians and Jews to maintain their religious identity, yet clearly demonstrated

³⁴ Op Cit., Masters: 31–33, 61–64.

³⁵ William Montgomery Watt, *Muslim-Christian Encounters* (New York: Routledge, 1991): 61.

³⁶ Op Cit, Barkey: 16.

the subordination of the *ahl al-dhimma* to Muslims in an Islamic culture. Hence, as I mentioned, they were more subjects than citizens.

During the Ottoman eighteenth century, vassal states and their political elites began to contest the Sublime Porte's authority. Competition, military and commercial with European powers intensified eventually leading to the reform of existing institutions. In retrospect, we have come to understand that through a series of agreements and concessions to the British, French, and Russians in particular, the Ottoman Empire lost a measure of its sovereignty, and the millet leaders, such as the Greek and Coptic Orthodox patriarchs lost a measure of their ability to control the members of their flocks.

The definition of who was a citizen was universalized by the *Tanzimaat* reforms. The sultan was valiantly trying to update and hold his empire together with a series of reforms that granted full Ottoman citizenship to all regardless of creed. Paradoxically, as "Ottomanness" became the new criteria for universal citizenship, we see a rise in real sectarianism, perhaps best epitomized by the *mutasarriffya* administrative areas on Mount Lebanon.³⁷ In 1856, Sultan Abd al-Majid (r. 1839–1861) issued the *Hatt-i Humayun* decree, conceding in principle the equality before the law of all the subjects of the Ottoman Empire regardless of religion. It is true that in their thrust, the *Tanzimaat* reforms (both the *Gulhane Rescript* and *Hatt i-Humayun*) broadened and extended the Ottoman identity and dismantled much of the basis for the old millet identities, however, because they were linked to the Ottoman sultan's "Capitulations" and thus to European and Christian powers, they strengthened the relationship between the empire's religious minorities and its foreign patron states. This conferred upon the newly emerging non-Muslim Ottomans a taint of "foreignness" and disloyalty even. The Russians presented themselves as formal protectors of Eastern Orthodox groups, the French of Roman Catholics, and the British of Jews and other groups. An Ottoman official in his memoirs wrote:

³⁷ Ussama Makdisi, *The Culture of Sectarianism: Community, History and Violence in Nineteenth-century Lebanon* (Berkeley, CA, 2000, University of California Press) Makdisi's thesis is that Europeans encouraged non-Muslim minorities to construct sectarian identities, which they then mobilized.

Foreign Powers ... take up, some of them, the cause of those eastern Christians who are under Ottoman rule, alleging they are acting in the name of 'humanity.' Their real motive, however, is that they may use them as a *point d'appui* for their political schemes and designs. . . each native Christian community entertains, nowadays more or less without disguise, sentiments of animosity towards the Osmanlis, and even sympathizes with the enemies of the Turkish empire in times of international trouble or war.³⁸

As the Ottoman millet system of citizenship began to degrade, the identification of the religious creed with ethnic nationality was slipping. However, in Egypt, the ability of the sultans to effect policy was questionable already by the mid-eighteenth century. By the nineteenth century, things evolved towards even greater autonomy courtesy of Mohammed Ali Pasha. The Copts' position began to improve under the stability and tolerance of his dynasty.³⁹ H. B. Christophoros, a representative of the Greek Consulate, and a member of the Hellenic College teaching staff said the following:

Mohammed Ali demonstrated his protection of the Greek Orthodox Patriarchate and its flock (rayih) throughout the whole period of the revolution, both during the time of Ierotheos I and afterwards. On the one hand he did not cease to provide much material and moral protection to the Greek Orthodox people; and on the other hand, upholding the privileges of the Patriarch in matters relating to the management of the internal affairs of the Church. This was manifest both in his personal relations with the Church and in his favourable interpretation of the Firmans which were given by the Sultans after the election of the Patriarchs in recognition of them.”⁴⁰

As a result of the Crimean War (1853-56), the Copts saw the dawn of their emancipation. Their main mark of inferiority, the *jizya* tax, was lifted in 1855, and in the same year, they were allowed to join the army. In 1866, the Copts served in the inaugural session of the Consultative Council, establishing a process of Coptic integration into the

³⁸ Mehmet Beyri Halit, *Istanbul*, in Andrew Wheatcroft, *The Ottomans* (London: Viking Press, 1993): 164.

³⁹ Barbara Carter, *The Copts in Egyptian Politics: 1918-1952* (Cairo: American University in Cairo Press, 1986): 9.

⁴⁰ Tillyrides Makarios (Orthodox Archbishop of Kenya) "Mohammed Ali and Hellenism in Egypt and His Request to Translate the Life of Alexander the Great into Turkish" in *Adventures in the Unseen* Nairobi, Kenya, 2007 <http://www.orthodoxresearchinstitute.org/articles/misc/makarios> (accessed September 23, 2009).

Egyptian political system. Ensured of their political rights, and freed from all social restraints, the Copts flourished. This Coptic civil revival was accompanied by a religious awakening, triggered by their enlightened Patriarch, Cyril IV (1854-1861), and it had the effect of raising their moral and educational standards, and a kindling re-discovery of their distinct identity.

More illuminating was the Copts' effort to reformulate the country's communal guidelines and eliminate or minimize the role of religion in Egypt, as it was emerging from its Ottoman past. The most obvious option for a new community was one based on territorial nationalism—"Egyptianness"—as distinct from a pan-Islamic or regional identity of any kind. Egyptian nationalism was born on the eve of World War I and became popular in the country during the struggle against foreign domination; Christian leaders were among its chief advocates and ideologues, as it was both consonant with the Coptic historical legacy and politically beneficial.⁴¹

Copts now were employed in financial and accounting positions and were appointed rulers in a number of local governates. Copts had rights of land ownership and a large financial and commercial bourgeoisie developed. A lay council, the *Majlis al-Milli* was created in 1874 to represent the Coptic community. Religious freedom and equality in employment were guaranteed in principle, though de-facto discrimination was still present.

F. GOVERNMENT/MILITARY SERVICE

While many Christians and Jews reached positions of notable authority in the courts of the various caliphs and sultans, the real power of the state remained firmly in Muslim hands. Where Christians advanced *en masse* in the Islamic state began under the Ottoman Sultan, Murad II, wherein young Christian boys were recruited from among the conquered peoples of the Balkans to serve the state. It was considered a system of human taxation and lasted from the fifteenth century until the nineteenth century. These boys, however, though originally from Christian homes were raised as

⁴¹ Ami Ayedor, "Egypt's Coptic Pandora's Box," in Ofria Bengio and Gabriel Ben-Dor, (eds) *Minorities and the State in the Arab World* (Boulder, CO, Lynne Rienner Publishing, 1990): 55.

Muslims. Known in Turkish as *devshirme*, it was much debated by Muslim scholars of the time and many considered it to be contradictory to shari'ah. According to dissenting *ulema*, the shari'ah gave clear instructions to the Muslim ruler to protect and take care of all Christian subjects. These clerics noted that the shari'ah permitted enslavement only in *Dar al-Harb*, not *Dar al-Islam*, where Muslims ruled. However, the needs of the empire, as well as tribal traditions, apparently caused the rulers to find this practice irresistible. From the fifteenth until the seventeenth century, between 200,000 and 300,000 boys were conscripted into the *devshirme*.

Already in operation at the end of the fourteenth century, it continued to evolve through the fifteenth] In the sixteenth century, when a levy was to be made the sultan's ferman first appointed a commissioner and a janissary officer for each district. Under the supervision of the local qadi and *sipahi*, at each village the commission summoned all male children between the ages of eight and twenty, and their fathers, choosing those children who appeared to be fit. The levee included only the children of Christian villages engaged in agriculture, excluding urban children and any only child. The commission recorded each child's name and description in a register and sent the boys in groups of a hundred to a hundred and fifty to the age of the Janissaries in Istanbul. ⁴²

A tragedy for many, but some scholars note that for many later Ottoman Christian families, being the "slave" of the sultan was considered to be an honor by some, and these *janissaries* filled the most prestigious positions in society.

Very often, becoming the sultan's slave was the fastest way out of poverty for young boys in the countryside. There are some reports of Christian families glad for the opportunity to let their sons be selected through *devshirme* and be able to advance. ⁴³

Yet others, also modern scholars, contest the degree to which Christians viewed the conscription and conversion of their boys in such a benevolent light:⁴⁴

⁴² Hakan Y. Erdem, *Slavery in the Ottoman Empire and its Demise, 1800–1900* (London, Palgrave MacMillan Publishing, 1996): 1–2.

⁴³ Op Cit, Hodgson: 102.

⁴⁴ Speros Vryonis, Jr., "Seljuk Gulams and Ottoman Devshirmes," *Der Islam* 41 (1965): 245–247.

...in discussing the *devshirme* we are dealing with the large numbers of Christians who, in spite of the material advantages offered by conversion to Islam, chose to remain members of a religious society which was denied first class citizenship. Therefore the proposition advanced by some historians, that the Christians welcomed the *devshirme* as it opened up wonderful opportunities for their children, is inconsistent with the fact that these Christians had not chosen to become Muslims in the first instance but had remained Christians...there is abundant testimony to the very active dislike with which they viewed the taking of their children.

G. TAXATION

According to the Pact of Umar, protected peoples—i.e., Jews and Christians—in exchange for the privilege to worship, to own property, and to pursue their occupations had to acknowledge the authority of the Muslim government, swearing loyalty to the Muslim state, and paying the *jizya* as well as any other financial assessments. Interestingly, the change from Byzantine to Arab rule was welcomed by many among the *dhimmis* who found the new yoke far lighter than the old, both in taxation and in other matters. Some even among the Christians of Syria and Egypt preferred the rule of Islam to that of Byzantines.

Taxation from the perspective of *dhimmis* who came under the Muslim rule was “a concrete continuation of the taxes paid to earlier regimes”⁴⁵ and from the point of view of the Muslim conqueror, was a material proof of the *dhimmis* subjection. The importance of *dhimmis* as a source of revenue for the Muslim community is illuminated in a letter ascribed to Umar I and cited by Abu Yusuf: “if we take *dhimmis* and share them out, what will be left for the Muslims who come after us? By God, Muslims would not find a man to talk to and profit from his labors.”⁴⁶

In the first century following the Muslim conquest of Egypt, we see the effects of taxation upon the Coptic majority. Large-scale conversions occurred that were closely linked to the disproportionate economic hardship inflicted upon the Christians. According to Goddard, “oppressive taxation led to a whole series of revolts in different regions of

⁴⁵ Claude Cahen, “Jizya,” in *Encyclopedia of Islam*, Bearman, Bianquis, Bosworth, van Donzel, and Heinrichs (eds) (Leiden: E. J. Brill Publishers 1960–2005).

⁴⁶ Bernard Lewis, *The Jews of Islam* (Princeton, NJ, Princeton University Press, 1984): 62.

Egypt between 725/107 and these were crushed by the local governors and, in the end, the caliph al-Ma'mun himself, who visited the province in 832/217.”⁴⁷ While modern commentators wonder, how, given the level of intentionality and “jihad” by economic means that the Coptic community was able to resist at all, it is important to note that taxation alone did not cause mass conversions- it was a combination of taxation *and* military aggression. Ira Lapidus commented that:

Coptic resistance by force of arms was broken. The despair which followed these crushing defeats seems finally to have set in train the movement of mass conversions to Islam... We may say that the defeat of the rebellion broke the backbone of mass Coptic allegiance to Christianity.⁴⁸

Later, other heavily Christian areas, particularly in the Ottoman lands experienced a similar pattern of conversions. However, for those that remained Christian or Jewish the Ottomans came to develop the millets wherein the *ahl al dhimma* lived within a semi-autonomous community which actually acquired a great deal of power. They set their own laws and collected and distributed their own taxes. However, *dhimmis* still had to carry a receipt certifying their payment of *jizya* at all times or be subject to imprisonment. According to Norman Stillman, the “*jizya* and *kharaj* were a crushing burden for the non-Muslim peasantry who eked out a bare living in a subsistence economy.”⁴⁹ A number of scholars have concluded that, ultimately, the additional taxation was a critical factor that drove many *dhimmis* to accept Islam.⁵⁰ However, others, such as Bernard Lewis argues that while *dhimmis* had to pay higher taxes, they did not have to pay *zakat* and Lewis notes that “there are varying opinions among scholars as to how much of an additional burden the *jizya* actually was.”⁵¹

⁴⁷ Op Cit, Goddard., 71.

⁴⁸ I. M. Lapidus, in Hugh Goddard; Ibid., 71.

⁴⁹ N. Stillman, *The Jews of Arab Lands: A History and Source Book* (Philadelphia, Jewish Publication Society of America, 1979): 28.

⁵⁰ Op Cit, Lewis, 17, 18, 94.

⁵¹ Ibid., 14–15.

H. CHURCH BUILDING AND REPAIR

The regulations about church building and repair, once enshrined in the Pact of Umar, prove durable over time. These rules prevented Christians and Jews from undertaking new construction or repairs on synagogues or churches in many locations, stipulating that dhimmis not “build a church, convent, hermitage or cell, nor repair those that are dilapidated,”⁵² Sometimes, dhimmis managed to expand churches and synagogues and even build new ones, albeit at the price of bribing local officials in order to get permissions. When non-Muslim houses of worship were built in cities founded after the Islamic conquests, Muslim jurists usually justified such evasions of the Islamic law by claiming that those churches and synagogues had existed in the earlier settlements. Later, depending on the locale, the permission for dhimmis to retain their places of worship and build new ones depended upon the circumstances in which the land fell under the Muslim rule. The policy varied based on local relations and the degree of tolerance of the ruler and the usefulness of the Christians to the ruler.

From a modern sociological standpoint, the ease and ability given to the Christians to restore their religious buildings, can be interpreted as a measure of the degree of religious freedom accorded to the *ahl al-kitab* by a Muslim state. For example, in observance of this prohibition, Abbasid caliphs, al-Mutawakkil, al-Mahdi and Harun al-Rashid ordered the destruction of all churches and synagogues built after the Islamic conquest and prohibited their rebuilding. Yet, an historian of the Shi’a Fatimids at the Ismaili Center of London narrates that “al Mu’izz has been credited with granting permission for the restoration of the church of al-Mu’allaka at Fustat. Interestingly, this action of the imam-caliph aroused some opposition, particularly from a Sunni cleric, who vowed to die rather than allow the church to be repaired.”⁵³ Could this mean that the Shi’a had a more tolerant way of managing relations with the *ahl al dhimma*? Before we move to the conclusion, we should also consider that in the eleventh century, the Fatimid

⁵² Op Cit, Tritton, 6.

⁵³ Shainool Jiwa, “Religious Pluralism in Egypt: The *Ahl al-Kitab* in Early Fatimid Times,” *The Institute of Ismaili Studies*, 2001, http://www.iis.ac.uk/view_article.asp?ContentID=104038, 9 (accessed November 2, 2009).

(Shi'a) caliph al-Hakim oversaw over the demolition of all churches and synagogues in Egypt, Syria and Palestine, including the Church of the Holy Sepulcher in Jerusalem. Although, al-Hakim subsequently allowed the rebuilding of the destroyed buildings, his actions contributed to the launching of the first Crusade.

I. RELIGIOUS PRACTICES

According to the Pact of Umar, Jews and Christians could not proselytize, teach the Qur'an, prevent family members from converting to Islam, imitate Muslims in appearance, bury their dead in Muslim cemeteries, build homes that overlooked those of Muslims, own slaves previously owned by Muslims, hold political office, ride horses or camels, testify against a Muslim in a criminal legal case, sell alcohol, pork, or carrion to Muslims. The Pact of Umar prohibited Christians and Jews from marrying Muslim women. In addition, Jews and Christians were to identify themselves by wearing a girdle over external clothing, shaving the front of their head (males), and using distinctive headgear, saddles, and mounts and making any public religious display, such as exhibiting imagery, ringing bells, making processions, and issuing religious proclamations.

In practice these measures, which seem draconian, were often impractical and had to be loosened. In Egypt, particularly under the Shi'a Fatimids, we hear that in 977, the second year of al 'Aziz's reign, a decree was issued which prohibited the Christians from participating in the rituals of Epiphany and four years he forbade the Christians from celebrating the festival of the Cross-measure seemingly to fall completely in line with the Pact of Umar. However, these prohibitions were not a permanent ban on the celebration of religious festivals by the Christians. In fact, "the very next year they were granted permission to celebrate the Festival of the Cross again."⁵⁴ These policies were implemented to uphold public mores and address *episodic* moral laxity.

A combination of religious privilege and political subordination characterized the relationship between minority communities and their Ottoman overlords. Bruce Masters

⁵⁴ Jiwa, "Religious Pluralism in Egypt."

has argued that even though Muslims and non-Muslims interacted with one another extensively, Jewish and Christian communities were disconnected from public “consciousness,” and “existed outside the boundaries of the social community.”⁵⁵ Authorities enforced the principle that non-Muslim religious expression could not impinge upon the Muslim public sphere in any way. Christians and Jews were not to disturb Muslim sensibilities with the sights, sounds, and smells of rival faiths. Prohibition of public preaching, symbolism, processions, construction of new sacred spaces, and propagation of the faith outside the family banished Jewish and Christian communities from the public realm and placed them on the periphery of Ottoman society. Laws governing relations between Islam, Christianity, and Judaism assumed that the *ahl al-dhimma* ought not under any circumstances to disturb Muslims’ peace of mind. Officials took special notice of non-Muslims when they intruded upon the Islamic public order.⁵⁶

Regardless of time or place, in terms of religious practices, it was in the public domain where the Muslim concern for public order brought to bear the force of local edicts developed on the basis of the overarching legal and moral touchstone of *maslaha mursala* i.e., public good/welfare. Christians were largely left to their own devices to perform their devotions as they pleased in private or in the confines of the sanctuary of the church.

J. COMMUNAL REPRESENTATION

The aforementioned discussion of subject and citizens of semi- autonomous sectarian communities leads naturally into the issue of community representation. Again, the Ottoman system offers the most well-developed example of religious leaders who fulfilled a dual role- that of spiritual and political leaders. Jews and Christians obtained the right to select their own leaders and resolve their own disputes. In the absence of what we understand as public services, each religious community became responsible for

⁵⁵ Op Cit, Masters, 16–17.

⁵⁶ Speros Vryonis, “The Experience of Christians under Seljuk and Ottoman Domination, Eleventh to Sixteenth Century,” in *Conversion and Continuity: Indigenous Christian Communities in Islamic lands, Eighth to Eighteenth Centuries*, Michael Gervers and Ramzi Jibran Bikhazi, (eds) (Toronto: Pontifical Institute of Medieval Studies, Toronto, 1990): 114–119.

creating, maintaining, and financing its own schools, charitable agencies, and clerical bureaucracies. These rights and responsibilities formed the basis of an informal understanding in the early modern period and that would later become formalized (and more detailed) in the millet system of the nineteenth century. The millet system accorded religious communities a large measure of self-regulation in exchange for loyalty to the Ottoman state.

Indeed, the millet system of Ottoman Islamic law has been called a “pre-modern model of a religiously pluralistic society.”⁵⁷ The millets had the right to choose their own religious leaders (patriarchs for Christians, *exilarchs* and *geonim* for Jews) but only as subject to the approval of the Muslim authorities, who sometimes blocked candidates or took the side of the party that offered the larger bribe. The head of millet was most often a religious hierarch such as the Greek Orthodox Patriarch of Constantinople, who reported directly to the Ottoman Sultan. The millet leader held office at the discretion of the government, but was elected by the community and was a recognized intermediary between the two, combining in his own person the headship of a voluntary *rayah* (lit: flock) and the status of an Ottoman official. The special function thus assigned to the patriarchates conferred upon the millets, as an institution, an ecclesiastical-political character. This meant that in the Middle East, a church i.e., an ecclesial body evolved into the most visible and public aspect of a nationality and the authority of the patriarchates, extend to the control of schools, and even to the administration of certain branches of civil law.

K. CONVERSIONS AND APOSTASY

Modern scholarship, particularly much of that which has been generated by Muslim scholars residing and working in Western academia, suggests that early in the life of the *ummah*, Muslim jurists illegitimately interpreted holy texts and manipulated hermeneutical-juridical tools to allow the state to institutionalize the inferior treatment of

⁵⁷ Abdulaziz Sachedina, “Freedom of Religion and the Question of Apostasy in Islam,” in *Islamic Learning*, Information Arm of the Organization for Islamic Learning. <http://www.islamiclearning.org/> (accessed October 6, 2009) based on Abdulaziz Sachedina, *Islamic Roots of Democratic Pluralism* (New York: Oxford University Press, 2001): 96–101.

non-Muslims. For the militant, and those extreme in their politics as well as their piety, it was easy to espouse a commonly held belief that “true” Islam meant “intolerance toward individual conscience.”⁵⁸ While they were not unaware that the Qur’an, in its teaching, favored free choice of religion, the drive to obtain a secure and orderly society was also an important part of the Qur’anic ethos and one which the caliph and his jurists privileged in terms of social ethics. Thus, we see that a harsh treatment of apostates developed, generally based on a reading through the prism of the traditions as narrated in the Medinan period. Muslims who turned away from Islam were seen as not just rejecting it theologically, but also politically. Apostasy, then, was regarded as a form of treason at the very worst or insubordination and a threat to public order at very best. As Sachedina notes, in this historical context, the *ulema*’s attempt to balance the freedom of the individual conscience and concern for the public order was unsuccessful: the jurists opted largely for ruling that meted out a harsh punishment for apostates, justified because it was no longer a mere matter of belief; it was an act of sedition:

As long as apostasy remains a private matter and does not disrupt the society at large, there is no particular punishment in the Qur’an. However, when it violates sanctity and impinges on the rights of Muslims to practice their belief, then it is treated as a physical aggression towards the faith. At that point it is no mere apostasy; it is, rather, treated as an act of sedition that causes discord and threatens the unity of Islamic community.⁵⁹

Hugh Goddard in his book *A History of Christian –Muslim Relations* notes that there were never conversions en masse from Muslim to Christianity, as there was by Christians to Islam. While the door for those who wanted to convert to Islam was open while for those who wanted to leave Islam remained firmly shut. When conversions occurred they were done in very low-profile way. However, there were a few public conversions of prominent Muslims during the imperial period. Sheik Salih, an Indian *alim*, converted in 1825 became an Anglican priest, and Muhammed Mansur, a cleric of al-

⁵⁸ Abdul Aziz Sachedina, “Freedom of Conscience and Religion in the Qur’an,” in *Human Rights and the Conflict of Cultures: Western and Islamic Perspectives on Religious Liberty*, with David Little and John Kelsay (eds) (Columbia, S.C.: Univ. of South Carolina Press, 1988): 53–90.

⁵⁹ Ibid.

Azhar, publicly embraced Christianity in 1919.⁶⁰ Much ado was made of such conversions by the English and the evangelical press of the time. Given the political circumstances and the imperial presence of Great Britain, it is understandable how much safer and advantageous a conversion to Christianity was at that particular time in that situation. However, in most places and times, for the common Muslim to convert to Christianity meant near social suicide. While there are cases of Muslims, converting to Christianity, most of these who did so, did so clandestinely. Even in the absence of formal punishment, rejection, censure, sanction and social stigmatization were all forms of social pressure brought by the Muslim community, if not the Muslim authorities upon those who opted out of the *ummah*.

L. SUMMARY

Obviously, even this cursory attempt at identifying the more salient aspects of the historical record indicates that the treatment of non-Muslims was universally not the same at all times and in all places. Certain norms, because they surfaced with regularity and were intentionally and systemically sustained, albeit with some variation, allows me to assert that along these general lines differential treatment was the norm. Within each of these categories, specific practices and application of norms varied, however. The contours of the discourse and the overarching ethos remain clear as they express continuity with the greater Islamic legal tradition, less in terms of *ibadat* (worship) and more in the area of *mu'amalat* (practices or social actions). For the purposes of historical comparison then, I identify elements that reflect not just the letter of the law that regulated the *dhimmi* communities, but also the spirit. As Bernard Weiss observes in his book, *The Spirit of Islamic Law* “if the law was in some measure more an ideal than a social reality, then it was a solidly institutionalized ideal firmly woven into the fabric of Muslim thought. But it was not just an ideal; it was in a very large measure a social reality.”⁶¹

⁶⁰ Op Cit, Goddard, 135.

⁶¹ Bernard Weiss, *The Spirit of Islamic Law* (Atlanta, The University of George Press, 2006): 187–188.

In summary, the areas of social and legal reality that historically characterize the contours of the *dhimmi* experience, and with which I will make my comparison are: religion's constitutional relationship to the state, the legal status of citizen government/military service, taxation, church building and repair, regulation of religious practices, communal representation, and freedom of religion, particularly the right to convert away from Islam. As Weiss, notes all of these elements fall within at least one of the four main, enduring areas of consideration, wherein to this day according to *shari'ah*, the public authority can intrude upon the lives of individuals for "the collection of taxes, the regulation of the behaviour of people in public places, and the recruitment of persons to bear arms, and the maintenance of public worship."⁶²

⁶² Weiss, *The Spirit of Islamic Law*, 185.

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III. THE CHRISTIAN EXPERIENCE IN EGYPT TODAY

A. DEMOGRAPHICS

The Christian community of Egypt numbers close to 12 percent of the population and, with its own auto-cephalous orthodox church, has a long history of engagement with the Islamic world, dating from the seventh century. They are proportionately most numerous in Upper Egypt. Most Copts are working class peasants and laborers, although there is a Coptic business upper class and a middle class of urban professionals and small landowners. Copts are present in most institutions of the state, and there are Coptic members of all registered political parties. Other Christian communities include the Armenian Apostolic, Catholic (Armenian, Chaldean, Greek, Melkite, Roman, and Syrian Catholic), Maronite, and Orthodox (Greek and Syrian) churches, which range in size from several thousand to hundreds of thousands.

An evangelical Protestant community, established in the middle of the nineteenth century, includes 16 Protestant denominations (Presbyterian, Episcopal (Anglican), Baptist, Brethren, Open Brethren, Revival of Holiness (*Nahdat al-Qadaasa*), Faith (*Al-Eyman*), Church of God, Christian Model Church (*Al-Mithaal Al-Masihi*), Apostolic, Grace Pentecostal, Apostolic Grace, Church of Christ, Gospel Missionary (and the Message Church of Holland (*Ar-Risaala*)). There are also followers of the Seventh-Day Adventist Church, which was granted legal status in the 1960s. There are 800 to 1200 Jehovah's Witnesses and small numbers of Mormons, but the government does not recognize either group.⁶³

The Muslim population of Egypt is roughly 88 percent of the total and is overwhelmingly Sunni. In terms of the Islamic world, Egypt has produced great scholars and leaders and is the site of al-Azhar, the oldest and most prominent Sunni legal and religious institution in the Islamic world. Due to Egypt's history as a center of gravity in the Muslim world and because in many ways it stands at a crossroads between East and

⁶³ United States Department of State, *2008 Report on International Religious Freedom – Egypt*, September 19, 2008: <http://www.unhcr.org/refworld/docid/48d5cbebc.html> (accessed August 18, 2009).

West, President Barack Obama chose Cairo as the location for his recent address to the Muslim world. Thus, Egypt currently affords the opportunity to study a moment in time in which contemporary Christian and Muslim leaders and their communities are engaging each other, not in a vacuum, but in a milieu in which significant political and social currents swirl about them.

B. REFERENCES TO THE *DHIMMI* ANALOGY

On a steamy Cairo morning in the summer of 2007, I stood in front of typical nineteenth century villa tucked into the side streets of the fashionable neighborhood of Zamalek, an island in the middle of the Nile. I waited patiently while the houseboy fumbled with his heaving iron keys and opened the gate. He led me down a garden footpath and into a cool and spacious room with vaulted ceilings: the antechamber of the offices a leading Catholic prelate. A large picture of Pope Benedict XIV hung on the wall. In that way, it was not much different from any other embassy, where a smiling portrait of the head of state is prominently displayed. A few minutes later, I was ushered into the prelate's offices. This senior clergyman, with piercing blue eyes and a gentle, even wistful demeanor, asked me several questions about my studies and my research. After chasing a cup of thick, Arabic coffee with a glass of cold water and lemon juice, he proceeded to respond to my questions about the general state of Christian-Muslim relations in Egypt. I was given to understand that he saw relations between the communities in a state of general decline. The monsignor provided me with many valuable insights into the various issues that affected relations between Christians and Muslims, not just in Egypt, but worldwide, and also not just among the elites, but also on the street. Soon, we began to get into the meat of the matter and the main area of my research, the effect of increased Islamization in upon relations between the Muslim majority and the Christian, largely Coptic Orthodox minority.

I found a general perception among Christian and Muslim Egyptians, as well as foreigners who have lived here or visit here regularly, that Egyptian society over the course of the last twenty years has been undergoing a slow process of Islamization. However, their definitions of Islamization were not always clear to me, nor were the

metrics that they applied to come to this conclusion. Some simply based their opinion on the increased number of women donning the headscarf and the *niqab*, or measured Islamization by attendance at Friday prayer, or an increase in Islamic bookstores, or the number of building permits issued for new mosque construction. Others insisted that Islamization had much less to do with religiosity and much more to do with the degree to which Islam had penetrated the social, educational, economic, military, and political structures previously considered to be secular. Others, still unsatisfied with such a definition, insisted that one had to distinguish between different degrees and types of Islamization. They posited that some phenomena related to this apparent Islamization were authentic and natural consequences of living in a Muslim-majority society and thus, were fairly benign. They considered that other manifestations that embraced ideologies and practices that were oppressive, discriminatory, and intolerant as more dangerous and worthy of rejection.

Eventually such discussions revolved around the inclusion or continued exclusion in the political process of the most prominent and well established of the Islamist groups, i.e., the Muslim Brotherhood. The participation of candidates affiliated with the Muslim Brotherhood in the summer 2007 *Majlis al Shura* Parliamentary elections, and the arrest of several of its members stimulated discussion in the press, on the street, and also among the Christian and Muslim elites. Yet, aside from recognizing its effectiveness as a movement of the opposition, it seemed difficult for Egyptians, even those sympathetic to the Islamist cause, to articulate the most precise and up-to-date position of the Muslim Brotherhood. This perhaps was due in part to the fact that the group and its leadership have evolved over the years, but few could explain the Brotherhood's position in matters related to co-existence with non-Muslims, such as full implementation of *shari'ah*, (a cornerstone of MB ideology) conversion from Islam, citizenship, the *jizya* tax, or church building and restoration. In discussing the Muslim Brotherhood's longstanding desire to see a full application of *shari'ah*, the monsignor expressed a sanguine concern for the impact this would have on Egypt's sizeable Christian population:

The return to *dhimmi* status would be a possibility. Nevertheless, there are different discourses inside the MB. ‘We are all one,’ say some... and some say “this Egypt is for all.” Some say the Christians should not be considered as a minority. It is similar to the Coptic discourse rejecting the minority status, but in regard to Islam being the solution, the government is throwing people in jail for saying this.⁶⁴

I recall walking away from the interview, grateful for the many profound insights that the monsignor had provided. In all that we had discussed, what struck me the most were his multiple references, such as the one cited above, to the past *dhimmi* experience of the Christians community. It was not so much the simple reference to a historical fact as it was with the way he seemed to deploy it to frame his concerns about the future of Christian-Muslim relations. I found that this way of retrieving the past, to create an analogy to the present and the future was to repeat itself over and over again, both in the press and in conversation. Copts, especially by means of the international media, and blogosphere drew attention to current levels of violence and discrimination against their fellows. The Christians perceived aspects of the Egyptian constitution itself as expressing the ethos and spirit, if not the name of “dhimmitude.”

Apart from the scores of violent attacks against them over the past 35 years, they have been forced into a de-facto *dhimmi* status. In fact, the infamous Second Article of the Constitution provides the legal basis to discriminate against and marginalize the Copts in their own homeland.⁶⁵

Moreover, this particular historical parallel, first articulated by the good monsignor, had traction. Indeed, comparisons to the *dhimmi* experience, sometimes accompanied by citations from the Qur’an and the hadith, injunctions from the Pact of Umar or *firman*s from Ottoman period, were drawn and seemed a standard part of many of my interlocutor’s rhetorical repertoires, so much so that it seemed to be taken for granted that the past conditions were completely comparable to the present ones.

⁶⁴ G. Martin, unpublished personal interview with senior Roman Catholic clergyman, Cairo, May 29, 2007.

⁶⁵ Adel Guindy, “The Islamization of Egypt,” *Middle East Review of International Affairs* 10, no. 3, Article 7/10, (September 2006).

Ali Gomaa, the Grand Mufti of Egypt whom I interviewed, waved off complaints that Christians were being discriminated against and asserted that the current conditions for Christians were much improved and that they had many more rights than ever before. He nevertheless, cited as his benchmark, the treatment of Christians during the Ottoman period when they were considered *dhimmis*. The Grand Mufti dismissed the violence and discrimination against Christians as episodic and not systemic, echoing the government's stance that Christians long ago acquired full citizenship.

...in terms of *Shari'ah* law being the law of the land, Christians need to reflect upon their experience here. What has been their position? They did not complain when under the Ottomans there was the *Shari'ah*. Afterwards, under the Ottomans they complained about the millet laws dealing with *dhimmis* and these laws were eliminated. We said "what don't you like" and they told us and we said, "fine, you want freedom from this? Then you are free" ⁶⁶

However, there are other Muslim voices, official ones, too, that do not share the Grand Mufti's perspective of equanimity. The official website of the *Supreme Council for Islamic Affairs*, an official body of the "Ministry of *Awqaf*," (The Ministry of Endowment and Islamic Affairs) posted an article entitled "Islam versus *Ahl al-Kitab*: Past and Present." The author, Dr. Maryam Jameelah, attempts to answer the question "how can we be certain that Islam is the only infallible Truth?" The article concludes by emphatically stating:

Peaceful relations and mutual respect among us can only be achieved through strength. We must cease indulging in apologetics and present the Islamic message to the world honestly and forthrightly. Before we can hope to succeed with *Tabligh* (proselytizing) on a large scale, we must first convert the nominal Muslims into true believers. We must establish a full-blooded Islamic state where the world will witness our precepts translated into action. Finally, we must crush the conspiracies of Zionism, free-masonry, Orientalism and foreign missions both with the pen and with the sword. We cannot afford peace and reconciliation with the *Ahl al Kitab* until we can humble them and gain the upper hand. ⁶⁷

⁶⁶ Op Cit, Ali Gomaa, in G. Martin.

⁶⁷ Maryam Jameelah, "Islam versus *Ahl al-Kitab*: Past and Present," *Supreme Council of Islamic Affairs, Arab Republic of Egypt*, http://www.islamic-council.com/non-muslims_u/Chapter3.asp. (accessed October 20, 2009).

Yet, even within this same organization there shades of opinion. I was able to interview an even more senior spokesman from the very same *Supreme Council for Islamic Affairs*, who sought to harmonize relations between Muslims and Christians, claiming that equanimity is within the true spirit and teachings of Islam. This official spokesman (a former Muslim Brother) seemed to me most disinclined to “humble” the *dhimmi*. Rather, with regards to treatment of non-Muslims, he argued for retrieval and application of the true spirit of the Qur’an—a spirit, according to him was illegitimately bent and twisted by the early jurists to facilitate domination of conquered peoples.

For me there is no contradiction, but the way you apply the law and the sort of application are two different things. It has to do with the education of Muslims on how to deal with non-Muslims. If you apply correctly and honestly the Qur’an, they are protected and have same rights. The Qur’an is educational. So it comes down to a problem of culture. Toleration is found in texts of all monotheistic traditions. ⁶⁸

The man who introduced me to the senior spokesman of the *Supreme Council for Islamic Affairs*, is one of the senior-most Anglican leaders in the Middle East and Egypt. In giving voice to the inchoate distrust and fears of his flock, he, too, deployed the *dhimmi* analogy as a way of characterizing his imagined vision of the future—a future, he was convinced, was to be one of oppression if the Islamists were to come to power:

If the Muslim Brotherhood came to power or any Islamists, we would immediately become *dhimmis*. If Muslims would like to affirm the citizenship rights of minorities, then they should put aside religion, and the Muslim Brotherhood will never put aside religion. They cannot put aside religion. ⁶⁹

Before one dismisses this senior Christian clergyman’s fears as unfounded, one should contemplate the following statement of a prominent and widely read Shaykh Ahmed al-Mahalawi, who is popular with the Islamists. One can infer from Shaykh al-Mahalawi’s comments that he is quite familiar with the scriptural justification for humbling the *ahl al-dhimma*.

⁶⁸ G. Martin, unpublished personal interview with senior spokesman of the *Supreme Council for Islamic Affairs*, Cairo, May 25, 2007.

⁶⁹ G. Martin, unpublished personal interview with senior Anglican leader, Cairo, August 22, 2007.

Before this Friday sermon, an official of the Religious Endowments Ministry came and gave me a paper containing instructions to preach on Islamic tolerance towards *dhimmis*. I protested against such dictates but I readily tackled the subject. Verily Islam is, and has always been, tolerant with regard to *dhimmis*, yet on the condition that they know their place.”⁷⁰

Depending on whom I was interviewing, the comparison, regardless of whether or not one sees it as valid or spurious, was sometimes viewed in a favorable light in and other times in a negative light. Whether they were holding up the treatment of Christians as *dhimmi* as an example, *par excellence* of Muslim toleration, or decrying it as obsolete in the light of modern ideas of citizenship and human rights, I found it noteworthy that the Qur’anic concept of *dhimmi* status provided many with the cognitive template, the model, and the standard by which they measured contemporary Christian-Muslim relations. Moreover, I sensed that there was a general consensus that, given perception of intensity and speed with which Islamization was proceeding, people believed that history could someday be repeated. Some welcomed that day, and some feared it.

C. CONTEMPORARY DISCOURSE OF GRIEVANCE

During the liberal period of the early twentieth century and the fight for Egyptian sovereignty from the British, the topic of minority rights and treatment of the Egyptian Christian minority appeared to be studied as a relic, and a curiosity, of an artifact of a now obsolete system. In 1907, the Copts demonstrated a great faith in the national effort by joining the pro-Islamic *al-Watani* movement to call for the removal of the British occupation. However, party leadership and party goals changed to promote strict Islamic policies, causing prominent Copts to leave *al-Watani* party leadership. Many moderate Muslims and Christians formed the *al-Ummah* movement in order to promote national unity. The Party succeeded in defining the Egyptian identity as separate from the Ottoman identity. Despite this, Coptic-Muslim relations continued to suffer under the combined strain of British rule and pro-Islamic Khedival policies. In 1911, a Coptic conference was organized under the leadership of the Bishop of Asyout in reaction to the

⁷⁰ Ahmad al-Mahalawi, *al-Fitna at-Ta’ifiya fi Misr* (Cairo, 2006), in James Jankowski and Israel Gershoni, (eds) *Rethinking Nationalism in the Middle East* (New York: Columbia University Press, 1997): 226.

assassination of Boutros Ghali, the Prime Minister and a Coptic Christian. At the conference, public demands were made for Coptic rights, and immediately, an Islamic sectarian response developed. Undeterred by this Islamist tilt, in the three decades following the end of the First World War—often referred to as the Arab liberal age—Christians worked side by side, under the revolutionary egalitarianism promoted by Sa’ad Zaghloul.

A political party was born of this movement, known as the Wafd party. It ‘stressed the unity and equality of all Egyptians, Muslims, or Christians, and several Copts played important roles in the party, alongside Muslims, in trying to obtain independence for Egypt after the war’⁷¹

Christians and Muslims struggled together against the British occupation and did, in fact, secure rights of citizenship that came close, but did not equal that of their Muslim counterparts. In 1920, the British resorted to the old tactics of divide and conquer by appointing a Copt as Prime Minister. The British tried to separate Copts and Muslims, attempting to isolate Copts from the nationalist movement by inciting sectarian strife. In a show of unity over 2,000 Copts met at the Greater Marcossia church to protest the British machinations. One Copt even attempted to assassinate the Copt nominated for Prime Minister, Yousef Wahbeh. The outcry against the British attempt to pit Christian against Muslim backfired to the extent that most Copts strove even harder to demonstrate their commitment to national unity, even at the expense of their own possible promotion in government. With this nationalist mindset, the Copts went on to baffle the British even further by opposing the British proposal to include a provision for religious minorities in the 1923 constitution.

The two communities began protesting together and brandished banners with the Islamic crescent and the Christian cross inter-twined. Likewise, Muslim shaykhs and Coptic priests were not afraid to share pulpits, both proclaiming to their congregations that they held a common link both spiritual and essentially Egyptian⁷²

⁷¹ P. Doorn-Harder, *Contemporary Coptic Nuns* (Columbia, S.C., University of South Carolina Press, 1995): 21.

⁷² Op Cit. Hasan, 36.

Copts also sided with Arabs in the conflict with Israel in the 1940s, but when Arabs demonstrated violently against Jewish settlement in Palestine, Copts, still unable to convince the Muslim majority of their loyalty to the national unity of the Egyptian state, fell victim to political abuse and physical assault. Still, Copts were appointed governors, ministers of foreign affairs, even prime ministers. During that period, the close affinity between the crescent and the cross reflected the popular motto: 'Religion is the province of Allah and the homeland is for all.' All in all, despite some significant low points, the period from the 1919 revolution through the fall of King Farouk has been considered the pinnacle of Coptic integration, with two Coptic prime ministers during this period and widespread political participation of Coptic MPs, a Copts at high levels in a variety of government posts and in the media.

Not long after WWII, things shifted. As the late French Protestant Professor Jacques Ellul put it, "that which was related to Islam and the Muslim world was believed to belong to a past that, if not dead, was certainly no more alive than medieval Christianity... And then, suddenly, since 1950, everything changed completely."⁷³ After Gamal Abdel Nasser's 1952 coup, Copts were gradually largely excluded from the top echelons of political and administrative bodies. The revolution in 1952 brought in nationalization and agricultural reform. While middle and lower class Copts benefited, as did their Muslim counterparts, the Coptic elite lost 75 per cent of their property through nationalization; Until that moment, the Christians had dominated a major share of the economy. Nasser also issued two decrees that had implications for Copts: one enforcing religion as a basic subject in the curricula rather than complementary to it, and a second decree which put entrance into al-Azhar University off limits to non-Muslim students. Also, Nasser abolished political parties with significant Coptic membership, like the Wafd Party. He seized Coptic Church endowments in 1957 and limited landholding by any Copt to 200 acres. This began a serious deterioration in the status of Copts and provoked the first wave of twentieth century emigration of Copts.

⁷³ Jacques Ellul, in preface to Ye'or, Bat, *Les Chretiens d'Orient Entre Jihad et Dhimmitude: VIIe-XXe siecle* (Paris, La Cerf, Paris, 1991): 3.

Under Sadat, social frustrations mounted in the 1970s with the rise of Islamic radical movements, strikes and protests, Sadat courted the Islamists as a foil to counter the left. Like the British, Sadat, too, politicized religion to gain allies and revived or at best acquiesced to Islamist animosity towards the Copt. Islamic groups became increasingly organized and violent. In 1972 Coptic churches, houses and shops were burnt as Copts reacted to the increasingly discriminatory laws.

Sadat, in currying favor with the Muslim Brotherhood, and to pacify militant Islamists had parliament amend the constitution whereby the *shari'ah* became *the* basic source of legislation. This amendment remains on the books until this day, and I will discuss at greater length below under “religion’s constitutional relationship to the state.” Confrontations escalated in 1978 and 1979 and culminated in 1980 with Sadat accusing Pope Shenouda III of involvement in a plot to undermine state security. The Pope was placed under house arrest and exiled to a desert monastery, while 125 Coptic activists were arrested. Coptic associations were banned and all Coptic publishing concerns were closed down. By signing the peace treaty with Israel, Sadat succeeded in infuriating many of radical Muslims he had so earnestly courted. In 1981, he was gunned down by Islamist militants. Under Mubarak, the Pope, who had been kept muzzled for four years was freed to circulate in 1985. But as economic recession deepened, violence against Copts flared up and has continued to do so sporadically, and in many cases, unpredictably up to the present day. Below we will now describe element-by-element, the present Christian condition based on the same hallmarks of the historical *dhimmi* experience identified in chapter three.

D. RELIGION AND THE STATE

As mentioned above, in the early part of the twentieth century, Egypt experimented with a more secular government that allowed near equal access to power by both Muslims and Copts, yet the relationship never could be considered a full separation of Mosque and State. The government grants legal status to only the three “heavenly religions,” i.e., Islam, Christianity, and Judaism and, as we will see in the subsequent section, this constitution recognition of these three faiths has an impact of the personal

status of individual citizens. Constitutionally, a useful way of understanding the relationship of religion to the Egyptian state is to study the role played by Al-Azhar. Al-Azhar provides a mirror that reflects the tension and the degree of cooperation between the state and the religious establishment. Traditionally, the head of al-Azhar held a position of legitimacy in the eyes of the people. He was seen as a de-facto, not just de-jure leader. Therefore, what the head of al-Azhar decreed was usually accepted without questioning by many Muslims. There was no need for the state to place its imprimatur on al-Azhar. Indeed, it was more often the state that needed and looked for religious endorsement.

As early as 1812, the state intervened to ensure it got the rulings it needed by appointing the Shaykh al-Azhar, and from 1895 to 1896 the aforementioned Abduh, representing the government, secured government salaries from al-Azhar clerics. By 1911, 62 percent of al-Azhar's budget came from the government and reached 96 percent by 1959. The final fusion of the state and the *ulema* occurred when Nasser further nationalized al-Azhar in 1961. For some being co-opted by the state meant a loss in the *ulema*'s autonomy and explained its lack of prophetic voice, especially whenever it seemed to produce rulings that tended to support unpopular government positions. Nasser transformed al-Azhar into the *Academy of Islamic Research*, and this academy, along with the positions of the *mufti* of Egypt, the minister of *awqaf* (religious properties), and the Supreme Council of Islamic Affairs, since then have assisted the state with important issues of religious expression, and social control. Thus, since Nasser's time, all positions at al-Azhar are filled by state appointees. When, in 1996, Hosni Mubarak appointed Muhammad Sayyid Tantawi (b. 1928) as the Grand Imam, many protested his selection as a political choice, as he is a leading member of the religious faction of the National Democratic Party that rules Egypt under Mubarak.

While most modern day Egyptian Christians cannot remember a time when the government and the official Islamic establishment were not in charge of all matters dealing with religions in the society, they have regarded the established mosque-state relationship between the government and al-Azhar as infinitely preferable to any Islamist

arrangements. In reality, the measure which appears to cause greater distress is the constitutional Status of Islamic Law, which, as of 1971, was returned to a place of prominence and later in 1980 officially amended by referendum by President Sadat. As a concession to Islamist sentiment, Sadat amended the constitution to establish Islamic law as *the* principal source of legislation in Egypt. Article Two of the Constitution since then reads in full: “Islam is the religion of the State and Arabic its official language. Islamic jurisprudence is the principal source of legislation.” Thus, in terms of international agreements or human rights charters, there is inserted a correlated reference to Article Two, found in many pieces of international legislation, treaty or multilateral agreement to which Egypt is a party states that, although “Egypt is willing to comply with the content of said (article, agreement, accord)” it is with the proviso that “such compliance does not run counter to the Islamic *shari’ah*”⁷⁴. Though Article Two is clear about Islam being *the* main source, (meaning there are no other civil or religious sources), the Egyptian legal system is actually still a hybrid. It is based on Islamic law together with civil law originating from nineteenth century French civil codes, but in terms of the legal traditions of other religious faiths, Islam remains constitutionally the sole source.

Thus, like the constitutions of most nations, and even many Muslim nations, the Egyptian Constitution is the unique product of Egyptian history. In its structure, spirit and content it attempts to weave together into a coherent document, different legal and moral traditions. While it seems to have been successful to a remarkable extent in harmonizing and universalizing commonalities and reconciling differences, points of friction exist. Muslim legal minds, however, now tend to see the problems as largely solved, and very few accommodations or concessions are necessary. The Grand Mufti believes that with minor modifications, the ethical principles found therein are both uniquely Egyptian and represents core values that are both religious and profoundly democratic:

A careful, point-by-point comparison was made with Shari’ah law, not *fiqh*, but Shari’ah law, which is different. Here we speak of the *Maqassid* of the Sharia (the overall objectives of the Shari’ah ethical system) and I

⁷⁴The Emory Law School, “Islamic Family Law,” Legal History: <http://www.law.emory.edu/ifl/legal/egypt.htm> (accessed November 7, 2009).

say that no one should be surprised that it was found that most of the French Civil Code was perfectly acceptable and could be related to its counterpart in the Shari'ah. I have written twelve articles on this subject. Likewise, vice-versa, when the Shari'ah was compared to French Civil Code it was found acceptable with Western notions of democracy. Thus, I am in agreement with those who say that the liberal, democratic position is compatible with the *shari'ah*. The Egyptian constitution in making the Shari'ah the main source is embracing its universalities. (*Kulliyat*) Twelve Islamic countries found themselves to be in agreement on this, i.e., that Egyptian Civil Law is recognizably based on *usul al fiqh*, i.e., Shari'ah, but again, not the direct application of *fiqh*...In general, then, our Egyptian civil code is not an explicitly Muslim law.⁷⁵

When Sadat amended the constitution to please the Islamist, Pope Shenouda was vociferously opposed. His approach changed following his years under house arrest and now the Coptic Orthodox position has moved from one of opposition during the 1980's to one of cooperation. Outside observers of the interfaith scene and not familiar with politics of it all, find it interesting that the Coptic Orthodox Church, which historically, has had the longest relationship with Islamic authority, the most conflicts, and arguably has lost the most members from conversion to Islam, now seems to feel quite at ease with the current formulation of the constitution. This, however, is contingent upon the semi-secularists in the Mubarak regime keeping the Islamists in check and generally positive attitude emanating from al Azhar. Bishop Youannes states:

The civil constitution that grants equal citizenship rights for all Egyptians is the real product of the dialogue of life in Egypt. Furthermore, dialogue of life has always been the safeguard for security of the Egyptian society in the moment of sectarian strife.⁷⁶

Still, other Christians push for constitutional reform. In doing so, they walk a fine line, risking the ire of both Al-Azhar and the government ministry of religion. They continue to identify contradictions in the constitution as the source of problems. They find it difficult to harmonize the idea that the *shari'ah* is the main source of law (article

⁷⁵ Op Cit Ali Gomaa, in G. Martin.

⁷⁶ H.G. Bishop Youannes, "Coptic Christians and Muslims – Cooperation on Community Concerns in Egypt" in *Evangelischer Entwicklungsdienst*, Bonn, 2007, 9
<http://www.eed.de/de/de.sub/de.sub.32/de.sub.info/de.info.262/index.html> (accessed August 3, 2007).

two) with all citizens being equal (article forty). I spoke to a senior leader of the small yet well-organized, vocal and well-funded Coptic Evangelical Association of Egypt, who communicated his dissatisfaction and insisted that there is room for improvement:

This is an absolute contradiction [in the constitution]. How do you have equality if you exclude me as a Christian in article two and then include me in article forty? How can we say there can be any equality? The problem is that here we are very selective when we deal with articles. When there are difficulties between Christians and Muslims, then we see how often the powers cite article two, meaning Islam is the law of the land and we are second class citizens. In times of tolerance, we see judges and politicians invoke article forty, where we are the fullest of citizens. I think we need some amendments to the constitution – mainly the second article. I am not for eliminating the second article because we should accept the feelings of the majority who are Muslims. But if the second article says that Islam should be the main source, then I think it should be changed and not be limited to Islamic law only, because this is a kind of discrimination. The second article should include all religious laws as sources. Some judges have dealt with Christians as second class citizens using this article.⁷⁷

Others from the Christian community have similar concerns which extend beyond the immediate particulars of Egyptian and the idiosyncrasies of Egyptian constitutional law. The Roman Catholic Church, for example, has a history of encounters with Islam that extends both in time and in space, and has a perspective beyond the local and national level. What happens in Egypt is important for its own sake, but also for how it can affect Christian communities throughout the Islamic world. The Catholic Church sees the constitutional and human rights of Christians in Egypt as bell-weather for Christian-Muslim relations worldwide, as unlike the Coptic Church, it represents the needs of Palestinian, Lebanese, Syrian, Iraqi, and Pakistani Christians. In some of these places, Christian communities are smaller than in Egypt, and in many they have even fewer rights. Thus, the protections that Christians have in Egypt are looked upon by the Catholic Church as important gains- and gains that need to be protected or improved upon in the scope of global Christian Muslim relations.

⁷⁷ Op Cit, Martin, G. August 8, 2007.

My senior Roman Catholic prelate stressed the importance of constitutional reforms that avoid either extreme, either the ultra-secular or the extreme Islamist:

This issue [of reform] came up with the amendments to the Egyptian Constitution and a number of voices said it should be revised. There could have been a greater discussion of the constitution at the time of the proposed amendments. The Shari'ah law, as a number of Muslims would say, is a human construct and has developed over many centuries starting with al-Shafi, who wanted to bring unity to the *madhabs*. But the Christians have been, and will continue to be, very uncomfortable with this and it is not the idea that Christians would have as their idea of a country in which they are full citizens. There is a difference between the idea of being full citizens and the provisions of Shari'ah law that go against this equality. This implementation of Shari'ah might throw the situation back to the Ottoman system and mean a return to the millets. This could be okay for matters of personal status, but not legal status. Is there any court that is superior to a Shari'ah court where you can appeal? Right now, there isn't.⁷⁸

E. THE LEGAL STATUS OF CITIZENS

In Egypt, matters which generally speaking, in the West would be considered family law (marriage, divorce, alimony, child custody, and burial) are regulated based on one's religion, but not all religions. Consonant with past Ottoman practice, the principle of separate personal courts and/or laws for every recognized religious community and reserved seats in the parliament persists. The application of family law is based on an individual's religious beliefs. In the practice of family law, Muslim families are subject to the Personal Status Law, which draws on *shari'ah* Christian families, regardless of denomination, are subject to Canon Law of the Coptic Orthodox Church, and Jewish families are subject Orthodox *Halakhic* law. In cases of family law, disputes involving a marriage between a Christian woman and a Muslim man, the courts apply the Personal Status Law. Inheritance laws for all citizens are based on the Government's interpretation of *shari'ah*. Muslim female heirs receive half the amount of a male heir's inheritance. Christian widows of Muslims have no automatic inheritance rights but may be provided for in testamentary documents. Under *shari'ah*, converts from Islam lose all rights of

⁷⁸ Op Cit, Martin, G. August 8, 2007.

inheritance. However, because the Government offers no legal means for converts from Islam to Christianity to amend their civil records to reflect their new religious status, the converts' loss of inheritance rights may not be indicated on civil documents.⁷⁹

Christians demonstrated concern about the overall legal imbalances in family law, but also about this lack of bi-directional religious freedom. Most I spoke to want to see the constitution modified to allow a level playing field and am worried about the loss of members to both conversion, as well as immigration. For instance, in terms of inheritance under shari'ah, converts from Islam lose all rights of inheritance. As just mentioned, because the Government offers no legal means for converts from Islam to Christianity to amend their civil records to reflect their new religious status, the converts' loss of inheritance rights may not be indicated on civil documents. My senior Coptic Evangelical interlocutor expressed his views as follows:

I think we need to establish an environment of religious freedom, but in our Egyptian context it is difficult to convert to Christianity, and very easy to convert to Islam. This is due to the constitution... The majority who convert to Islam, I believe, is for the reasons related to divorce because they can't divorce in the eyes of the Church, so they convert to Islam which permits, divorce, especially for the men. Or they convert for economic reasons, for greater economic opportunity. Rarely do people move because of ideological reasons. However, I am working hard to re-discuss divorce because there are situations where we as a church need to help solve this. We should take some initiatives as a church to help solve the problems of divorce among Christians and then the number that convert to Islam will drop greatly.⁸⁰

In short, the sense of Christian marginalization dates back the first Islamic conquest, and though there was a moment when Copts felt fuller in the early half of the twentieth century, the default position in the collective consciousness has been one of marginality. Yet, many moderate Muslim leaders such as the senior spokesman of the *Supreme Council on Islamic Affairs* cited above, and Ali Gomaa, the Grand Mufti, asserted that the Qur'an was an excellent foundation upon which to build a society since it held within its pages the basis for an egalitarian state- even for non-Muslims. They

⁷⁹ Op Cit, United States Department of State, 2008.

⁸⁰ Op Cit., in G Martin, August 8, 2007.

claim that most problems of discrimination experienced by the Christian community have historically been isolated, disconnected incidents caused by individuals acting independently, or in some cases, caused faulty interpretation and implementation. The Grand Mufti explained his understanding of the problem and challenged Christians to closely examine the source of their discontent:

In terms of *Shari'ah* law being the law of the land, Christians need to reflect upon their experience here. What has been their position? They did not complain when under the Ottomans there was the *Shari'ah*. After the Ottomans, they complained about the millet laws dealing with *dhimmis* and these laws were eliminated. We asked, 'what don't you like?' And they told us and we said, 'fine, you want freedom from this? Then you are free.' The new constitution made them free from all millet laws and millet councils. If properly understood and applied, the *Shari'ah* is fully compatible with modern notions of human rights and democracy ⁸¹

I found, however, that many of the Christians who complained about legalized discrimination saw the problems as systemic, and traced the fundamental inequities enshrined in the system, itself, to the earlier historic model and what they saw as current contradictions in the Egyptian constitution. For them, because Article Two declares that "Islam is the Religion of the State," there is then no way that "all citizens are equal before the law." For these critics, the law itself invited discrimination. This discrimination they described was often subtle, yet legal, reducing them to de-facto minorities, without minority rights or any government oversight into alleged abuses or discriminatory practices. Any time they would charge discrimination, the government, the officially sponsored state mouthpieces of both the Islamic and Christian communities would attempt to silence them, pointing out that article forty of the constitution gave them full citizenship.

While the Muslim majority and the Copts themselves frequently remind each other that they are full citizens under the constitution, to many, the assertion rings hollow.

⁸¹ Op Cit Ali Gomaa in G. Martin, 56.

The U.S. State Department found in its 2006 Report on Religious Freedom that the government generally upheld constitutional protections; however, they went on to note the following:

...discrimination against non-Muslims exists. There are no Christians serving as presidents or deans of public universities, and they are rarely nominated by the Government to run in elections as National Democratic Party (NDP) candidates. For the first time in more than thirty years, a Copt was appointed one of the country's twenty-six governors, in Qena. As of June 30, there were six Christians (five appointed, one elected) in the 454-seat People's Assembly; six Christians (all appointed) in the 264-seat Shura Council; and two Christians in the 32-member cabinet. Christians, who represented between 8 and 15 percent of the population, held less than 2 percent of the seats in the People's Assembly and Shura Council.⁸²

As it stands now, Christians perceive that the government and Muslim authorities tend not to identify any pattern of harassment but instead, respond to each incident as a unique occurrence. When I spoke to a diplomat from the political and economic section at the U.S. Embassy in Cairo, she confirmed the impression that the Christians but particularly the Copts seem to flail about in this regard. This diplomat stated:

The Coptic Community is more frustrated now than in the past. There is not just a lack of progress in achieving economic wellbeing or justice. There are real concerns of conversion, assimilation, immigration and contention with the government. No one here who has any sense can look at this situation from a critical perspective and say they have equal rights.⁸³

In addition to reporting general figures, trends and statistics, the 2006 U.S. State Department's Report on Religious Freedom in Egypt cites specific cases, which have since entered into the popular and collective perception and consciousness of the Coptic and Christian communities.

Government practices discriminated against Christians in hiring for the public sector, staff appointments to public universities, payment of

⁸² Op Cit. United State Department of State, 2008, 7.

⁸³ G. Martin, unpublished interview with diplomat from the political and economic section of U.S. Embassy, Cairo, July 15, 2007.

Muslim imams through public funds and barring Christians from study at Al-Azhar University (a publicly funded institution). There are few Christians in the upper ranks of the security services and armed forces. In general public university training programs for Arabic language teachers bar non-Muslims because the curriculum involves the study of the Qur'an. In fall 2005 Christian student Christine Zaher successfully completed the requirements for a master's degree in Arabic from the Suez Canal University in Port Said and secured a teaching position at the same university. Prior to her graduation, there had been no reports of Christian graduates in Arabic language since 2001; she was the first Copt appointed to a university level Arabic language teaching position in several decades.

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When it comes to discussing discrimination, understanding the perception on the street is essential. It is important to know how stories are spun, who spins them, how facts are selected, distorted, omitted and transmitted, and thus, how rumors get started. This helps us understand how communities develop a discourse of grievance. This is not intended to diminish the validity of stark facts on the ground as cited above. It is necessary to see how such facts are framed and massaged into an identity and a consciousness of a victimized minority. This, then, can become the preferred prism through which all actions of the "other" are viewed. Often, the rumors, personal anecdotes, and media reports serve to confirm and reinforce the worst. A prominent Danish pastor working with a Danish government funded program in Cairo is familiar with process by which many incidents become grist for such a mill:

In the community circulate the "grand narratives" which are stories of oppression and atrocities that go around, but it difficult to actually find the individuals who are the supposed victims. I think that these are stories that get exaggerated in the story telling. ... There are many such stories is circulating. Then what happens is that these stories often go abroad and get blown up. These narratives of grievance return back to Egypt after the Copt lobby gets a hold of them. It is a narrative of grievance, which is a two-edged sword.⁸⁵

⁸⁴ G. Martin, unpublished interview with diplomat from the political and economic section of U.S. Embassy, Cairo, July 15, 2007.

⁸⁵ G. Martin, unpublished personal interview with Danish Pastor, June 7, 2007.

Most Christian leaders note that even a pattern of discrimination does not necessarily translate into persecution. Nevertheless, the majority cited situations where cases of discrimination went unaddressed by authorities. Indeed, the Christian leadership in general finds that the lack-luster response to some of these cases is just as troubling as the offenses themselves. As stated earlier, Muslim leaders, generally perceive issues of discrimination as random acts of misguided or even corrupt individuals, who need to be better supervised. My senior spokesman at the *Supreme Council for Islamic Affairs* implied that the Christian discourse of under-representation was a misperception, stating that a disproportionate number of Christians are found among the well-off and the elite, and observing that, “there is the typical sociological relationship between the privileged minority and underprivileged majority, and some Muslims would actually say that the Christians are a “qualitative majority.”⁸⁶

For most Muslims with whom I spoke, equality was the norm and discrimination the exception. When apparent inequities were pointed out, many Muslims identified the self-limiting attitude and non-participation of the Christians as a self-defeating, unpatriotic myth promulgated by the media in the West. Though these Muslims frequently acknowledged the domination of the Muslims in the political and administrative life of the country, they were adamant that it should not be viewed as the result of discriminatory practices, but simply as a reflection of a demographic reality. As the Grand Mufti asserted:

Here, in Egypt, we must avoid speaking of majority and minority, since we grew up together as children, went to school together and our families are neighbors. We do business together and are all Egyptians...I perceive that the problems were political, not religious. It is important to speak about *supposed* (italics to indicate his emphasis) discrimination. While I acknowledge that this exists, I cannot say we should blame the system because it is not a problem with the Egyptian system. It is really a reflection of the demographic reality here in Egypt. It is important to differentiate between matters of racism and simple matters of demographics. In examining legislation we always have to ask if it leads to greater competition (between religious groups) or to cooperation. We

⁸⁶ Op Cit. G. Martin, May 25, 2007.

have no member of parliament who is a Christian, not even one who is running. Why? I say that it is for the same reason that the US has never had a black President, and has had only one Roman Catholic.⁸⁷

Moreover, the Christian leaders find that the discrimination is frequently so subtle that Muslims, who are used to being in the majority, fail to appreciate how excluded the minority can feel. My senior evangelical spokesman cites particular areas of concern:

In theory, in Egypt, according to the constitution there is no persecution as found in the laws as they are written.... However, in all fairness, I must say that there is discrimination based on individuals who are influenced by extremists, or they, themselves, are extremists and they practice discrimination rather than persecution.... I would also like to see laws against people who practice discrimination, and so I would like to see laws that protect and monitor acts of bias or injustice based on religion. ...Equality needs to be more than theory, it needs “legs on the ground” so people can see it and live it. Not much happens now to someone who discriminates against Christians. I would like to see Christians also get rid of the article of faith that says we can blame everything on being persecuted; we have to stop just repeating this. We need to integrate into the social life and get into all sectors and not self-exclude ourselves.⁸⁸

Most reports indicate that Christians have little representation in the political affairs of the country. Often those few who serve in the government are appointed, not elected. Fed by an apathy born of marginalization and “self- imposed ghettoization,” the Christians seem to identify the issues, but are without much of a plan or method as to how to organize and leverage the government. There does not seem to be much desire or capacity to gain the support of government authorities to promote administrative changes and to react to discrimination in a systematic way. Most concur that it has been an uphill battle trying to get the authorities to recognize the pervasiveness of the problem of discrimination, and to implement policies to correct the abuses or ensure the Christians are provided for as “protected” minorities. Opinions differ on the degree to which the problem is fundamentally a problem of the legal substance, or legal application, with most Muslim religious authorities, unlike secularist Muslims, defending the use of

⁸⁷ Op Cit, Ali Gomaa in G. Martin.

⁸⁸ Op Cit. G. Martin, August 8, 2007.

shari'ah as the main source of civil law. They do not attribute problems experienced by the Christian communities to inconsistencies or inequities deriving from the constitution. Instead, they tend to lay the blame for injustices on the imperfect interpretation and application of the *shari'ah*, but not with *shari'ah*, itself. The high-ranking spokesperson for the *Supreme Council on Islamic Affairs*, a very urbane, Western-educated Muslim, asserts that equality for all is possible under the *shari'ah*:

For me there is no contradiction between Shari'ah and the Civil Code. However, the content of the law and its application are two different things. This, again, has to do with education of Muslims on how to deal with non-Muslims, and the influence of a very political press. If you apply correctly and honestly the Qur'an, non-Muslims are protected and have the same rights. The Qur'an is educational in this regard, so it comes down to a problem of culture. There are attitudes of rejection which come from the non-Muslims, But Pope Shenouda understands. He is not a puppet of the government, and Article Two of the constitution (making Islam the religion of the land and the Shari'ah the main source of the law) does not bother him because he knows the Qur'an. The danger is a political one, because the bad attitudes come from popular, cheap, low, culture. There is toleration in texts of all monotheistic traditions. ⁸⁹

Not all Christians necessarily disagree with his assessment. There are those leaders who believe that in substance, the Egyptian Constitution embodies a balance of Christian and Muslim values and offers adequate, unbiased protection to both groups. For instance, during one of the most violent of times in which Copts were experiencing near daily assaults from Islamists, Pope Shenouda deflected criticism that the Copts were being persecuted

Violence, Shenouda claimed, indiscriminately targeted both Muslims and Copts, which showed that its leaders were far removed from the true faith of Islam, as even the *ulama* conceded. Reiterating its traditional assertion of loyalty to the state, the Coptic Church rejected criticism emanating from the United States regarding the alleged persecution of Copts in Egypt⁹⁰

⁸⁹ Op Cit. in G. Martin, May 25, 2007.

⁹⁰John H. Watson, *Among the Copts* (Brighton, Sussex:2000) in Meir Hatina, "In search of Coptic Authenticity," *Middle Eastern Studies* 42, no. 1 (January 2006): 51.

My high-ranking Anglican clergyperson, who enjoys extraordinarily good relations with Al-Azhar, expresses views similar to those espoused by the senior spokesman for the Supreme Council of Islamic Affairs. He, too, attributes the problems to incidents of misinterpretation and misapplication, as well as to a particular resistance to secularism. He states:

The *Shari'ah* is popular as a symbol. The government is afraid to call itself secular because the understanding of the term here is atheist and godless. What they think in terms of the word 'secular' is not what you think. Even the intellectual Muslim interprets it to mean irreligious. They don't see secularism as a simple separation of mosque and state. Of course, this is a contradiction but it depends on how people behave. The problem is not in the *Shari'ah*, but in the interpretation of the *Shari'ah*. What interpretation shall be applied? In terms of conversion and apostasy some say that people who convert should be killed after three days if they don't repent. Another view is that they should be given a grace period until the end of their lives and God will then judge. We, as Christians have no problem with *Shari'ah*, but with its interpretation and implementation.

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This leads me to discuss one of the most hotly debated, and most variegated issues regarding the legal status of religious minorities to emerge anywhere in the Muslim world in the last 25 years. A heated debate over whether or not Copts are in fact, minorities, and should be recognized as such, first began when Sa'ad iddine Ibrahim and the Ibn Khaldoun Center sponsored a conference on the topic back in 1994. This conference apparently hit a raw nerve, reflecting the tension both within the Coptic community and the larger Egyptian society. This controversy burns hot still today and I argue that at its heart, this debate is whether the *dhimmi* narrative should or should not be accepted as an "orienting" narrative to govern the non-Muslim minority. There are cleavages that do not run along sectarian lines here, making one less sure about the motives of those who retrieve and deploy of the *dhimmi* metaphor and analogy in reference to this debate on minority rights. At first glance, one might assume that all Christians would insist on being considered full citizens. At first glance, one might think that the Islamist elements would prefer to see Christians relegated to the status of

⁹¹ Op Cit, in G. Martin, August 22, 2007.

“dhimmitude” in the classical sense. Yet, in effect, there are both Christians and Muslim who take issue with the notion of Copts as full citizens of a modern, secular Egyptian state. There are both Christians and Muslims who state that Christians should be considered protected minorities, not always, however for the same reasons. A senior Anglican clergyman considered a reality that should be acknowledged, at the same time noting that minority status should not mean a diminished form of citizenship:

The dialogue we have now is about how we can best deal with misconceptions and generalizations. We speak about the Muslim minorities in West and minorities in Egypt. Some Copts don't like being considered a minority but this is like putting our head in the sand. But this is the fact and many conflicts are because of the rights of the minorities are not respected.⁹²

Some see that the full citizenship of the Copts as a necessary myth to ensure social cohesion and national unity. Others, Christians and Muslims, regard it as a transparent lie, and a farce, pointing to facts that don't support the reality. What is interesting is that whether one sees notions of equal citizenship as valid or invalid, or whether one argues for the recognition of a Coptic minority nation or not, it comes down to a debate between whether one wants to approach the situation from a *normative* or a *realist* position. The situation becomes even more complex when one comes to appreciate the conflicting motivations held by those who support the same positions. And here is the crux of the matter, and perhaps the main question that emerges as a result of writing this thesis: would the recognition and classification of the Coptic/Christian community as a “minority” community, constitute, as is feared by some and recommended by others, a return to the *dhimmi* experience? In my conclusion, I will provide taxonomy of the various positions vis-à-vis a modernist *dhimmi* narrative and the possible nuanced political positions that such usage can indicate.

⁹² Op Cit in G. Martin, August 22, 2009.

F. GOVERNMENT AND MILITARY SERVICE

Because Christians are constitutionally equal citizens there are theoretically no bars to entrance into government service or anything that legally could prevent them from rising in the ranks. Nothing like the *devshirme* system of the Ottomans exists, nor has existed for centuries. At the same time, there are no special programs, conscriptions or “tracks” or official ‘minority preference/quota or “affirmative action” type programs to speak of. According to the United Nations High Commission for Refugees, yearly report, “Copts are present in most institutions of the state, and there are Coptic members of all registered political parties.” However, the report also indicates “Copts continue to face state discrimination in such areas as university admissions, public spending, [and] military promotions.”⁹³

Coptic diaspora groups have collected documentation and repeatedly called attention to Muslim army officers have been subjected Christian draftees to persecution and extreme torture leading sometimes to their death, as a way to force them to convert to Islam.⁹⁴

Today Copts are disproportionately represented among the ranks of prosperous city dwellers. Urban Copts tended to favor careers in commerce and the professions, whereas the livelihoods of rural Copts were virtually indistinguishable from their Muslim counterparts. Urban Copts are stratified into groups of long-time residents and groups of recent migrants from the countryside. The latter group, often impoverished, falls outside the traditional urban Coptic community and some can be found among the *zabaliin*, the traditional garbage collectors and recyclers. The former group included many university professors, lawyers, doctors, a few prominent public officials, and a substantial middle echelon of factory workers and service sector employees. However, only in 2007 was a Coptic woman allowed to teach Arabic at one of the government run Universities (Ain

⁹³ UNHCR, “World Directory of Minorities and Indigenous Peoples – Egypt,” <http://www.unhcr.org/refworld/> June 2008 (accessed October 22, 2009).

⁹⁴ Mary Abdelmassih, “Forced Islamization of Christian Conscripts in the Egyptian Army,” *Copts United*, October 14, 2009, <http://www.coptsunited.com/Details.php?I=21&A=183> (accessed November 1, 2009)

Shams), challenging the Muslim monopoly. Until then, it has generally been accepted that to truly know Arabic one had to be a Muslim. This is also the pattern in other areas of government service; Copts are generally underrepresented.

For some years, President Mubarak to compensate for the lack of duly elected Christian representation. Usually, because so few Copts manage to get elected, he has had to appoint them. In 1990, following a series of attacks against Copts and churches in Upper Egypt, Mubarak “in an attempt to appease Copts, gave five of the ten presidentially appointed seats in Egypt’s Parliament to Copts.”⁹⁵ According to the same source in Feb 23, 1993 a Reuters article quoted Copts complaining of the government showing preferential treatment in terms of awarding scholarships and promoting and selecting qualified personnel for upper government jobs; Moreover, they substantiated that there was significant “discrimination and segregation by teachers and school officials of Coptic students and the removal of all reference to Copts and Christianity from many school curriculums.”⁹⁶ I will conclude this segment with an excerpt from the U.S. State Department’s 2009 Report of Human Rights for Egypt:

There are no Christians serving as presidents or deans of the country’s 17 public universities. On April 12, 2009, the weekly newspaper Watani reported that of nearly 700 president, dean, or vice dean positions in the country’s public university system, only one position is filled by a Christian. The Government rarely nominates Copts to run in elections as National Democratic Party (NDP) candidates. Christians, who represent between 8 and 12 percent of the population, hold fewer than 2 percent of the seats in the People’s Assembly and Shura Council. In November 2008, Al Youm Al Saba, an Internet news service, reported that the number of Copts accepted in the National Police Academy for the year 2008-2009 was 24 out of 1,600. As of June 30, 2008, there were six Christians (five appointed, one elected) in the 454-seat People’s Assembly; six Christians (all appointed) in the 264-seat Shura Council; two in the 32-member cabinet; and one governor of the country’s 28 was Christian. There are

⁹⁵ UNHCR, Minorities at Risk Project, *Chronology for Copts in Egypt*, 2004, <http://www.unhcr.org/refworld/docid/469f38841c.html> (accessed October 3, 2009).

⁹⁶ Op Cit, U.S. Department of State, 2008.

few Christians in the upper ranks of the security services and armed forces. Public funds compensate Muslim imams but not Christian clergy.⁹⁷

G. TAXATION

In Egypt, the jizya was abolished by the Napoleonic regime that briefly ruled in Egypt and later in 1855 by Said Pasha, after the Gulhane Rescript of 1839 and before the Hatt I Humayun in 1856. Taxation is now universal according to the constitution for all members of the “three heavenly religions,” and no differentiation is made based upon one’s religious affiliation. Taxes collected by the state are levied on all citizens. While egalitarian in the matter of collection, one could make a case that the expenditure of tax monies is less so. According to the U.S. State Department, “the Government appoints and pays the salaries of the imams who lead prayers in mosques and monitors their sermons but does not contribute to the funding of Christian churches.”⁹⁸ The same can be said for state funds spend on religious programming: tax monies are spent liberally on shows that convey an Islamic message and content while none of the state funds is spent on Christian programming. The fact that the government collects taxes from Christians but “bars them from studying at Al-Azhar University, a publicly funded institution with approximately half a million students” could also be framed as a matter of an uneven and discriminatory expenditure of taxes.

H. CHURCH BUILDING AND REPAIR

The contemporary interpretation of the 1856 Ottoman Hamayouni decree, partially still in force, had until 2005, required non-Muslims to obtain a presidential decree to build new churches and synagogues. In addition, MOI regulations, issued in 1934 under the Al-Ezabi decree, specified a set of ten conditions that the Government had to consider before a presidential decree for construction of a new non-Muslim place of worship could be issued. According to Sa’ad’Eddine Ibrahim, noted Egyptian

⁹⁷ Op Cit, U.S. Department of State, 2008.

⁹⁸ Ibid.

professor of sociology and long-time critic of the Mubarak regime, mentioned earlier in the paper for championing the classification of Copts as minorities:

.. nothing is as symbolic as the persistence of the Humayonic Decree, which requires no less than a presidential permit for the building, renovation — or even the minor repair — of churches. Of course, no such restrictions exist on the building of mosques. This decree, the remnants of an Ottoman law and the most oppressive of any discriminatory law, is expressly intended to restrict the ability of Copts to practice their faith. .. there can be no genuine hope for true democracy, civil liberties or the abatement of deeply entrenched religious discrimination in Egypt as long as the Humayonic Decree stands in flagrant violation of the constitution and human rights...⁹⁹

The conditions included the requirement that the distance between a church and a mosque not be less than 100 meters (340 feet) and that approval of the neighboring Muslim community be obtained before a permit to build a new church may be issued. In 1997, the Coptic publicist Milad Hanna complained that “we live in a fundamentalist country, like Iran or Saudi Arabia,” and he asserted that “they [Copts] should be able to exercise their right to build and repair their churches.”¹⁰⁰

One of the most bitter complaints Christians now aired vocally (and an obvious priority for Shenuda) concerned discrimination in building houses of prayer. The law relating to the construction of churches was based on the Ottoman *hatt-i humayun* (noble rescript) of 1856, which guaranteed equality between Muslims and non-Muslims in the empire but also required government licensing to erect a church. A 1934 Egyptian government decree further specified ten restricting conditions for the construction of churches, including a minimum distance between churches and between a church and the nearest mosque, as well as the absence of objection on the part of Muslim neighbors. Getting a license to build a new church became an increasingly tedious matter, with the government never too enthusiastic to grant it. ¹⁰¹

⁹⁹ Op Cit, Ibrahim, A.16.

¹⁰⁰ Hanna Milad *N'am Aqbat lakin Misriyyun* (Cairo: Maktabat Madbuli, 1980) in Hatina, Meir “In Search of Coptic Authenticity: A Coptic Perception,” *Middle Eastern Studies* 42, no. 1, January 2006): 50.

¹⁰¹ Op Cit., Ayedor, 57.

In December 2005, in a move to decentralize and “power down” to lower echelons, President Mubarak declared that it was no longer necessary that churches obtain presidential authorization to repair and rebuild. This authority has now been granted to the provincial governors, in theory streamlining the process. However, according to the 2006 U.S. State Department’s Report on Religious Freedom in Egypt, churches still have encountered difficulty in obtaining permits. For example, there are complaints that local officials, acting arbitrarily, delay ordinary repairs such as painting of walls and plumbing by incorrectly classifying them as “reconstruction” projects. This misclassification means that formal permits must be sought instead of a simple notification.

Some churches have complained that local security officials have blocked church repairs or improvements even when a permit has been issued. Others suggest unequal enforcement of the regulations pertaining to church and mosque projects.¹⁰²

Nevertheless, the State Department’s report shows that by most accounts things have improved. Figures published by the Egyptian Government’s Official Gazette, indicate that sixty-three Presidential decrees were issued from June 30, 2005, through July 1, 2006, for church-related construction, whereas only twelve permits were issued during the previous period.¹⁰³ Perceptions, though, are slow to change among the Christian population. Echoing the sentiment that “one warm day, doesn’t make a summer,” a prominent clergyman in the Coptic Evangelical community, like many other Christian leaders, says that more can be done in this regard, since it is still quite difficult to obtain permission to build new churches, not just repair the old ones.

There is still a harsh law on the books against Church building and when Muslims discover that Christians are building a church, maybe without waiting for permission, or even with permission, then there are fights as it happened in Giza and Alexandria. These occasions happen constantly. The law makes it difficult for Christians to build new churches. This is a heavy

¹⁰²Op Cit, United States Department of State, 2008.

¹⁰³ Ibid.

matter. I see what happens and so I conclude which church can get built, and I see that we need to have this law modified.¹⁰⁴

Because the churches are such obvious, visible signs and symbols of the Christian presence, it is not unusual that they are frequently the target or the setting for sectarian clashes. Alexandria, Giza, and Luxor, during 2005 and 2006, witnessed significant strife. According to the U.S. State Department:

In the October (2005) incident, a young Muslim man, enraged by reports that some Christians had staged a play critical of Islam, attacked several Christians outside a church. Subsequent riots left three Muslims dead and resulted in significant damage to Copt (Egyptian Christian) private properties and some damage to churches.¹⁰⁵

The same report states that on January 18, 2006 there were serious sectarian clashes in the settlement of Udayssat, near Luxor wherein Christians were found to be conducting an Epiphany service in a building that had periodically served as an unlicensed church since 1971. The repeated use of an unauthorized building provoked Muslims to act:

Several hundred Muslim residents of the area surrounded the building, vandalized the property, and attempted to set it ablaze. In the ensuing melee, approximately a dozen persons, both Christian and Muslim, were injured, along with several policemen. On January 20 assailants killed a forty-seven-year-old Christian farmer, Kamal Shaker Megalaa, as he returned from his fields. The Luxor district attorney ordered the arrest and investigation of several Muslims from Udayssat on suspicion of involvement in his murder.¹⁰⁶

Two and a half years after promulgation of Decree 291/2005, church and lay leaders complained that the permit process remains susceptible to delay by local officials. They charged that some local authorities refused to process applications without certain “supporting documents” that were virtually impossible to obtain (e.g., a presidential decree authorizing the existence of a church that had been established during the

¹⁰⁴ Op Cit, Martin, G. August 8, 2009.

¹⁰⁵ Op Cit., United States Department of State, 2008.

¹⁰⁶ Ibid., 5.

country's monarchical era). Others complain that some local authorities categorize routine repairs and maintenance (e.g., painting of walls and plumbing repairs) as expansion/reconstruction projects, thus requiring formal permits versus simple notification. They also maintain that security forces blocked them from using permits that had been issued, and at times denied them permits, for repairs to church buildings and the supply of water and electricity to existing church facilities. Such incidents often depended on the attitude of local security officials and the governorate leadership toward the church and on their personal relationships with representatives of the churches. As a result, congregations have experienced lengthy delays—years in many cases—while waiting for new building permits.

In 2008, the U.S. State Dept reported that “local authorities have closed down unlicensed places of worship. As a result of restrictions, some communities use private buildings and apartments for religious services or build without permits.”¹⁰⁷

I. RELIGIOUS PRACTICES

Today in Egypt, there are no tangible similarities between the restrictions and sanctions placed on the *ahl al dhimma* such as those found in the Pact of Umar or under the Ottoman millet system. However, we must consider that practices have evolved. A broadcast or a website today is what a religious procession was in the days of the Ottomans. Public practices of religion have changed and the new media has replaced the main streets and plazas. The local media, including state television and newspapers, gives prominence to Islamic programming, while Christian television programs are aired weekly on state-owned Nile Cultural TV. In 2002, Pope Shenouda protested:

All we want is equal relations between the two parts of the [Arab] nation, because often the Christians do not find reasonable space in which to function... No one accepts the American preacher's [Jerry Falwell] attack on Islam in a loathsome manner. Yet I cannot even count the articles,

¹⁰⁷ Op Cit, United States Department of State, 2008: 5.

books, and publications attacking Christians in Egypt, and we let these things pass, so as not to start big problems, or even small ones.¹⁰⁸

On August 11, 2009, the United States Commission on International Religious Freedom (USCIRF) released a letter sent to American President Barack Obama, petitioning him to address the difficulties that religious minorities face in Egypt. In the letter, which was sent ahead of President Hosni Mubarak's visit to the United States, USCIRF also asked Obama to promote freedom of speech in Egypt for both the religious minorities and the Muslim majority in Egypt.

J. COMMUNAL REPRESENTATION

Religious and political leaders in many parts of the non-western world have had to deal with resurgent traditionalists, and religio-political identities, at the same time operating alongside, if not often within, the secular paradigm. With the strictly secular model appearing on the wane, we are seeing both continuity and discontinuity with the past as Muslim and Christian leaders, no longer confining themselves to strictly spiritual matters, are reasserting their traditional temporal roles. By word and deed, they are forming the ethos and shaping the political milieu in which Christians and Muslims have historically interacted. Regarding some issues, this means returning to earlier times when religious leaders were de facto representatives of their communities. It has meant a break with some aspects of secularism, as well as attempts to retrieve the more distant past, its confessionalism, and its millet system, but for some it has meant blazing new paths.

In terms of Christian inter-communal relations, I found that between the Coptic Orthodox and other Christians there exists a degree of rivalry. There appears to be a desire among the significantly larger Coptic Orthodox Church to maintain its primacy, which translates at times into an exclusive claim to speak for all Egyptian Christians. The other Christian groups accept this and, indeed, appreciate the sacrifices that the Coptic

¹⁰⁸ Pope Shenouda in *al-hayat*, October 20, 2002, in MEMRI (Middle East Media Research Institute) *Inquiry and Analysis*, no 110, November 12, 2002. <http://www.memri.org/bin/articles.cgi?Page=archives&Area=ia&ID=IA11002> (accessed on October 12, 2009).

Orthodox Church has made over the centuries, granting it a certain *primum inter pares* status. However, the smaller, but very well-organized and well-funded Coptic Evangelical Church feels that the Coptic Orthodox resent their presence at the table of interfaith dialogue. A high-ranking Coptic Evangelical pastor and community organizer, and a member of the Egyptian Council of Protestant Churches lamented that “it is difficult to be a minority within a minority,” and declared that the relationship with the Coptic Orthodox is so difficult that he “has given up on ecumenism.”¹⁰⁹

Muslim leadership has also found it difficult at times to identify who exactly speaks for Christianity. The Grand Mufti, Ali Gomaa cited, as an example of Christian discord, the inability of the Christian leaders to come to an agreement about what recommendation they should make to the government about its divorce laws. Muslim authorities tended to see this as an example of internal Christian discord. The Grand Mufti expressed frustration at the Christian leadership’s lack of cohesiveness and ability to clearly articulate their recommendations led to Muslim perplexity and exasperation.

Under Pope Shenouda’s pontificate these relations have enjoyed moments of alienation and confrontation, as well as rapprochement, cooperation and solidarity. In light of the scarce and limited presence of Christians in political life, Pope Shenouda, as the leader of the largest Christian community in Egypt, has often been the main representative of Christian concerns. He has communicated to the Egyptian government and to the world these concerns, championing the cause of Copts, but often all Egyptian Christians. When I asked a senior Coptic Evangelical leader about relations with the Coptic leadership and probed him regarding his feelings on degree of cooperation between Coptic Evangelicals and Coptic Orthodox Church, he made the following comments:

We have good relations, sometimes, but the relationship has had turbulence and now we look to a post Pope Shenouda period. This is a very complicated issue. When you are a minority of a minority, like us, you have it tough. Ecumenism is not working well in the Middle East. I must be blunt. It is painful. The relations with the Coptic Orthodox Church

¹⁰⁹ Op Cit in G. Martin, July 11, 2007.

go back and forth in a way that is not healthy...They want to benefit from the money from the West which comes mostly from Protestant churches. They don't see us as a church, but as a people who want us to proselytize and to convert Coptic Orthodox to Protestantism. ¹¹⁰

The Grand Mufti of Al-Azhar, in explaining the history of relations with the Coptic Church, offered a historical perspective on Pope Shenouda's pontificate, alluding to Shenouda's reticence in embracing egalitarian reforms. The Grand Mufti's subtle, historical reference below could indicate that the Mufti senses that the Pope preferred the older, Ottoman-style form of millet *rayih* representation, where the power was more consolidated in the hands of the local patriarch.

It sometimes seems to me that only Pope Shenouda has been dissatisfied with this [the Egyptian Constitution] and would like to see a return to the millet council. I personally saw a dramatic change in the approach of Pope Shenouda. He had a lot of problems under Sadat and was in prison. Sadat wanted to have a Muslim committee oversee the affairs of the church, which, of course, Shenouda fought. The question emerged and still lingers for us: Is he a political or religious leader? Clearly, "he has an agenda." [exact words here, spoken in English] He is ambitious. But I think that the times changed, more than Shenouda has changed the times. ¹¹¹

Copts, themselves, are somewhat unsettled at the prospect of a transition, given that Pope Shenouda ascended to his position in 1971. There is some obvious jockeying going on. Although Egypt has a very ambiguous church-state/ mosque-state arrangement, there has been an unusual attempt to apply the civil code to religious matters. Labib Halim, the Vice President of the State Council, "has proposed a new regulation granting all Copts the right to elect their pope. The present rules bar Copt laymen to take part in this process, rendering the electoral system unconstitutional."¹¹² According current canons, only the Holy Synod and members of the Coptic Religious Endowments Authority have the right to vote for a new Pope.

¹¹⁰ Op Cit in G. Martin, July 11, 2007.

¹¹¹ Op Cit, Ali Gomaa, in G. Martin.

¹¹² Ahmed Kamel, "Speculation on Succession," *The Egyptian Gazette* (Cairo, July 11, 2007): 2.

According to Bishop Youannes of the Coptic Orthodox Church representation of one's community now falls under the modern rubric of "Dialogue of Life" which he sees "is a way of life and coexisting in the Egyptian society where Copts and Muslims live as neighbors, striving and working together in response to their day-today common problems and challenges."¹¹³ He considers this to include "the Christian and Muslim religious leaders such as Pope Shenouda III and the Shaykh of Al-Azhar, as well as the other bishops and shaykhs in official conferences and festivals frequently with the aim of enhancing the relations at the institutional level."¹¹⁴ Bishop Youannes states that its purpose in the optimal situation is "where community members, both Christians and Muslims, get together and cooperate in a genuine way in the development process; discussing their community concerns and problems, advocating for their rights and making the best use of their local resources."¹¹⁵

Yet for the Christian community it still appears at times that the issue of control over what, whom, when and where discussions will take place is a major factor. One of the primary criteria for being able to represent one's community was legitimacy. Muslim authorities expressed some frustration with the Christian community in this arena. Al Azhar wants there to be one representative as in the days of the Christian millet. However, today in Egypt that is unlikely given there are now denominations and the Christian churches cannot sort out who should be their legitimate spokesperson and articulate their own position on family issues, particularly divorce. This apparent lack of coherence reflects poorly upon the state of the Church, but also confounds religious authorities such as those at Al-Azhar who hope to facilitate such matters. As the Grand Mufti states:

I will give you an example regarding divorce wherein the state let the Christians make their own recommendations to the state. They came to the Government after having agreed on nine points to present the government legislature, but then at the last moment they fell into arguing with each

¹¹³ Op Cit, Bishop Youannes.

¹¹⁴ Ibid.

¹¹⁵ Ibid.

other and so I say that the problems in the Christian community have more to do with their internal sectarian politics than with the *Shari'ah* or Islam.¹¹⁶

While the acceptance of this multiplicity of viewpoints, and the recognition of several legitimate spokespersons ensures that the fullest possible picture of Christian concerns gets represented, this same range and diversity of positions is not as well-represented on the Muslim side, largely due to the authority and the ability of Al-Azhar (and thus the government) to control the message and the terms of discourse. Despite the best efforts of the official interlocutors to recognize each other as the legitimate representatives of the Muslim communities, internally, they often found themselves challenged by voices within their own communities. Unlike, Ottoman times, when it was very clear that the official *ulema* and none others spoke for Islam, today in Egypt Al Azhar has some competitors. These dissonant voices were often referred to as “deviant,” “extremist” or “unorthodox.” A high-ranking spokesperson of the Government’s *Supreme Council on Islamic Affairs* has actually repudiated the *ulema*’s monopoly and control over who could represent the Muslim *umma*. He, himself, as a layman and as an ex-member of the Muslim Brotherhood, has continued to carefully cultivate relationships with a variety of factions for many years.

I reject the professionalization of religion, for example, control by the ulama and the idea that no one else has any right to speak. At the same time, there is a big role for the ulama. They must be *al ulama al istanaar* ‘ones that give the light,’ and must not let fanatics dominate discourse. They run the risk of becoming the silent majority, because the media pays attention to the fanatics.¹¹⁷

The Grand Mufti, Ali Gomaa, was keen on asserting the role for Al Azhar as *primum inter pares*. “Al-Azhar speaks for Islam”¹¹⁸ he asserted, and recently has been calling for an international Muslim panel of jurists (*fuqaha*) to limit who can legitimately issue *fatwas*

¹¹⁶ Op Cit, Ali Gomaa, in G. Martin.

¹¹⁷ Ibid.

¹¹⁸ Ibid.

One of the problems faced by religious communities today is the issue of authority. In both Islam and other religions we are witnessing a phenomenon in which lay people without a sound foundation in religious learning have attempted to set themselves up as religious authorities, even though they lack the scholarly qualifications for making valid interpretations of religious law and morality. It is this eccentric and rebellious attitude towards religion that opens the way for extremist interpretations of Islam that have no basis in reality.¹¹⁹

Indeed, Christian leaders, for the most part, tended to prefer Al-Azhar as the official voice and most expressed hope that Al-Azhar's teachings would prevail. Most said that the best thing for non-Muslim minorities was for Al-Azhar to recover its authoritative role among the world's Muslim community.

K. CONVERSION AND APOSTASY

For the most part, the situation in terms of conversion both from and away from Islam corresponds to the historic pattern with however, so further elaboration in terms of Egypt's participation in several international human rights agreements. I will summarize the state of the law below in term of the areas apostasy and conversion as applied to marriage, inheritance, religious affinity and how the perpetuation of discriminatory practices are reconciled with international conventions.

There are multiple reasons and situations wherein a person would convert or have to convert from being a non-Muslim to a Muslim. These are fully contemplated in the law. I will discuss some areas where conversion, is, by law, obligatory and wherein the law prescribes administrative steps pursuant to the conversion of non-Muslims to Islam. Many of these involve marriage and the status of children born to a non-Muslim mother and Muslim father. Under Egypt's understanding of *shari'ah*, non-Muslim males must convert to Islam to marry Muslim women, but non-Muslim women need not convert to marry Muslim men. Muslim women are prohibited from marrying Christian men.

According to the *shari'ah* as interpreted by the Government, a non-Muslim wife who converts to Islam must divorce her "apostate," non-Muslim husband. After the

¹¹⁹ Ali Gomaa, "Building Bridges of Understanding." Speech delivered at the Cambridge Interfaith Programme (Cambridge, England, June 4, 2007).

wife's conversion, local security authorities ask the non-Muslim husband if he is willing to convert to Islam; if he chooses not to, divorce proceedings begin immediately. The minor children of converts to Islam, and in some cases adult children, will automatically become classified as Muslims in the eyes of the Government irrespective of the religion of the other spouse. This practice is in accordance with the Government's interpretation of *shari'ah*, which dictates "no jurisdiction of a non-Muslim over a Muslim."¹²⁰

In disputes involving a marriage between a Christian woman and a Muslim man, the courts apply *shari'ah* as well.¹²¹ Under the *shari'ah*, converts from Islam lose all rights of inheritance, but this is difficult to ascertain when push comes to shove because no legal record of such a conversion is ever made. What is important to note is that the interpretation is consonant with the historical one and permits Muslims something it does not permit Christians.

In terms of the far touchier issue, conversion away from Islam, we can say that religious conversion to Christianity or away from Islam for any reason remains a difficult issue. In January 2008, the Cairo Administrative Court, a court of first access, ruled that freedom to convert does not extend to Muslim citizens.¹²² As is historically the pattern, the government does not recognize conversions of individuals originally Muslim to Christianity or other religions. Because of this, those who do convert often prefer to do so in private. There is considerable fear of harassment from the authorities and Islamist organizations. On the other hand, conversions by Christians to Islam get significant positive publicity in the media. The weekly religion page of the prominent daily *Al-Ahram* often reports on conversions to Islam and claims that converts improved their lives and found peace and moral stability.

Copts were alarmed by the mounting pressure from Islamic religious circles to impose Islamic law on all Egyptians. One such Islamic initiative,

¹²⁰ United State Department of State, "International Religious Freedom Report 2006 – Egypt," Released by the Bureau of Democracy, Human Rights, and Labor, 9. <http://www.state.gov/g/drl/rls/irf/2006> (accessed July 9, 2007).

¹²¹ Ibid.

¹²² U.S. State Department, State Department Report on Human Rights, Egypt, 2009, <http://www.state.gov/g/drl/rls/hrrpt/2006/78851.htm> (accessed November 3, 2009).

publicly considered in the mid-1970s, was the “apostasy law” (qanun al-ridda) that sought to apply the shari’a-prescribed death penalty to apostates, including Christians who had converted to Islam temporarily (a common practice among Copts, for certain practical reasons). Another demand, put forth toward the end of the decade, was for the shari’a to be proclaimed “the main source of legislation” in Egypt. The government dropped the apostasy law following a Coptic uproar, but then succumbed to Muslim pressures and adopted the latter demand, changing the constitution accordingly in May 1980. Such readiness by the state to introduce discriminatory religious measures—whether yielding to radical Islamic pressures or due to its own pro-Islamic prejudice—was highly worrisome to the Copts. “That a single Muslim should embrace Christianity is an unbearable scandal and an assault on the public order,” Mirit Butrous-Ghali, a leading Copt thinker, charged bitterly, “while it is permissible, acceptable and desirable for hundreds of Copts to convert to Islam. [The state] makes things easy for [such converts to Islam], providing them with benefits and gifts, and joyful celebrations and parades are organized for them in the streets,” he noted.¹²³

Where there has been some slippage in the traditional stance towards conversion and apostasy is in the Egyptian state’s finessing of the issue when it comes to arena of international human rights; something that the historical model did not contemplate. It seems to make the Egyptians uneasy. The 1990 Cairo Declaration of Human Rights in Islam, adopted by a foreign ministers meeting of the Organization of the Islamic Conference, avoids the question of religious freedom and religious minorities altogether.¹²⁴

As we have noted, the freedom of religion is mentioned in the Egyptian constitution as well as in numerous instruments of international law to which Egypt is party. Nevertheless, with respect to the international human right of freedom of religion, Egypt’s position must be seen within the wider framework of the Muslim world. Most Muslim states maintain that Muslims are not allowed to abrogate their faith. This view was not yet vigorously defended by the few independent Muslim states during the discussions of the (non-binding) Universal Declaration of Human Rights (UDHR) of 1948, which stipulates in Article 18:

¹²³ Op Cit, Ayedor, 58.

¹²⁴ Elizabeth Ann Mayer, *Islam and Human Rights* (Boulder, CO: Westview Press, 1999): 203–8.

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Egypt ratified in 1982 the binding International Covenant on Civil and Political Rights (ICCPR) of 1966, which allowed the “freedom to change his belief,” but was amended to say “freedom to have or adopt a religion or belief of one’s choice.”¹²⁵ Although this still appears to give a person the freedom to change his or her religion, Egypt is of the opinion that this provision does not violate the rules of *shari’ah*. The court interpreted the “freedom of belief” as a guarantee to practice one’s belief unhindered, with the following qualifications:

The first of these two [i.e., the freedom of belief] is unrestricted, while the second [i.e., the practice of this belief] may be restricted by means of its [internal] order to affirm some of its highest interests, and in particular on the grounds of preserving public policy and moral values [*al-nizam al-’amm wa al’adab*] and to the protection of the rights and freedoms of others.¹²⁶

It is the concept of public policy (*Maslaha*) that may help to solve the riddle of the apparent contradiction of Egyptian jurisprudence disallowing apostasy, on the one hand, while upholding the freedom of religion on the other. This means that the Egyptian courts hold that since Islam protects the freedom of the constitution should grant each individual the right to freely embrace whichever religion he believes without constraint. However, the court expressed the caveat that this freedom does not restrict the application of the Islamic *shari’ah* to only those who embrace Islam. It is asserted that since the State’s religion is Islam, then when a person embraces Islam, he must then submit a law that does not condone renunciation of one’s official identity as Muslim. Hence, the *shari’ah* is reflected in Egyptian law and constitutions and permits freedom of opinion, but within the limits of public policy, which prohibits the misuse of this right. No individual has the right to call for what contradicts the public policy or moral values

¹²⁵ Maurits Berger, “Apostasy and public policy in contemporary Egypt: An evaluation of recent cases from Egypt’s highest courts,” *Human Rights Quarterly* 25, no. 3, Baltimore (August 2003): 722.

¹²⁶ *Ibid.*

(*al-nizam al'amm aw al-'adab*), or use his opinion to harm the (Islamic) fundamentals upon which the society is built, interpreted to include reviling sacred things, or expressing contempt towards Islam or any other heavenly religion. Such transgressions, to include apostasy, according to both the Supreme Constitutional Court, as well as the ICCPR, are considered to be *outside* the scope of unrestricted freedoms. This ruling then, upheld the historical continuity between the present and the past: to depart from Islam has traditionally and juridically meant to revolt against it and this is what no Islamic law or state tolerates. Thus, while the courts' position on the (Islamic) interpretation of apostasy itself has undergone no change in Egypt, the political developments in the 1990s had serious repercussions. Until the 1990s, apostasy was mostly a clear situation of conversion, that is, an intentional act by a Muslim to convert to another religion. Usually, these converts had been Christians before becoming Muslim, and their conversions often were documented or otherwise easy to prove.¹²⁷

A lower court ruling interpreted the Constitution's guarantee of religious freedom as inapplicable to Muslim citizens who wish to convert to another religion. This ruling is under appeal. However, most recent reports indicate that this is the norm and will continue to be so. According to the 2009 U.S. State Dept Report on Human Rights in Egypt:

For the second consecutive year, a court—while calling for legislative reform to achieve effective protection for freedom of religion and to confront the manipulation of religion—ruled against a convert from Islam to Christianity who had appealed for official recognition of his conversion on the basis of constitutional guarantees of freedom of religion.¹²⁸

Only in July of 1997 did separate court rulings provided for 13 Christian-born converts to Islam to obtain identity documents indicating their conversion back to Christianity. However, the courts included requirements effectively identifying the Christian converts potentially exposing them, if implemented, to risk of significant discrimination by both governmental and societal agents. Furthermore, governmental

¹²⁷ Berger, "Apostasy and public policy in contemporary Egypt," 722.

¹²⁸ Op Cit. U.S. Dept of State, 2009.

authorities detained some converts from Islam to Christianity, some religious freedom advocates, and some Christian children of parents who converted to Islam.

L. SUMMARY

It should be clear to the reader that a significant amount of documented evidence that suggests that a pattern of discrimination based on religion exists in multiple areas of public life in Egyptian society. Nearly all of the large functional areas identified as being characteristic of the historic dhimmi experience were found to manifest aspects of differential treatment. The extent to which these modern discriminatory practices are Islamic, intentional, and consonant and continuous with the historical record will be the subject of my next chapter wherein I compare the practices of the modern with the historic and attempt to produce a taxonomy of political positions.

IV. COMPARISON

A. INTRODUCTION

In this section I intend to briefly compare the historical record and the modern experience to see to what extent there are continuities and/or discontinuities. I will go down the list and point—by point compare the major areas i.e., the fundamental functional aspects that characterize the ethos of the system by which the dominant Muslim class administered and managed non-Muslims. As stated earlier, my objective is to determine the validity of the *dhimmi* analogy in the context of contemporary Egypt. It strikes me that at this point it would be useful, therefore, to remind the reader with a working definition what the *dhimmi* experience-system consisted of, again making allowances for localisms, adaptations and mutation across time and space.

First, and foremost the treatment of ahl al dhimma was based on divine revelation i.e., Quranic principles. Second, it was operationalized juridically by a class of theologian-scholars who provided rulers with a divinely sanctioned, yet adaptable method of dealing with the “People of the Book” who lived in their domains, yet still, in theory, claiming to derive from divine revelation. Third, the system of differentiated customs, laws, usages, practices though claiming to be derivative of the divine revelation, were in fact, at times more consonant and some times less consonant with this authority. Fourth, the complex systems that eventually came into being were part of an intentional and state-sponsored program with clearly articulated codices and administrative apparatus that yielded fairly consistent policies. These policies produced a steady and stable state of affairs. They formed, bound, constrained, permitted, and circumscribed social interactions, public behavior and inter-religious transactions for significant and recognizable periods.

B. POINT-BY-POINT COMPARISON

1. Religion's Relationship to the State

With regards to the relationship of Islam to the state, the historical record indicates that Islam, from the time of the first Islamic conquest of Egypt was the official religion and the laws were based upon the *shari'ah*. Comparing this to the modern experience, we see that during the early period of the twentieth century, a distance between mosque and state began to appear. However, when President Sadat amended the constitution in 1980 to state that the *shar'iah* was the main source of the civil code, Egypt then officially ceased to have a separation of mosque and state.

2. Legal Status of Citizens

The brief period of secularity during the early decades of the twentieth century allowed the Christian community to attain a modicum of equality. However, with the advent of the free officers, Coptic gains in the area of civil rights began to recede and once Anwar Sadat amended article two of the constitution to read that the *shari'ah* was to be *the* main source of the civil code, Coptic hopes for a more egalitarian society faded even further. If it were not for article forty of the constitution which upholds the full citizenship of all members of the three heavenly religions, conditions would resemble the historic two-tiered system. Later we will discuss the multiple interpretations of what application the contending voices say that the application of *shari'ah* does or should mean. For now suffice it to say that the data indicates that the Egyptian legal system, in terms of dealing with non-Muslim minorities, specifically *ahl al dhimma*, has generally tended to retrieve and replicate rulings that reflect the classical applications of *fiqh*, aspects the historic millet management of religious minorities, and not the ethos of pluralism as recognized in quranic revelations. Although Nasser, under the rubric of affirming Copts equal status as full citizens, abolished separate courts, that is was advantageous to the Christian community is a matter of debate:

Following Nasser's abolition of Muslim and Christian religious courts, Copts suffered from legal discrimination, when, in cases involving

Muslims and Copts, they now had to appear before Shari'ah trained Muslim judges seconded to the new civil courts. (Coptic religious judges were retired).¹²⁹

3. Government/Military Service

I could find no parallels between the historic levy of young Christian troops, such as intentionally and systematically practiced by the Ottomans according to the custom of *devishirme*, nor could I find that today in Egypt there is any government program that privileges or discriminates, selects or bars anyone's access to civil service at any level based on religion. That a degree of favoritism is shown to Muslims is probable, given the statistics and the reports. This, however, is a reflection of communal prejudices, biases and while certainly represent an injustice, lack the criteria of intentionality and state-sponsorship that characterized the historic *dhimmi* experience.

4. Taxation

Here, again, I found no continuity between the historic model of tax collection that involved the poll tax (*jizya*) and the land tax (*kharaj*) and the current system of revenue collection. All citizens in modern Egypt have for some time been taxed according to a system which is essentially blind to one's religious affiliation. However, as mentioned in the discussion of taxation in the previous chapter, the distribution and expenditure of public funds appears to indicate the presence of a religiously oriented bias. Presumably state-sponsorship of Islamic institutions, such as al-Azhar, Islamic broadcasting, construction and upkeep of mosques and payment of Muslim clergy entails the expenditure of taxes collected from all citizens, including Christians. Because Christians are barred from attending institutions which their taxes help support, and because their churches, clergy and religious programs receive no similar government subsidies, this suggests the presence of discrimination based on religious identity and a state preference for Islam over Christianity. While I do not find this situation to be analogous with historic experience i.e., a differentiated form of taxation imposed upon and collected from the *ahl*

¹²⁹ David Zeidan, "The Copts: Equal, Protected, or Persecuted: The Impact of Islamization on Muslim-Christian Relations in Modern Egypt," *Islam and Christian-Muslim Relations* 10, no 1, (1999): 58.

al dhimma in its specifics, I do find that there it does fit the criteria of reflecting an intentional, systematic and state-sponsored policy of religiously biased revenue expenditure.

5. Church Building and Repair

Church building and repair is an area wherein, until very recently, we could actually perceive a legal genealogy that demonstrated that modern laws regulating the repair and rebuilding of churches descended from historic rulings grounded in the classical juridical tradition that typified the *dhimmi* experience. Until very recently, I believe that most reports would support the claim that Muslims, often with the assistance of the state, were able to build and repair mosques without having to go through any of the bureaucratic procedures, such as securing multiple permissions that Christians have had to learn to negotiate. The classical rulings that prevented obstructed and tightly regulated the repair and building of churches that date back to the *Hatt-i-Humayon* and go back even to the Pact of Umar, no longer seem to inform the policies of the Mubarak government in 2007 lifted the need for Christians to obtain a presidential decree. While incidents persist in which individual Muslims attack and destroy churches, this phenomenon now becomes a matter of social tension and inter-communal conflict rather than a matter of systematic, intentional, state-sponsored policy. Questions of police enforcement and protection, however, now become the focus as to whether or not the break with the past is real of merely *pro-forma*.

6. Religious Practices

As already alluded to above, in today's Egypt there are really no codified discriminators such as those found in the Pact of Umar or as practiced during the Ottoman period. Certain considerations about the timing of religious processions and the ringing of church bells persist however. The attempts by the authorities to regulate these practices now however are done so in order to avoid inciting conflict. Thus, security concerns or public order are not the reasons for controlling these practices, not to enforce a religious decree. As in the case of other aspects of the historical experience, a social

residue lingers and is expressed in the daily frictions between the two communities. For example, following the inauguration of a legally build church in the upper Egypt in February of 2002, Muslims reacted violently to the ringing of church bells. This attack produced a violent Christian counter-attack

Security forces told Reuters that after a Muslim mob pelted the church with rocks, Coptic Christians responded by firing shotguns at their attackers. Muslims were apparently upset by the ringing of the church's bells, despite the local authorities having been told beforehand about the form the inauguration ceremonies would take.¹³⁰

Copts charge that frequently the Egyptian government particularly the security forces and lower-level provincial authorities are complicit by not intervening more vigorously when extremist elements commit such acts. The government and the spokespersons of official Islam however, roundly denounce such acts and characterize them as isolated incidents committed by a small minority of fanatics. Again, here we must discern the difference between institutionalized oppression and independent Muslims who deploy as social forces acting on historic grievances or act on perceived loss of power or social position, grounded in a particular religious construct. What is not clear is the degree to which charges of official complicity are actually investigated.

7. Communal Representation

There is really no evidence to support the notion that Egypt maintains a millet system wherein appointed leaders govern semi-autonomous religious communities in temporal matters. However, due to an underrepresentation of duly elected Christian members of parliament, there is a certain level of advocacy conducted by religious leaders on behalf of the Christian communities. The only area which one might suggest is similar to the millet system is in the area of the family courts. The family courts are still separate and based on religious identity and thus, the Coptic Orthodox Church wields significant power to shape legislation in this particular sphere. Pope Shenouda, though

¹³⁰ Reuters, quoted in "Christians and Muslims clash as church bells ring for the first time" *U.S. Copts Association*, February 18, 2002. <http://www.copts.com/english/?p=329#more-329> (accessed on October 31, 2009).

not possessing de-jure political office, nevertheless has a great deal of de-facto political power. This falls now into the realm of tradition, and warrants a discussion about the actual centers of political gravity, however, as a system, there is little actual resemblance to the historic rule of patriarchs under the millet system, wherein they were state functionaries who had the ability to collect taxes and govern.

8. Conversions and Apostasy

Reports suggest that for the most part, there is significant continuity between the juridical structures that historically governed conversion away from Islam and the modern Egyptian legal system. However, punishments are much different now and less severe. Moreover, there is evidence that increased international pressure upon the government and al-Azhar as well has resulted in more moderate rulings and the overturning of more traditional rulings. Recent precedents worth citing are the adult Copts who were able to reclaim their Christian identity years after their parents converted to Islam, and a certain reluctance and lack of vigor on the part of authorities to prosecute individual Muslims who converted to Christianity. However, in general there is still sufficient grounds to claim institutional, intentional state-sponsored policy grounded in the traditional interpretation of *shari'ah* and application of *fiqh* to suggest continuity between the past and the present. The legal rubric under which apostasy is now considered should be noted and are now punished according in terms of their rights under personal status laws. According to this nuanced theory as articulated by those such as Tariq al-Bishri (b. 1933) a historian, a retired judge, and former head of Egypt's state council, an apostate would still have his legal rights as a citizen, but should be socially punished for upsetting the public order. According to Scott, Al- Bishri states that "social punishments for apostasy are because it constitutes an act against society and against Islam,' not dissimilar from the punishments that the Coptic community seeks imposes upon its own apostates.¹³¹

¹³¹ Tariq Al-Bishri, in Rachel Scott "Context Citizens in Modern Islamic Thought," *Islam and Christian-Muslim Relations* 18, no. 1, January 2007): 13.

C. CHRISTIANS IN THE EGYPTIAN STATE: A TAXONOMY

After determining degrees of actual continuity and discontinuity between the historical dhimmi experience and the actual one, it is also important to consider the deployment in the present of the past in political terms, because in fact, that is the level on which it is most frequently the historic dhimmi experience is called into service. Thus, given the level nuance in terms of how the dhimmi narrative gets deployed and who deploys it, I have concluded that one of the most helpful notions might be to create some kind of taxonomy whereby one can classify the positions and the interlocutors.

1. The Muslim Modernists

At one end of the Muslim continuum are those who advocate a relatively pluralistic and egalitarian vision for Islamic Egypt and desire a recovery of what they claim to be the original quranic ethos. When they use the term dhimmi itself it is usually used in the original quranic sense of the “scriptuaries,” not with any desire to see a return to the millet system. These more moderate thinkers envision an Islamic Egyptian territory that has a place for non-Muslims. For these thinkers, the fabric of Islamic Egypt need not be uniform; it can be interwoven with a *dhimmi* presence without destroying the Islamic nature of the territory. This vision also has its roots in the later idea developed by jurists such as al-Shaybani in the *Siyaar* of *dar al-sulh* (land of treaty), which allowed for truce lines between Muslim and non-Muslim areas, even within *dar al-Islam*. In the moderate vision, *dhimmi* communities are very much a part of the traditional landscape of Islamic Egypt. For the moderates, then, Egypt would have a place for the *dhimmi* Copts, certainly as full citizens. However, the exact nature of this citizenship, as Sachedina noted earlier is somewhat foreign to the *shari’ah* and still and thus is a matter for considerable debate. Some moderates argue for full citizenship and rights for Christians and Jews in the Islamic state. Other moderates see a more restricted participation for *ahl al-kitaab*. Ali Gomaa, the Grand Mufti is one who fits into this camp and, at his harmonizing best, abandons the classical polemics of Christian-Muslim dialogue, as witnessed interactions between the churches and al-Azhar seem to have departed from following the traditional polemics and argumentation, yet are still using classical forms to frame the issues, but

eschews official attempts to convert. Despite his contention that in modern Egyptian state, the old paradigms of the Ottoman millet system and pre-Ottoman rule are long gone, there are clear traces that persist particularly in the way the traditional *ulema* counseled the Sultan on the management of religious minorities.

2. The Muslim Brotherhood and Moderates

The Muslim Brotherhood *Al-ikhwan al-muslimun* (the Muslim Brothers) is perhaps the most important example of a moderated and moderating group in Egypt. Though not so moderate in the past, it has recently been working through quasi-legal channels and by peaceful measures. *Al-ikhwan* advocates a less urgent approach to Islamic revolution and a relatively more conciliatory relationship with Coptic Christians, reference the Supreme Guide, Mehdi Akif's rejection of the *dhimmi* analogy in an interview with Egypt's leading independent newspaper, *Misr al-Yaum*. When asked about the status of Copts as *dhimmis*, Akif responded, "the matter of dhimmis is finished. Do we take *jizyah* [a tax] from you? The Muslim Brotherhood considers you citizens with the same rights and duties as the rest of us. Are you not our partners in the homeland in everything?"¹³² Such Islamists appear for the moment to support full rights and citizenship for Copts in a future Islamic state, but it is difficult to see just how true and total equality would be realized in an Egypt under the MB version of shari'ah. While liberal, *Wasattiyya* Christians are fully on board, the majority of Copts take a jaundiced view of MB declarations such as "the [MB] organization's vision rests on the concept of citizenship and equal rights for all, stressing that it wants to restore the caliphate in the spiritual realm, and not the political one."¹³³ The MB/ moderate Islamist view of the place of the Copts is ambiguous, and in the view of Copts, perhaps intentionally so.

¹³² Mahdi Akif "Egypt's MB Chief on Al-Qa'ida's 'Deviant' Thought, Copts, Iraq, Clash With Regime" Cairo *Al-Misri Al-Yawm* in Arabic, November 24, 2007. <http://www.almasry-alyoum.com/> (accessed October 3, 2009).

¹³³ Issander al Imrani, "The Emergence of a Coptic Question in Egypt," *Ikhwanweb: The Muslim Brotherhood's Official English Web site*, <http://www.ikhwanweb.com/article.php?id=4326>. (accessed November 13, 2009) Liberal-minded Brothers such as Abd al-Mun'im Abu al-Futouh even advocated for Copts to build their churches without impediment yet skeptics charge that this is a ploy to for the MB to gain permission to build their own mosques.

Moreover, the wide-spectrum of “moderate” Islamist vision of Egypt is difficult to characterize as being uniform, stable, or consistent over time, hence a certain wariness and diffidence on their part.

3. Pluralist Traditionalist Islamists

Yusuf al-Qaradawi, an al-Azhar trained cleric living in exile in the Gulf is popular on the Egyptian street. His CDs and cassettes are found in any Egyptian *souk* and are standard listening among many Islamists. Though hardly a moderate in his approach to Western culture and the state of Israel, Qaradawi advocates for a pluralistic and tolerant position towards *ahl al dhimma*, and clearly sees the past millet system as the model of the future. Thus, Qaradawi does not advocate total equality for non-Muslims; he argues they should be subject to the *jizya* tax, and they must severely restrict any public display of Christian faith.

Most importantly, he calls for a proscription on constructing new churches. Copts ‘should not display their symbols and crosses in Muslim territory and should not establish a church in a Muslim city where none existed before. This is an order since such a display is considered an affront to Islamic sentiment which may precipitate discord and disturbances.’¹³⁴

This sensitivity to displays of Coptic faith in the midst of Islamic territory is frequently seen among those who allow a place for Copts in Islamic Egypt. Given their predilection of the millet model, there remain serious questions about the nature and extent of that place, and the freedoms Copts would enjoy within it.

4. Militant Islamists

In Egypt, militant Islamists are in the distinct minority among advocates of political Islam, however, their influence is disproportionate to their numbers and during the 80s and 90s they succeeded in seriously damaging Christian-Muslim relations. For

¹³⁴ Yusuf Qaradawi, *Ghayr al-muslimun fi al-mujtama al-islami* (Beirut, 1983), in Mark Purcell, “Place of the Copts: Imagined Territory and Spatial Conflict in Egypt,” *Ecumene* (Vol. 8 No.4, 1998): 441.

militants, Coptic churches, crosses, icons and people are out of place in Muslim Egypt. They properly belong in *dar al-harb*, outside the bounds of *dar al-Islam* and outside the bounds of Egypt

These militant Islamists counter the moderates and even traditionalist, pluralist Islamists by arguing that pluralism goes against the idea of the Islamic state and therefore the true Muslims state should refrain from seeing the People of the Book as *dhimma*, who deserve protection. Extreme militants reject the *dhimma* “special” category for Christians and Jews and argue that they should be considered unbelievers (*kafirun*). Because they are *kafirun*, the Islamic state need not grant them special *dhimmi* status. Christians and Jews should rightly be opposed and brought low, violently if necessary. According to their permissive and heterodox use of *ijtihad*, these militants do away with the classical categories of *ahl al dhimma* or *ahl al-kitaab*, and the world is divided into only two categories: Muslims and non-believers. Moreover, according to the most radical, the struggle against non-believers is elevated to the level of a personal duty for all Muslims. The most aggressive militants define Christians and Jews as hostile to Islam by definition, and intimate that they are in league with Western imperialism and are a kind of ‘fifth column.’ The militant discourse associates Christianity with Western colonialism, and Judaism with Zionism, and plays up the theme of Muslims as historical victims of these two forces. Because Protestants and Evangelicals trace their presence in Egypt to the colonial past and to foreign missionaries the militant discourse is particularly problematic and threatening. However, even in the so-called militant camp, there are those like the prominent and well-publicized Muhammad Imara, a regular guest on government TV shows who writes a weekly column in the government-owned *al-Akhbar* newspaper. Imara argues that the Qur’an urges Muslims to fight non-Muslims *only* when they are the aggressors and threaten Islam.¹³⁵

¹³⁵ My senior contact at the Supreme Council for Islamic Affairs explained how Imara’s book, *Fitnat Al-Takfir Bayna Al-Shi’a Wal-Wahhabiyya Wal-Sufiyya* (“The Civil Strife of Takfir Between Shi’ism, Wahhabism, and Sufism”), published in December 2006 had to be removed from the shelves because it was discovered that Imara accused Christians of heresy and noted that Islam permitted the killing of non-Muslims. Imara apologized and explained that he had only been quoting ancient sources permitting the killing of non-Muslims.

5. The Nationalist/Multi-Confessional Vision

This multi-confessional nationalist idea enjoyed its greatest popularity after the First World War and the national revolution of 1919, as mentioned before, when Egyptian resistance to British colonial rule began to grow. The *Wafd* party, the standard bearer for Egyptian nationalism and multi-confessionalism also had a purely secular tilt as well. Many Copts became important players in the *Wafd* and helped found and direct it ideologically through its most influential years.

According to this nationalist concept, Egypt is a both a melting pot and an amalgam- what one might call a cultural and religious “pudding stone” that absorbed the cultures and religions that came to dwell in it, creating a unique identity of Egyptianess, but without the fusion and accompanying loss of identity of the individual components. Hence there are accretions upon accretions of distinct Pharaonic, Greek, Coptic, Arabic and Islamic peoples and cultures. This nationalist model, in contrast to the secular model does not separate religions from the state but incorporates it into a system that in theory is multi-confessional. In this vision, the non-Islamic cultures are the foundational cultures upon which, only later, does the Islamic heritage get added on. Hence, there is the implied historic debit to Coptic culture, tradition and religion. In this view, it is as much the Copts as the Muslims who flavor Egypt with its distinct identity. In the multi-confessional nation of Egypt, Copts are full members of Egyptian Society, and never *dhimmi*, since for them the term connotes second-class citizenship, not simply a minority. Under this polity, they cannot be considered either “second-class” nor “out of place.” The pluralistic nationalist view of Egypt is still an influential idea in Coptic and non-Islamist thought. Pope Shenouda exhorts his Copts to support the nation-state’s view of Egypt, with its official doctrine of pluralism and equality before the law, despite the cognitive dissonance that arises from the often blatant discrimination they experience.

6. The Post-Islamist Culturalists

Like the Nationalist Multi-Confessionalists, some Christians have joined ranks with progressive Islamists to develop a Post-Islamic vision. They have taken part in constructing a national identity that validates the cultural and religious legacy of the past,

as providing a multi-confessional state with however, a more positive interpretation of the *dhimmi* experience. This imagined Post-Islamist Egyptian identity is to be constructed by Copts, Muslims and other Egyptians. It is associated with the work of Ahmad Lutfi al-Sayyid, Muhammad Husayn Haykal and most recently Rafiq Habib an evangelical Christian and co-founder of the *Wasat* Party, among others. This school of thought considers the population of the Nile region to be a single, separate territorial nation that has no links to the great Islamic community.

These Christians like to point out that they share a long history with Muslims and readily claim a common identity with them. Makram Ebeid, a Coptic nationalist leader in the interwar years, liked to say that “Christianity is my religion, but Islam is my culture.”¹³⁶

Rafiq Habib, as an example of such a post-Islamist Christian asserts Islam has provided the best political defense against Western cultural hegemony and keeping Egypt independent. According to Habib, Egypt is the result of a common struggle for independence and nation-building in which the Muslim majority and the non-Muslim minority took part. In this way it differs sharply from the earlier caliphal, or Ottoman Muslim state that was based on conquest. In this situation it is the duty of the Muslim majority to concentrate on applying the principles established by God and the Prophet (rather than stubbornly insisting on applying outdated and inappropriate rules. Thus, Habib implicitly advocates, like the modernists, for an abandonment of the classical model of “dhimmitude” and a return to the utopian, pluralistic quranic ideal of the *ahl al dhimma*. This necessitates a movement in the relationship between Muslims and Christians “from one of contract (*aqd*), to one of constitution (*dustour*) and from *dhimma* to citizenship (*muwatana*)”¹³⁷

Abu al-Magd, A Christian, who had caught this vision was moved by the growing tension between the Egyptian regime and Islamic political extremism to issue a

¹³⁶ Phillipe Fargues “Demographic Islamization: Non-Muslims in Muslim Countries,” *SAIS Review* XXI, no. 2 (Summer–Fall, 2001):113.

¹³⁷ Jorgen Nielsen, “Contemporary Discussions on Religious Minorities in Muslim Countries,” *Islam and Christian-Muslim Relations* 14, no. 3 (July 2003): 330.

declaration of principles in 1991. He responded in this declaration to the fear emanating from the Christian community, largely the traditional Copts, that in reality, Muslims would marginalize the Christians, given the overwhelming Muslim majority in the population of Egypt. Yet al Magd, asserted that on the contrary, that a return to authentic *ahl al dhimma* status would be “an historical expression of rights and duties guaranteed.”¹³⁸ Such Christian thinkers claim that the institutions most representative of the classical experience of an oppressed *ahl al dhimma* are no longer present.

He [Abu Magd] reaffirms his belief... that it is possible to write a modern constitution which gives full religious freedom and civil rights to all, Muslim or not. Therefore, according to Abu al-Magd, the rights of non-Muslims in a modern Islamic state would be guaranteed in constitutional texts that have the highest legal standing and would be fully in consonance with the Shari’ah. ¹³⁹

7. The Nationalist/Secularist Vision

Since the Nasser era, the political which most Copts are familiar with is one that has attempted to achieve the secular separation of religion and governance as operationalized in the West. While has not been a successful because it has largely never been achieved, it remains for many Copts the option of choice. Not entirely confident of their place in either the state’s or the Islamists’ imagination of Egypt, many continue to lobby for secularism. As we know it, such a strategy is seen as a way to achieve separation of religion and government, thereby eliminating the differences in questions of citizenship and rights between Copts and Muslims. The approach does not eschew religion, it only removes it from the public realm and makes it a private matter. Much of this work draws heavily from the Pre-Nasser Wafd Party legacy, which is itself derived from Western ideals. We should note that this position, is also championed by a generation secular Muslims who, in defending the Copts are also defending themselves. According to Sami Egyptian sociologist Sami Zubaida, spokesmen for this position, like the aforementioned Sa’ad Eddine Ibrahim note that his secular liberal view embraces “a

¹³⁸ Nielsen, “Contemporary Discussions on Religious Minorities in Muslim Countries.”

¹³⁹ Ibid.

campaign for human rights and democratic institutions, [which is] directed primarily at the government and the law, but also increasingly against, the second, illiberal view of the Islamists”¹⁴⁰. Therefore, there has been significant common ground here between Copts and Muslim secularists and modernists. Copts, especially those educated in Britain, France and the United States, have been supportive of this. Yet they are also cognizant of the fact that, according to Egypt’s constitutional formula, the state has failed to disassociate itself from official religion. Moreover, the protections they once had as *dhimmi* are gone. They are legally full citizens, a minority, often discriminated against for their religious identities, yet there is significant opposition by both the Muslim elite and Christian elite give them greater tutelage and protections. The grounds for this seem to have to do with the unusual understanding in Egyptian society that classification of the Christian community as a minority would somehow mean that a) they are not full-citizens and b) would mean a return to second-class *dhimmi* status. This is puzzling to many outside observers, particularly those familiar with secular Western models where full citizenship is in no way diminished by minority status, which only provides additional protections and programmatic over watch of the community’s civil rights. Thus, the Egyptian understanding of the secular model is in some ways quite unique.

¹⁴⁰ Sami Zubaida, “Islam, the State and Democracy: Contrasting Conceptions of Society in Egypt,” *Middle East Report*, no. 179: *Islam, The State and Democracy* (November–December 1992): 3.

V. ANALYSIS AND CONCLUSIONS

A. INTRODUCTION

My objective in conducting this research and writing this thesis has been to evaluate the historical validity of the *dhimmi* analogy, and to analyze to what extent one can claim a pattern of continuity between the present and certain elements which typify the past. In doing so, my hope has been that a clearer idea of how, by whom, and for what reasons the narrative is retrieved and constructed.

My intent has been to be as anti-septic as possible, and by that I mean I have simply tried to examine the facts, not pass judgments, or provide ammunition to any particular side. In drawing conclusions, I have been guided by two main sources of inspiration. The first source has been Hugh Goddard, a dedicated and balanced scholar of Christian-Muslim relations, whom I have cited numerous times in this paper. Particularly with regards to the historical record, I take to heart Hugh Goddard's admonition that the past cannot be measured with the same yardstick that we use to measure the present, and I try not to fall into the line of his fire as some modern Christian and Jewish authors have. Goddard asserts that those who do so fail to recognize that "by medieval standards, the Muslim treatment of Jews and Christians was relatively tolerant and liberal," at the same time he acknowledges that "by modern standards [they would be] still discriminatory to some extent."¹⁴¹ Thus, although this is a qualitative, not a quantitative study, I intend to "line up the data points, graph the intersection," and let the facts speak for themselves. My second muse, whom I now call upon, is the anthropologist, Clifford Geertz. Though Geertz wrote extensively a generation ago about his studies of Muslim communities,¹⁴² I have, in a less obvious way, relied on his perspective and methodological bent. Although Geertz seriously under estimated the resilience of Islam and most religions for that matter, to respond to modernity, I have always appreciated how, in studying religion he

¹⁴¹ Op Cit, Goddard, 68.

¹⁴² Clifford Geertz, *Islam Observed: Religious Development in Morocco and Indonesia* (Chicago, The University of Chicago Press, 1971).

directed one's focus to the context as much, if not more, than the dogmas, doctrines and texts. What he would call the "mediating conditions" that shape the religion, are those which in the end prove to be more important than the doctrines that make up the content of the religion. This has meant for me that, in the end, it is the practice of the community that matters. The interpretation Muslims and Christians give to what is happening in their everyday life of believers has more explanatory power than respective theological construct. Because Geertz's understanding of Islam, as experienced in two very different societies (Morocco and Indonesia) brought out the diversity of Islam's response to accommodate the way different cultures decide right from wrong and create meaning. Thus, I have opted for the perspective of Geertz, wherein the context is the air without which the doctrines cannot breathe.

I still have many unanswered questions about the *dhimmi* narratives (as separate from the *dhimmi* experiences) as it applies to the current Coptic situation, and the rights and freedoms of religious minorities in a moderate Islamic state. For present purposes, I can only conclude by identifying the multiple, critical roles the *dhimmi* narratives play on multiple levels, in the multiple Christian and Muslim communities. The use of the term *dhimmi*, or *ahl al dhimma* appears to be used in the following four ways in the current context of Christian-Muslim relations in Egypt, as:

- i. Historic description
- ii. Description of present religio-political reality
- iii. Narrative, analogy, and symbol in the service of social mobilization
- iv. Model for future religio-political relationships

I will briefly summarize my analysis of the following ways the *dhimmi* theme is deployed, and address my original hypotheses in terms of continuity between the past and the present.

B. AS HISTORIC DESCRIPTION

The historic experience of religious minorities living under Islamic rule varied across time and place. Rulings in their specifics were modified; however, certain characteristics remained stable enough to demonstrate a desire by the Muslim state to

secure social homeostasis wherein, in exchange for a certain modicum of religious expression non-Muslim or *ahl al dhimma* were allowed concessions. The vast amount of documentation is conclusive enough to establish that from these origins, a much more tightly regulated structure for the *ahl al-dhimma* would develop under the Abbasid caliphs, as the *shari'ah* expanded into a comprehensive system of law for Muslims. Islam functioned as an institution of the state and its practitioners emerged only as state officials. Much recent scholarship across Ottoman territories indicates that in most circumstances, Muslims and non-Muslims interacted and intermingled relatively freely in the neighborhood, in the marketplace, and at court, and that compared to the treatment of non-Christians in Europe, religious minorities under Islamic rule fared much better.

C. AS DESCRIPTION OF RELIGIO-POLITICAL REALITY

Here is where I come to the crux of my thesis. Today, as in the past, Egypt is a religiously pluralistic society ruled by a pragmatic government and organized around a dominant public religious identity—Islamic. The uneasy coexistence between a pluralistic social environment and a demand for religious unity in both times allows for an examination into the ways in which authorities managed interaction among religious groups across cultures. Studying the blend of similarities and differences, continuities and discontinuities has provided an opportunity for comparisons that offer a broader perspective, as well as the value or limitations of historical analogies as models for inter-religious relations.

Varying degrees of both continuity and discontinuity are present between past and present. The continuities are found in the larger normative ways that govern non-Muslims but also in some specific ways. My findings suggest that there are more differences in the specifics and while differential treatment, as applied to non-Muslims in the past, indeed exists today, the conditions and practices are significantly different from those found in the historical record.

1. Continuities

a. It would seem then, that at least in theory, toleration as a political policy, whether in Ottoman times or today's pluralistic and globalizing Egypt, the formula that governs non-Muslim minorities is grounded mostly on the ideal of religious harmony and political dominance rather than on Enlightenment values. The Islamic teachings about pluralism are those derived from the traditional classical period, which despite the modernist vision and interpretation, are not egalitarian but rather, have historically sought to minimize conflict in pluralistic societies by ensuring domination of the Muslim majority by guaranteeing protection of select minority rights and privileges.

b. In drawing parallels between modern Egypt, and historic record (Ottoman society in particular), patterns of official suppression and informal provision for private worship reveal a fundamental similarity to the management of religious difference through subordination and protection in modern day Egyptian society. Ruling elites in both times have blended measures of accommodation and repression to manage religious conflict. Rulers have governed in such a way that demonstrates their need to keep minority community productive and but also the need to maintain the dominance of the Sunni Islamic public order.

c. My findings indicate that while equality is the claim, the fact is that "toleration" is more likely to be the reality for most Egyptian Christians. However, the rationale of the discourse has changed. More precisely, the accommodation of religious minorities in the context of modern Egypt seems no longer to be purely Islamic but to be a hybrid strategies drawing from two separate springs: first, modern, secular attitudes about human rights that come out of the European Enlightenment and second with historic Islamically-grounded model of managing non-Muslim minorities.

2. Discontinuities

a. In terms of forced conscription government service or that which could be similar to the *devirshirme* there are no parallels evident. Nor are there the poll or land taxes that characterized the *dhimmi* experience.

b. The historic *dhimmi* experience was characterized by the fact that it was scripturally derived, religiously sanctioned, intentional, and systematic, state sponsored, and was administered with some consistency by a well-trained bureaucracy by members of both non-Muslim and Muslim communities. Moreover, it was concerned with public actions and public behaviors. In this regard, I find that there are significant discontinuities because many of the current discriminatory practices, deeply embedded in the social fabric though they may be, and the historic record. This does not mean that there is not a historic legacy and a significant residue. Yet fingerprints, at most can only point to a past transgression, and are not sufficient to establish that Christians still live under a system of “dhimmitude.”

c. Having said as much, I would like to caveat that statement with the observation that the state does contribute to discriminatory injustices that have historic roots, in the areas of uneven expenditure of tax monies, maintaining policies that impede the building and repair of churches, and the promulgation of laws that permit and clearly favor conversion by a non-Muslim to Islam, but not vice-versa. These practices do seem to be continuous with the historic system of differentiated treatment between Christians and Muslims, and bear enough resemblance to the historic record to cause the Christian population to not unjustifiably draw comparisons with the past. While there is uneven application and enforcement of these laws, one cannot dismiss them as aberrations, because they are still on the books, and moreover derive much of their authoritativeness to article two of the constitution that since President Sadat’s time reads the “the *shari’ah* is the main source of the civil code.”

D. AS ANALOGY IN SOCIAL MOBILIZATION

The *dhimmi* narrative functions largely as an essentialism, often as a rhetorical device, largely, as just mentioned because it is undiscerning and conflates actions by individuals with the systemic, discriminatory intentionality and application exemplified by the millet system. As a way of understanding historical connections between the present and the past it has limited and circumscribed utility. Deployed as narrative or analogy by which to make meaning out of the present, it reinforces stereotypes,

confounds attempts at conflict resolution, and infuses the future with an unwarranted sense of pre-ordained path determinacy. According to Russell and Casebeer, narratives, among other functions, in such situations provide “justice frames which serve to mobilize discontent, justify the need for loyalty to the church and the group, reinforce pre-existing identities of the self and the other, create necessary identities where none exist, generate scripts of the past, present and future. They serve to interpret environmental conditions and identify threats to survival and they also actively motivate members and channel energies.”¹⁴³:

The *dhimmi* narrative does for the Christians what most narratives do when communities face a perceived or real existential threat. To Russell and Casebeers’ description of the ways that narratives function we can superimpose the schemata used by Roof who would place the functions of narrative under his two types, i.e., the “disorienting” and the “orienting.”¹⁴⁴ Both types run through the discourse of the Coptic community. The “disorienting” theme draws upon stories of the *dhimmi* experience i.e., theme of displacement, loss of status, subjugation, discrimination, persecution and perhaps most importantly marginality beginning with the Muslim conquest of Egypt. The “orienting” narrative is constructed upon two main pillars, the strength of Coptic monasticism as a bastion on cultural resistance and the suffering of the Coptic people, particularly the blood of the Coptic martyrs. Clearly embedded in the *dhimmi* narrative, as lived and understood by the Copts, is that by means of their collective suffering, through persecution and even martyrdom and by keeping the faith, they will find salvation. The “disorienting” narrative is today also constructed from fragments of history, particularly fear of persecution at the hands of militant Islamists and the accompanying weakening of the community that occurs when large numbers emigrate or converted.

¹⁴³ William Casebeer and James Russell, “Storytelling and Terrorism: Towards a Comprehensive Counter-Narrative Strategy,” *Strategic Insights* IV, no. 3, March 2005, http://www.au.af.mil/au/awc/awcgate/nps/casebeer_mar05.pdf (accessed October 6, 2009).

¹⁴⁴ Wade Clark Roof, “Religion and Narrative: The 1992 RRA Presidential Address,” *Review of Religious Research* 34, no. 4, June 1993, University of California, Santa Barbara, 52.

E. AS A MODEL FOR FUTURE RELIGIO-POLITICAL RELATIONSHIPS

Although there is a small, and possibly growing group of Christians, such as Rafiq Habib who look beyond the present to a post-Islamist future, most members of the Christian community whom I spoke with voiced grave concern when speaking in the future tense. Much of their future anxiety surfaced when we discussed the perception of increased political power of Islamists and attacks against them from militant Islamists. It appeared to me that in response to their disadvantaged situation, Christians have constructed both a future-oriented discourse of fatalistic resignation, or preparatory resistance. Both responses come, in my view, from a kind of “anticipatory anxiety” that itself has, however its roots in the past. Zeidan comments that “a main element in the unsteady balance of Muslim–Coptic relations in this century has been the tendency of unscrupulous politicians to manipulate the religious divide in an effort to strengthen their own position.”¹⁴⁵

I listened to this anticipatory anxiety and accompanying anticipatory grievances, which were frequently voiced in terms such as “if the Islamists were to come to power, then we would be reduced once more to the state of dhimmitude.” It is clear that the Islamization of Egyptian society, the growing power of Islamists, and the fear of unknown—what the implementation of *shari’ah* could bring—creates a sense of foreboding. And secular Muslims share this sense of foreboding as well. In my view, because the Copts are the most vulnerable, the secular Muslim community watches them intensively, the same way miners keep an eye on the canary. A “real fear among Christians in Egypt” is attributed by the sociologist Sa’ad Eddiine Ibrahim¹⁴⁶ to local Islamic extremists, but also to the failure of the state to fully include the Copts in the mainstream of public life. The Egyptian daily, al-Ahram, in response to MB and Islamist description about Egypt as an Islamist state posted ominous warnings:

¹⁴⁵ Roof, “Religion and Narrative,” 54.

¹⁴⁶ Sa’ad Eddine Ibrahim, “Meditations on the Question of Minorities,” *Ibn Khaldun Center*, Cairo, 1992, in Phillipe Fargues, “Demographic Islamization: Non-Muslims in Muslim Countries” *SAIS Review* 21, no. 2 (Summer–Fall, 2001): 103–116.

It is sufficient to read the reform initiative issued by the Muslim Brotherhood in the spring to realize how remote their thinking remains from the underlying principles of a modern democratic state. That document was a blatant call for the establishment of an Islamic state that would become the cornerstone of Islamist universalism. It would revive the *hisba* system, imposing strict moral guardianship, or policing, over women and over artistic and cultural expression. It would deprive Copts of full citizenship rights, and it would establish religion rather than a civil constitution as the basis for the relationship between the citizen and the state.¹⁴⁷

The unchecked traditionalist and militant Islamist discourses that look backwards cause the Christians to be alarmed and to believe that “oppression will be cast upon them regardless of how non-violent it may appear.”¹⁴⁸ Islamist clerics like the popular and vocal Shaykh Kishk, throughout the 1990s, accused the Copts of having been historically involved in the Crusades, and of having formed pacts with Western powers and Zionists.¹⁴⁹

It appears that every mosque that gets built with public funds, and every church that cannot be told the Christians that they are a second-class citizen. Every attack against Copts, every church burnt down, or not repaired, every threat and barrier to conversion, or legal impediment to the recovery of Christian identity, every assertion of the Islamic character of the Egyptian national identity, and claim by officials of the superiority of the Islamic state makes claims of Christian-Muslim unity and equality seem quite distant and hollow.

Barbara Tuchman notes in her book, *Practicing History* that there are three things that make a good historian and they are the investigative, the didactic and the narrative¹⁵⁰. The scope and focus of this study has been to establish the degree of historical continuity or discontinuity, and to understand the power and applicability of the historical narrative to the present. Having gone through this exercise, it appears there is

¹⁴⁷ Sameh Fawzi, “Brothers and Others,” *al-Ahram Weekly*, no.772, December 8–14, 2005). <http://weekly.ahram.org.eg/2005/772/op8.htm> (accessed October 15, 229).

¹⁴⁸ Op Cit, Henderson, 164.

¹⁴⁹ Op Cit, Zeidan, 62.

¹⁵⁰ Barbara Tuchman, *Practicing History: Selected Essays* (New York: Alfred Knopf, 1981).

sufficient evidence to suggest that the *dhimmi* analogy/narrative/trope is so frequently applied that a second study is indicated in order to explore the possibility that the cognitive and psychological power and appeal of religious myths and narratives might be at play, as much as actual history.

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