

Landownership disputes in Egypt
-A case study of the tensions around the Monastery
of Abū Fānā in May 2008

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List of organizations and ministries mentioned in the report

Information and Decision Support Center of the Egyptian cabinet (IDSC):

Is a think tank of the Egyptian Cabinet concerned with doing analysis on economic, social and political development issues.

General Authority for Urban Planning:

An authority under the Ministry of Housing, Utilities and Urban Planning. The authority is responsible for urban planning in Egypt.

Land Center for Human Rights:

Non-governmental, non-profit organization supporting the Human Rights movement in Egypt.

General Authority for Land Reclamation Projects:

An authority under the Ministry of Agriculture and Land Reclamation.

Ministry of Irrigation and Water Resources

Ministry of Agriculture and Land Reclamation

Ministry of Housing, Utilities and Urban Communities (MOHUUC)

Ministry of Justice

Ministry of Petroleum

Ministry of Trade and Industry

Ministry of Religious Endowments

Ministry of Interior

National Centre for Planning State Land Uses (CPSLU):

A center established to make sure that the authorities get better control of unused areas of land in Egypt in the future.

NDP:

The National Democratic Party of Egypt.

Real Estate Publicity Department:

The Real Estate Publicity Department is an information center under the Ministry of Justice. The goal of the center is to establish a database prohibiting persons from undertaking real estate for a variety of reasons.

Supreme Council of Antiquities (SCA):

Is part of the Egyptian Ministry of Culture. It is responsible for the conservation, protection and regulation of all antiquities and archaeological excavations in [Egypt](#)

Introduction

Clashes between different groups and individuals in the fight for land use and ownership has been a major issue in Egypt in recent decades. This report will look at the reasons behind disputes over land in Egypt in general, before focusing on the conflict of Abū Fānā Monastery as a case study of dispute over land.

In this report we will present an overview of the difficulties that exist in obtaining legal titles to newly reclaimed desert land in Egypt in general and of the incidents that took place at the monastery of Abū Fānā in particular, and through this we will endeavor to find out why it is so hard to solve disputes such as the one around the monastery of Abū Fānā in court. Furthermore, this analysis will enable us to find out why people are confused about the legal procedures related to owning land.

In order to understand the phenomenon of landownership disputes in Egypt, we will explain the legislations and laws concerning landownership, as well as the lack of demarcation between customs and laws. A great part of the research depends on empirical evidence gathered from interviews with actors involved in the Abū Fānā conflict, analyzing the main facts leading to the strife. Another focus point is the legal background of land registration and the heavy reliance on Wad al-Yad (customary unregistered land acquisition) as well as unregistered 'Urfī contracts that lead to disputes and at times violent conflicts all over Egypt. We will also analyze the state's efforts to implement laws that could prevent conflicts over land and discuss what could further be done by the authorities regarding the protection of archaeological land and artifacts.

In our case study on Abū Fānā, we will discuss the escalation of a conflict over land which escalated due to the addition of sectarian aspects. There are disagreements between the groups involved whether it is a conflict over land or a sectarian Muslim–Christian conflict. Many Muslims say it is a conflict over land, while many Christians claim it is a sectarian religious struggle. We will seek to find out how the groups involved define the struggle and why they disagree on what kind of struggle they are involved in. With this in mind, we will take a look at the development of the Abū Fānā conflict in the media, and see if the media, and the way they have dealt with this conflict has had any influence on the course of events.

Concerning this subject we will make use of Susanne Huber and Janina Chetty's¹ reports on the

¹ See reference number 115 and 116.

media's coverage and influence in this particular case. We will look at the history behind the conflict, to find out why the conflict erupted to begin with and explain how the conflict has developed. We will look at the legislations in Egypt and find out why this struggle was not settled in court by use of the laws concerning land ownership in Egypt.

Most importantly we will analyze the main reasons for this conflict and, through the collected information, provide suggestions for what we believe can be done to prevent such disputes from erupting and escalating into violent conflicts in the future. Nonetheless it is prudent to bear in mind that disputes and conflicts differ from each other and our analysis of solutions concerning this subject will thus be in more general terms.

Landownership disputes in Egypt

The lack of systematic land registration has become an increasing problem in Egypt. Approximately 100 people are killed annually in Egypt due to land conflicts.² The problem has been on the increase because of the fast growing population in Egypt. There are approximately 85 million Egyptians in Egypt today and this number is expected to reach 100 million by 2025.³ This growth has necessitated the development of unused land. As these extensions, especially in villages or rural areas, were not implemented according to a plan followed by the state they depended on society and individuals to arrange them amongst themselves. Therefore, clashes due to a conflict of interests have been increasing and have become hard to control. Furthermore, the population growth (Egypt has a population growth of 1.642 percent per year)⁴ creates additional problems because of the limited cultivatable land in the country. More and more people, both poorer people forced to move to the outskirts of the old inhabited land because of the limited land available for housing in the old areas, and investors and speculators who have seen this development as a way to make money, have felt compelled to move from registered old land to the non-registered newly reclaimed desert areas. This has meant an increase in the number of disputes about desert land that is reclaimed or that people want to reclaim.

In this chapter we will look at the laws and regulations concerning landownership in Egypt. Through an understanding of those factors we will be able to discuss the different elements of the phenomenon of land disputes and analyze how disputes and conflicts might be prevented in the future.

Terms used in the report

In this report some terms are used that are important in order to understand the issue of land ownership in Egypt. These terms are not widely known in many parts of the world and thus an explanation is necessary:

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- 2 Mahrus, Marianne Nabil, Arab-West Report, 2009, Week 22, Art. 3, Land registration problems in Egypt, http://arabwestreport.info/AWR/article_details.php?article_id=22758&ayear=2009&aweek=&article_title=&article_t_date=&article_p_date=&article_p_week=&t=f&char= (Accessed June 17, 2009).
 - 3 Hulsman, Cornelis, Arab-West Report, 2008, week 16, art. 8, Egyptian villagers resist monastery's growth. Muslims, Christians clash over desert, faith, and politics in Upper Egypt www.arabwestreport.info/awr/article_details.php?article_id=19669&ayear=2008&aweek=16&article_title=Egyptian%20villagers%20resist%20monastery%E2%80%99s%20growth.%20Muslims.%20Christians%20clash%20over%20desert.%20faith.%20and%20politics%20in%20Upper%20Egypt&article_t_date=23-07-2008&article_p_date=2008-04-14&article_p_week=2008-04-20&t=f&char= (Accessed May 25, 2009).
 - 4 CIA, World Fact Book, 2009, Egypt, www.cia.gov/library/publications/the-world-factbook/geos/EG.html, (Accessed

Wad al-Yad:

Wad al-Yad is the seizure of a piece of land without any legal documents. The phrase comes from Arabic and means “to put a hand on”. It is an old custom deriving from the early days of Islam. It was further developed during the Ottoman Empire and the custom is therefore found in all countries once ruled by the Ottomans.⁵

Urfi contracts:

Urfi contracts are contracts proving unregistered legal possession of a piece of land. This is understood as a party buying land from another party, but that the contracts are not registered properly with the civil authorities. Furthermore such contracts are easily forged because of the possibility, for wealthy individuals, to buy witnesses.

Bedouins:

A name used in Egypt, and all other Arab countries that include the Sahara in its borders,⁶ for people who are nomads or, more frequently, are the descendants of Bedouins or nomads who once roamed the deserts. Many of them are farmers or traders residing on the edges of the old lands, the Nile valley or Delta. Bedouins are often involved in conflicts over newly reclaimed land or desert land bordering reclaimed land because these areas are subject to new settlements. They are also referred to as Arabs.⁷ This comes from Arabians, "al-Orban" meaning the ancestors of the Arabs who arrived with the introduction of Islam to Egypt.⁸

Reasons behind the lack of land registration in Egypt

Land registration is a relatively recent phenomenon in Egypt. Prior to the 1952 Revolution, only six percent of the population owned 65 percent of the land. After the 1952 Revolution, the land was redistributed and small farmers started to own some feddans (1 feddan = 1,038 acres). The average number of feddans owned by small farmers was one to three.⁹ Nowadays, still only 20 percent of cultivated land is registered.¹⁰ There have been efforts by the state to register the rest of the land but

June 16, 2009).

5 Beth. El-Keser Israel & Rabbi Jon-Jay Tilsen, 2003, Congregation-Ottoman Land registration law as contributing factor in the Israeli Arab conflict.

6 Sharqawi, Raed. Human Rights Activist and investigator.

7 Hulsman, Cornelis, Arab-West Report, 2008, week 16, art. 9, Background on the Monastery of Abū Fānāh, www.arabwestreport.info/awr/article_details.php?article_id=19670&ayear=2008&aweek=16&article_title=Background%20on%20the%20Monastery%20of%20Abu%20Fanah&article_t_date=30-07-2008&article_p_date=2008-04-14&article_p_week=2008-04-20&t=s (accessed May 20, 2009).

8 Sharqawi, Raed. Human Rights Activist and investigator.

9 Sharqawi, Raed. Human Rights Activist and investigator.

10 Mahrus, Marianne Nabil, Arab-West Report, 2009, Week 22, Art. 3, Land registration problems in Egypt,

those measures have not coincided with the population growth and extensions of the villages.¹¹ Registration fees for landownership in Egypt have always been very expensive, compared with most people's resources, in spite of the government's efforts to reduce costs. This is, according to Karam Saber the executive director of the Land Centre for Human Rights, one of the main reasons why people avoid registration.¹² The fees have therefore also been one of the main reasons for land violations as individuals have often been satisfied with just keeping °Urfi contracts. This has allowed gangs to create forged °Urfi contracts and to attempt to prove the validity of these contracts at court and thus be able to register them.

Even foreign investors tend not to register their real estates. One example is that of Saudi investors, who own more than 100.000 properties but have not registered their property in Egypt. According to the Center of Information of the Egyptian cabinet, only 25 percent of the real estate, that Saudi investors own, is registered.¹³

In 2004, the Egyptian parliament approved a bill to reduce the fees of ownership registration by one third. In this concern, the fees paid for the registration are 3 percent instead of 4.5 percent of the price of the registered land.¹⁴ The reason for this reduction was to get the remaining real estate, that is estimated to be worth 32 billion dollars, registered. Nevertheless, in 2006 Law no. 83 was issued to modify the real estate publicity fees at a fixed price instead of a percentage in order to encourage investment and development in Egypt.¹⁵ The registration fees whether for real estate or land are now fixed as the following:

<i>Area of the land or the real estate</i>	<i>Fees</i>
100 m2 or less	500 LE
200 m2 or less	1000 LE
300 m2 or less	1500 LE

http://arabwestreport.info/AWR/article_details.php?article_id=22758&ayear=2009&aweek=&article_title=&article_t_date=&article_p_date=&article_p_week=&t=f&char= (Accessed June 17, 2009).

11 Mahmoud Abdel Qadder, Al-Bashayer electronic magazine, January 9th, 2009, The man who protects the land in Egypt: the law is weak, www.elbashayeronline.com/?page=viewn&nid=33404 (Accessed June 15, 2009).

12 Mahrus, Marianne Nabil, Arab-West Report, 2009, Week 22, Art. 3, Land registration problems in Egypt, http://arabwestreport.info/AWR/article_details.php?article_id=22758&ayear=2009&aweek=&article_title=&article_t_date=&article_p_date=&article_p_week=&t=f&char= (Accessed June 17, 2009).

13 Al-Dabaan, Muhamed, 2005, [Saudi Arabian Investors own more than 100.000 unregistered real estate in Egypt](http://travel.maktoob.com/vb/travel48354/), <http://travel.maktoob.com/vb/travel48354/> (Accessed June 15, 2009).

14 Abdel Hadi, Youssef, 2004, Alsharq Al-Awsat, Reduction of land registration fees by 30 percent, a new law welcomed by investors.

15 Abdel Hafiz, Ayman, 2007, Alsharq Al-Awsat, Gulf investments increase in the Egyptian real estate.

More than 300 m2	2000 LE
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This means that the maximum registration fee is 2000 LE. The objective of this law is to stop the ʿUrfi contracts that have increased ownership disputes and violent conflicts in Egypt dramatically.

But ʿUrfi contracts are still widely used among citizens as the owners of unregistered contracts, when necessary, can prove ownership of their real estate in two lawsuits:

First: By proving the validity of the signature of their ʿUrfi contract.

Second: By proving the validity of the whole contract. Thereafter, they can register their real estate in the Real Estate Publicity Department. The state is reluctant to force citizens to register their land; instead the law tolerates the holders of unregistered contracts and gives them the chance to register their contracts in case they need to. Thus it seems that the authorities, so far, have not implemented one way standards, but instead proceed with laws and rules contradicting each other. Instead of encouraging people to prove ownership in court and thereby to register the land involved in disputes the law allows people to use unregistered land which easily can become subject to conflict.

Other reasons for the lack of land registration are due to the labyrinth of bureaucratic procedures a person has to go through if he wants to own his land officially. In order to officially own a piece of land in the newly reclaimed areas in Egypt one has to go through 77 procedures, in 31 different offices, involving three different ministries. A procedure which, on average, takes between six and 14 years. Further, the formulation of urban and rural areas is unclear in the law, which has led to some problems in the areas close to the desert. Law no. 3 of 1982 illustrates the lack of formulation in the law by giving only a vague definition of urban areas. This has let to speculators escaping both rising prices in the cities and laws directed toward the cities' urban areas by moving to the rural areas. There is a general lack of cooperation between the different authorities dealing with the issue which opens up the possibility of strife and violations of laws as well.¹⁶

Experts have pointed out that there is a big problem concerning under staffing, lack of facilities and equipment (available maps are often outdated) in the authorities involved with landownership. Each governorate in Egypt experiences an average of 9000 land violations every year. At the same time El-Hefnawi stresses that the average number of employees in a governorate dealing with this issue is 50 people. This fact shows how difficult it is for authorities to handle the large number of violations. The employees' salary is very low and this makes it even harder to keep

16 El-Hefnawi, Dr. Ayman Ibrahim Kamel (2005), "Protecting" agricultural land from urbanization or "Managing" the conflict between informal urban growth while meeting the demands of the communities (Lessons learnt from the Egyptian policy reforms), page 9, World Bank.

experienced officials or attract a new work force.¹⁷

All land in Egypt is in theory reserved for the military. To gain land ownership you need to obtain permission from the military to use the land. After getting permission from the military you can move on to getting permission from the other ministries involved. The ministries involved in land registration in Egypt are the Ministry of Agriculture and Land Reclamation, the Ministry of Housing, Utilities and Urban Communities (MOHUUC), the Ministry of Justice, the Supreme Council of Antiquities (SCA) and the Ministry of Petroleum.¹⁸ A person needs the approval of all these authorities to officially own land. Still the military, even in case of proved ownership, has the right, at any time, to reclaim the land they consider necessary for military purposes.

In addition to the ministries involved in land registration there are local authorities in the governorates that play a role. It is the governor's responsibility to implement laws and ministerial decrees. However this also means that there are differences in coping with land ownership from governorate to governorate, though no [°]Urfi contracts and Wad al-Yad are legally used in the very deep desert area, Sinai or the desert of the Red Sea area.¹⁹ In this report we analyze land ownership laws in the governorate of Minia in Upper Egypt as applied in the case of the conflict at the monastery of Abū Fānā. In Minia the governor, General Ahmad Diyā' al-Dīn, stated that Wad al-Yad and [°]Urfi contracts are considered illegal in cases of conflict.²⁰ This coincides with article 10, law no. 143, 1981 which considers Wad al-Yad a violation of state property.²¹ There are though differences in this matter from governorate to governorate. This can be seen in the case of the governorate of Marsa Matrouh where Wad al-Yad is not illegal. There Wad al-Yad is registered through the extradition of documents with the governor's seal and considered a step toward official ownership. This is possible in Marsa Matrouh because of Presidential Decree no. 632, article one, 1982,²² which states that certain areas and governorates, Marsa Matrouh being one of them, do not have to apply law no. 143, 1981, but can apply their own laws concerning land ownership as dictated by the governor of the area. This decree is mainly applied in investment areas. The

17 El-Hefnawi, Dr. Ayman Ibrahim Kamel (2005), "Protecting" agricultural land from urbanization or "Managing" the conflict between informal urban growth while meeting the demands of the communities (Lessons learnt from the Egyptian policy reforms), page 11, World Bank.

18 Sharqawi, Raed. Human Rights Activist and investigator.

19 Sharqawi, Raed. Human Rights Activist and investigator.

20 Cornelis, Hulsman, Arab-West Report, 2008, week 16, art. 4, Governor Ahmed Dīya al-Dīn speaks out about the tensions around the Monastery of Abū Fānā [2].

[http://arabwestreport.info/awr/article_details.php?article_id=19665&ayear=2008&aweek=&article_title=Governor%20Ahmed%20Dia%20el-Din%20speaks%20out%20about%20the%20tensions%20around%20the%20Monastery%20of%20Abu%20Fana%20\[2\]&article_t_date=29-07-2008&article_p_date=2008-04-14&article_p_week=2008-04-20&t=f&char=](http://arabwestreport.info/awr/article_details.php?article_id=19665&ayear=2008&aweek=&article_title=Governor%20Ahmed%20Dia%20el-Din%20speaks%20out%20about%20the%20tensions%20around%20the%20Monastery%20of%20Abu%20Fana%20[2]&article_t_date=29-07-2008&article_p_date=2008-04-14&article_p_week=2008-04-20&t=f&char=)
(Accessed June 10, 2009).

21 Abdul Qader, Mahmud, 2009, The man who protects the land of Egypt: The laws are weak, www.elbashayeronline.com/?page=viewn&nid=33404 (Accessed June 9, 2009).

22 Presidential decree number 632, published in Al-Ahram, December 30, 1982.

governorate of Minia is not one of them, and thus has to apply to Law no. 143, 1981.²³

Registered and unregistered contracts

In this chapter we will clarify the legal effect of the sales contract in the Egyptian civil law. Article 418, Law no. 131, 1948 of Egyptian civil law defines a sales contract as: “A contract that commits the seller to transfer to the buyer the ownership of something or a financial right in return of a price”.²⁴ In this part we will look at the difference between registered and unregistered contracts and explain the problems that are created in that concern.

The contracts and their legal effects

‘Urḫī contract: legally this is called a primary sales contract. It is, more simple explained, an unregistered contract.

The selling process occurs whether the contract is registered or not, which means that the buyer has the right to claim the real estate from the seller, and it is considered to be a personal commitment on the seller to turn the real estate over to the buyer. Lack of registration does not prevent the selling process from occurring. The buyer has the right to ask the court to safeguard the land to keep it away from the seller in case of a conflict between both parties.²⁵

The sales contract, even if it is not registered, transfers the legal possession of the sold real estate. If the buyer sues the seller and wants to expel him from the real estate he can do so, even if he only has an ‘Urḫī contract. If the seller does not have any documents to prove his right to the property, the court will expel the seller from the land and give it to the legal possessor (the buyer). The buyer is considered to be a normal mortgagee to the seller. The seller of the real estate (with an ‘Urḫī contract) is responsible for giving the buyer the crops or the benefits of the land or the real estate starting from the date of the contract and until the buyer registers the real estate except if there is an agreement that states otherwise.

Although ownership is not transferred with registration, the concession of the real estate is a legal act that implies there are commitments on the seller. This gives the buyer legal rights to the real estate. According to article number 458 of Egyptian Civil Law, the benefits of properties are

23 Wael Hassan: General Saad Khalīl, the governor of Marsa Matrouh claimed that Dr Ahmad Nazīf, the prime minister opened the door for land purchase applications to be lodged by citizens using Wad al-Yad. The governor of Marsa Matrouh was keen to present this problem from the legal side and so presented a note to the prime minister. He stated that the regularization of the possession of Wad al-yad on state land should take one of two paths. Firstly the notification of property should be discussed in accordance with Law no. 143, 1981 and Presidential Decree no. 632, 1982. Secondly, the purchase applications submitted by citizens should be discussed in accordance with law no. 31, 1984 and Law no.7, 1991.

24 Egyptian Civil law, 1948, law number 131, Article 418.

25 Egyptian Civil law, 1948, law number 131, article 730, appeal 46/443 session 22/4/1980 – Appeal 46/446 session of

transferred to the buyer when the contract is concluded. That gives the buyer the right to make use of the real estate or the land and its benefits. The seller's commitments thus start when the real estate is turned over to the buyer, even if the contract is not registered.

The difference between an official registered contract and an °Urfi contract can be described as:

- **Registered contract = ownership**
- **°Urfi contract = legal possession**

The transfer of ownership

Ownership in the sales contract is transferred to the buyer only through the registration of the real estate. The °Urfi contract transfers all the rights related to the real estate to the buyer. The owner of the °Urfi contract has the right to obtain ownership through registration. Furthermore he has the right to legally expel the usurper even without transferring the ownership.

The procedures for registering °Urfi contracts are first done with a “validity of signature hearing”. The buyer presents his primary sales contract, as stipulated in article 45, 46 and 47 of the Civil Evidence Act. The articles stipulate that anyone holding an unofficial contract appears in court, and if his signature is recognized, the plaintiff has to pay all the expenses. The document is recognized if the defendant does not deny the validity, the validity is found invalid or the defendant claims that it belongs to someone else.

If the defendant does not attend the hearing, the court considers the handwriting, signature, stamp or fingerprint as valid. The verdict sentenced in absentia may be appealed in all cases. The objective of this hearing is to prove the validity of the signature only and not the contract; therefore, it does not transfer the ownership.

To gain full ownership of the land concerned, the one claiming ownership has to attend a hearing of the contract’s validity. The hearing of the contract’s validity is necessary to transfer the ownership of the real estate and it is therefore attended by holders of °Urfi contracts who want to register their contracts in order to enjoy full ownership²⁶.

Wad al-Yad

The so-called Wad-al-Yad phenomenon (seizure of a piece of land without any legal documents) is a major cause of violence in obtaining new land, desert land and land along the banks of the Nile, which is being reclaimed. The new land being reclaimed, which is almost always desert land, is

25/6/1980.

26 Evidence Law 25, 1968, article 45.

different from the old land that dates back centuries. Most of the land being reclaimed is involved in serious conflicts. These are taking place between all sort of parties ranging from major families, small farmers or landowners to big companies whether they have official rights or not. The phenomenon of Wad al-Yad is not a new one. The concept comes from a Hadīth (prophet's tradition) in Islam. The prophet says in a Hadīth: “He who revives a wasteland, owns it.”²⁷ According to the Islamic Bank and Financial Institutions Information website²⁸, the wasteland (referred to as *mawat* in the Hadīth) is the land that does not belong to anyone, reviving it means cultivating it or building on it, and thereby becoming the owner. The land could be close to the city or far away from it, with the permission of the imām or without.

In the following part we will focus on the laws related to the Hadīth and their development in society from the time of the Ottoman Empire, which ruled in Egypt from 1517 until Napoleon Bonaparte invaded Egypt in 1798, and its use and development under the laws of the British occupation following 1882 and its presence in Egypt after Nāsir's coup d'état in 1952.

Land ownership in the Ottoman Empire was divided into two parts; the private ownership of land and public ownership related to land belonging to the state. The Ottomans applied new laws to ensure the receipt of a regular and specified amount of money for the state treasury from tenancy rates. These laws were based on essential pillars:

The state: Consisting of feudal families, citizens, military and peasants. The state considered itself the real owner of land and thus had the right to collect taxes, fees and tithes.

Ownership: Ownership of feudal families was divided into three categories according to their annual revenues.

The Ottoman Land Code of April 21, 1858 defined five classes of landownership: *milk*, *waqf*, *miri*, *matruk* and *mawat*²⁹:

Milk: land in unrestricted private ownership.

Waqf: land that has a religious purpose (theoretically owned by God) and administered or held in trust by a stipulated party such as a religious council.

27 [Hadith al-Islam](#), 2009,

<http://hadith.alislam.com/Display/Display.asp?Doc=4&ID=37959&SearchText=%E3%E4%20%C3%CD%ED%C7%20%C3%D1%D6%C7%20%E3%E6%C7%CA%20%DD%E5%ED%20%E1%E5&SearchType=root&Scope=all&Offset=0&SearchLevel=QBE> (Accessed June 4, 2009).

28 IBIS Online, 2009, www.ibisonline.net,

www.ibisonline.net/Research_Tools/Glossary/GlossaryDisplayPage.aspx?TermId=210 (Accessed June 07, 2009)

29 Tilsen,, Jon-Jay Rabbi, 2003, Ottoman Land Registration Law as a Contributing Factor in the Israeli-Arab Conflict, <http://www.be-considered-Wad-Al-Yad-a-violation-of-the-State-property-ki.org/landlaw.html>, (Accessed June 4, 2009).

Miri: cultivated or cultivatable land acquired for the state through conquest or through forfeiture of *milk* due to the failure of heirs to cultivate it. An individual is able to gain rights over *miri* land by cultivating it and paying taxes, but the state continued to regulate its transfer and improvement. The tenant's rights to *miri* were forfeited by failure to cultivate the land. The ownership of such forfeited land is compromised.

Mahlul: *miri* land that could be converted by the order of the sultan into *matruk mahmiyya* (property for general use such as lakes or roads) or into *matruk murfaqa* (property for use by a particular community such as market places and cemeteries).

Mawat: wasteland which an individual could (until 1858) turn into *milk* with the permission of the sultan and (until 1921) turn into *miri* by cultivating it for a given period of time and paying for it. The phenomenon of *Mawat* can in this regard be explained as the predecessor of Wad al-Yad as it is known today.

The object of the law of 1858, which dealt primarily with these three classes of property (***miri***, ***mahlul***, and ***mawat***), was to maintain the rights of the state over the land. The concept of state ownership of land was in fact an idea in Islamic law. However, after the abolition of the “feudal conditions” in the Ottoman land revenue system after 1839, a confiscatory and corrupt system of tax-farming emerged which harmed the tenants and reduced state revenues. It is clear that this legislation could only be given effect by setting up a system of land registration.

The Land Code of 1858 was thus soon followed by the Tapu Law of 14 December, 1858. This provided the issuance of title deeds. Procedures for registration, not only of old titles, but also of transfers, inheritance, vivification of *mawat*, the auction of *mahlul*, and prior purchase were dealt with in the Tapu Law. The Tapu Seneds Law, issued in 1859,³⁰ stated that no one in the future for any reason whatsoever would be able to possess *miri* without a title deed.

To impose more control on the land and to ensure its right to face local forces and the rest of landlords, the Ottoman state issued a number of laws to regulate land purchasing. It classified the land through these laws into categories. Each category had its regulations. The Ottomans issued several laws to complete these laws in 1859, 1861 and 1867. The purchasing of land was proven through papers called “legitimate proofs” certified by the court but without any value. If these papers were lost, Wad al-Yad on the land and its purchase should determine its ownership. In case

30 Tilsen, Rabbi, Jon-Jay, 2003, Tilsen, Rabbi, Jon-Jay, 2003, Ottoman Land Registration Law as a Contributing Factor

of any conflict on the land between farmers, the oral testimonies of the villagers should determine its ownership. Later, this resulted in many conflicts and disputes between farmers and as a result the Tapu Law and its annexes were issued.

The phenomenon of the feudal class was widespread as a result of farmers escaping land registration. Some major families, with money, thus came to control huge amounts of land in the cities and the villages by paying for the registration of large swathes of land.

The Ottoman state wanted to ensure its authority over the land and to reduce the hegemony of feudalism and tribes that controlled the land, but it failed because of the lack of registration amongst smaller farmers. This increased the land owned by major owners. Furthermore, the modifications on the landownership laws of 1913 permitted the ownership of *miri*-land and enabled companies to buy land. As a result of these amendments, it then became possible to rent *miri*-land for agriculture for ten consecutive years and *waqf*-land for 36 years. Landowners exploited these laws and started to acquire huge amounts of land. Therefore, these laws contributed in transferring land ownership from the state to private owners.

Land registration in Egypt has, through the years, caused many problems, as conflicts over land have been caused by these unclear, *miri*, *mawat* and *waqf*, categories. As evidence of Wad al-Yad being considered a violation of state property in the Ottoman law there was an article issued in 1932 concerning conflicts due to Wad al-Yad.³¹ The article stipulates that the governor has the authority to settle disputes related to land and water in a way that permits the procedures of proving ownership to the governor based on the data presented to him. The state today is trying to modify this law to prevent disputes over land and to clarify state land. We will explain this issue in more detail later in the report.

Jamāl °Abd al-Nāsir's agrarian land reform and its development

In this section we will briefly discuss the land reform of Jamāl °Abd al-Nāsir as it has been one of the reasons behind the rise in the number of bloody conflicts over land, that have taken place in Egypt.

Until 1952, the feudal system in Egypt was obvious, as only six percent of the Egyptian population, owned more than 65 percent of the cultivated land. The major owners had almost autocratic control over the land they owned and charged high rents which averaged 75 percent of the income generated by the rented land.

In 1952 under Law 178, Nāsir's land reform was promulgated by the Revolutionary

in the Israeli-Arab Conflict, <http://www.beki.org/landlaw.html> (Accessed June 4, 2009)

31 Al-Okab, 2008,

<http://www.alokab.info/forums/index.php?s=4407498eb75075d7f367c0d0ef2caaf2&showtopic=35185&mode=thread> (Accessed June 07, 2009).

Command Council. It proposed the expropriation of all land property-holdings above 200 feddans. (1 feddan = 1.038 acres). The general tendency of the land reform was toward undercutting feudalism and economic and social problems that the concentrated landownership brought with it. By the end of ^cAbd al-Nāsir's regime only about 17 percent of small farmers had directly benefited from the reform. The state usually allocated one to two feddans to each family. As for the rest of the tenants, the benefit came only in the form of controlled tenancy rates, as well as minimum lease periods.

During al-Sādāt's presidency, who ruled Egypt from 1970-1981, the advance of the market economy undercut any incipient progress that had been achieved in rural Egypt, in the sense that it gave the opportunity for people with money to gain control over big areas of land. The liberalization of the Egyptian economy, with regards to the land, was expressed through al-Sādāt's partial reversal of ^cAbd al-Nāsir's land reform. It was not until Mubārak's era, however, that the reversal was completed, particularly with the passing of Law no. 96, 1992 and its full implementation starting in 1997, whereby the social safety net was removed and eviction of tenants legalized. Until that time Law no. 157, 1952 had secured tenants by fixing the rent to a maximum of seven times the value of the land tax and by prohibiting the eviction of tenants.

Between 1992 and 2005 the yearly tenancy rates, freely set by landowners in accordance with the international market, increased by 20 times. This resulted in many tenants not being able to pay their mortgage. As a result forced evictions spiraled, with the often bloody intervention of the State Security apparatus in the so-called Peasants' Intifada (Intifadat al-Fallaheen) that mushroomed between 1997 and 2003. In 1997 alone around 100 farmers were killed and 1000 were injured, while in 2004, 49 farmers were killed and 429 were arrested. Almost one million tenants were evicted in the aftermath of the implementation of the law reform. Given that the average rural family has five members, we are looking at the eviction of at least five million rural tenants and their families.³²

The amendment of laws related to Wad al-Yad

The conflicts over land today often take place because of Nāsir's agrarian land reform and the tenancy rates (this is clarified later under the agrarian reform section). Another main reason for conflicts is due to Wad al-Yad in the land bordering the desert. As clarified before, Wad Al-Yad is not a new phenomenon, but according to an article published in *al-Ahrām* newspaper,³³ this practice flourished after President Anwar al-Sādāt's initiative in 1973, when he called for desert reclamation

32 Assir, Serene, 2008, Al-Ahram Weekly, Starving those who feed us, <http://weekly.ahram.org.eg/2008/881/feature.htm>, (Accessed June 8, 2009).

33 Fouad, Ahmad, 2006, Al-Ahram, Settling the violations on the State property, <http://www.ahram.org.eg/Archive/2006/6/11/INVE3.HTM> (Accessed June 07, 2009)

and the building of new urban societies. This initiative was abused and misinterpreted as it resulted in the acquisition of state-owned land. People exploited the law, permitting anyone to own land in return for cultivating it. This is mentioned in article 874 of Law no. 13, 1948.

Nowadays, some tribes of Bedouins or Arabs control parts of the state-owned land. Even if someone buys a piece of land from the General Authority of Reclamation Projects legally, he may find groups of people or Arabs who seize the land and claim ownership as well as demanding that the real owner pays them the price of this land. Otherwise, they may destroy his land or attack him.³⁴ Thus, the person who wants to own a piece of land might pay twice, once officially and once to avoid the gangs who claim ownership of the land without legal rights.

Because of Wad al-Yad 90 percent of desert land is witnessing conflicts, according to the personal estimates of Karam Saber, the executive director of the Land Centre for Human Rights³⁵.

The state permitted, in the framework of the civil law number 131, 1948, in article number 874, citizens to cultivate land and thereby obtain ownership³⁶. Therefore, illegally obtaining big areas of land took place through the use of land areas for housing or tourism projects instead of agriculture. This resulted in the amendment of Law no. 143 in 1981, which criminalized Wad al-Yad in most areas of Egypt³⁷. This law considered Wad al-Yad a violation of state property and stipulated that it is a crime that is punishable by a prison sentence, fine, confiscation or removal, paid by the person who violates the land in areas not exempted by the law according to Presidential Decree number 632, article one, 1982. Nevertheless, people continued the practices and continued to believe that land acquisition comes through Wad al-Yad first. Therefore, law no. 30 of 1984 gave a time limit of six months, for people claiming land, to officially inform the main authorities about their desire to cultivate it. When this time frame expired the authorities would then come and check if the land really was cultivated. If they found that a person was actually cultivating the land he could be granted ownership. If not, the law states, this person should be either fined, jailed or have his land confiscated.

This time limit of six months was abolished on December 30, 1984. However, the practices did not stop. Therefore, Law no. 7, 1991 was issued. This law gives the right to any ministry, which requires a piece of land, to obtain it, but only after the approval of the Council of Ministers. Afterwards, a presidential decree is issued to allocate the land for the required activity.

34 Mahrus, Marianne Nabil, Arab-West Report, 2009, Week 22, Art. 3, Land registration problems in Egypt, http://arabwestreport.info/AWR/article_details.php?article_id=22758&ayear=2009&aweek=&article_title=&article_t_date=&article_p_date=&article_p_week=&t=f&char= (Accessed June 17, 2009).

35 Mahrus, Marianne Nabil, Arab-West Report, 2009, Week 22, Art. 3, Land registration problems in Egypt, http://arabwestreport.info/AWR/article_details.php?article_id=22758&ayear=2009&aweek=&article_title=&article_t_date=&article_p_date=&article_p_week=&t=f&char= (Accessed June 17, 2009).

36 Civil law, Al-Shatat Usama Ahmad, 2006, published in Dar al-Kotob al-Qanunya

37 Abdul Qadir, Mahmud, 2009, *The National Center for Planning State Land Uses*, www.elbashayeronline.com/?page=viewn&nid=32931 <http://www.elbashayeronline.com/?page=viewn&nid=32931>

Finally, Presidential Decree no. 153 was issued on May 23, 2001, to create the National Centre for Planning State Land Uses (CPSLU). However, the center was not activated before May 16, 2004, when they recruited engineer Omar al-Shawadfy to be the president of the center. The objective of the center is to make the maximum use of state land and to increase the benefit of the land in cooperation with many centers for scientific research and other authorities.³⁸ This includes a map of investment opportunities until the year 2017. The ministries have thus started to send their own maps to highlight the land they want. The Ministry of Defense has been the authority preparing the map based on the requirements of all ministries.

In spite of the above mentioned measures, Wad al-Yad increased dramatically in the year 2008, according to Omar Al-Shawadfy just as the state's intervention to stop the practice also did. This intervention is shown through the issuance of Law no. 134, 2006. This law stipulates that people who had already cultivated a piece of land before August 2006 can keep their land and that the state, after the implementation of the law, will start to regulate their status and legalize their papers. Therefore, people started to take whatever they could through Wad al-Yad before the law came into force. Nevertheless, Omar Al-Shawadfy has said that satellite pictures show the present areas of Wad al-Yad as well as the dates in which the agriculture started. For example a person may have claimed to have seized a piece of land in 1994 and started to cultivate it at that time. In that case the satellite photos would be able to show that he did not start cultivating it before 2007 although he was able to get 'Urfi contracts from employees. Moreover, by checking the agriculture on the land it is possible to determine the age of the plants. According to Omar Al-Shawadfy the use of satellite photos will help to determine whether the claim for land is legal or not³⁹.

The efforts of the National Centre for Planning State Land Uses (CPSLU)

The previous part of the chapter focused on an overview of the development of land ownership reforms since the Ottoman Empire and their repercussions on land conflicts. This part will focus on the efforts the authorities have made concerning land ownership in Egypt in the last few years, and how laws have worked and been implemented. We will look in particular at the National Centre for State Land Uses, and their efforts in preventing land conflicts in the country.

First of all, the center had to face the stereotypes related to Wad al-Yad. The director of CPSLU, Omar Al-Shawadfy, consulted the mufti (an Islamic scholar who is an interpreter or expounder of Islamic law) about the Hadith (prophet's tradition) that says: "He who revives a wasteland, owns it". The mufti said in a fatwá that this is permissible but not without the governor's

www.elbashayeronline.com/?page=viewn&nid=32931, (Accessed June 15).

38 National Center for Planning State-Land Use, 2009, www.ncpslu.gov.eg/mainP.aspx (Accessed June 15, 2009).

39 Abdul Qader, Mahmud, 2009, Al-Bashayer online newspaper, The man who protects the State land.

<http://www.elbashayeronline.com/?page=viewn&nid=33404> (Accessed June 07, 2009).

authorization.

So far, the CPSLU has prepared maps for investment opportunities. Nevertheless, some areas were included in the map without scientific research and the CPSLU concluded that the maps are thus unsuitable for the determined purpose of outlining how the land could be used at this time.

The CPSLU determined that the amount of cultivated land in Egypt is 3.4 million feddans. This estimation was approved by the Ministry of Agriculture and the Ministry of Water Resources. Therefore, it is not possible to cultivate beyond this area. The amount of water available in Egypt, is not sufficient to cultivate more than 11.2 million feddans. The water resources available are: the Nile, underground water, rain, and treated drainage water. In addition to the problem of water abuse, huge quantities of water are wasted because of prevailing customs and traditions. This is caused by illegal settlements and carelessness toward water resources. Egypt's surface area is 238 million feddans, scientific research proves that 16 million feddans are valid for agriculture, on the other hand, the remaining 222 million feddans are desert land that have not yet been determined to be valid for cultivation or not.⁴⁰ Thus the research of the CPSLU shows that 16 million feddans are located places where cultivation can take place, but that Egypt only has water resources to cultivate 11.2 million feddans. This means that 4.8 million feddans of land which could be used for cultivation, will not be able to be cultivated because of a lack of water for the purpose. The lack of water resources in Egypt is thus a bigger problem than the lack of cultivatable land. We have not been able to obtain a copy of the CPSLU's map and therefore we do not know whether Abū Fānā is within the boundaries of the 16 million feddans usable for agriculture or not.

The center cooperates with other authorities and has been able to issue a presidential decree to create ten industrial areas that are dedicated for the Ministry of Trade and Industry that should be used soon, while there are ten other areas that are subject to studies, that will also be under the control of the Ministry of Trade and Industry.

The rest of the land, which is not specified for agriculture, is suitable for tourism, safaris and natural reserves. There are activities that could be established in these areas, while agriculture will take place in areas where there is water. Concerning the 16 million feddans of cultivatable land, tis include old cultivated land in the Nile Delta, the Nile valley and the land used in reclamation planning.

One of the main problems in controlling land is that local authorities consider land violations outside the borders of the governorate out of their control. In an interview, Omar Al-Shawadfy said that it is extremely important to involve the local authorities to prevent violations.

40 Abdul Qader, Mahmud, 2009, Al-Bashayer online newspaper, The man who protects the State land. <http://www.elbashayeronline.com/?page=viewn&nid=33404> (Accessed June 07, 2009)

However most people do not ask for permission from the authorities to use land, thus most buildings and houses that are established are illegal. To demonstrate the efforts of the National Centre for Planning State-Land Uses, Omar Al-Shawadfy clarified that the state prevented the establishment of a cement factory that was supposed to be built in a natural reserve.

The repercussions of Wad al-Yad practices are not only the bloody conflicts but also the acquisition of almost free plots of land which can be sold to citizens for huge sums of money. There are many examples of this. One example is that of a member of parliament who bought thousands of feddans, at a cost of 5 LE for one m², and offered it to foreign investors for 1500 LE m², thus earning himself millions of pounds in the process. Another example is an investor who obtained thousands of feddans for agriculture, but instead created a huge housing project and sold one m² for 200 LE. Further Omar Al-Shawadfy gave us the example of people exploiting underground water to establish a fish farm. These are just a few examples of Wad al-Yad being behind the eruption of land exploiters and the reason for conflicts over land as it is a way to gain rapid wealth.

Omar Al-Shawadfy also referred to Law no. 7, 1991 which classifies state owned land in Egypt into seven main categories⁴¹:

First: Strategic land that has military importance. The military decides whether land is of strategic value or not. A presidential decree is needed to purchase it and it needs to be approved by the council of ministers in such cases as well.

Second: Areas that are included in the reclamation plan.

Third: Areas to establish new urban societies.

Fourth: Tourist areas.

These four areas need the approval of the president for purchase or ownership.

Fifth: Areas including bodies of water are considered areas under reclamation and are managed by the General Authority for Reclamation Projects in cooperation with the Ministry of Water Resources and Irrigation.

Sixth: The land under reclamation inside the borders of a governorate is under control of local authorities.

41 Fouad, Ahmad, 2006, Al-Ahram, Settling the violations on the State properties,
<http://www.ahram.org/Archive/2006/6/11/INVE3.HTM> (Accessed June 07, 2009).

Seventh: The land outside the governorates' borders is subject to a national plan that should be implemented by the Ministry of Agriculture.

The work of the CPSLU is based on maps to build a geographic information system that could be used in many required fields. These maps are being prepared now and will be ready for the ministries and authorities to use them.

CPSLU's work is not only based on printed maps, but also on a comprehensive scan and sophisticated technical procedures, containing data and accurate information about every piece of land in Egypt in addition to what is under the control of which ministry. Therefore, the basis and regulations are determined according to precise methods of classifying land and pricing to ensure that the land will not be exploited by speculators. Further the regulations are made in order to preserve the wealth of Egypt and to avoid tensions between the governorates, authorities, and ministries. Omar Al-Shawadfy clarified that he receives satellite photos including a comprehensive scan, containing an overview over Egypt, every three months to stay informed of any violation and put an end to it before it starts. In general, the lands that see violations are concentrated in the areas near the big cities such as the North coast, Alexandria-Cairo road, the Ismaylia-Cairo road and the Cairo-Belbis road. The lack of monitoring has worsened the situation as the law concerning the matter is not respected⁴².

Further the CPSLU is supposed to regulate the conflicts between the governorates related to land. This is quite complicated as the most recent maps available to describe the rural extensions in the villages and the cities date from 1938⁴³. Thus there is a huge gap between the reality and the maps. This is because of the changes that have happened in some villages, which have become cities now and have extended to the borders of other cities. The CPSLU has not yet followed these developments that seem to take place faster than the state can monitor them. In order to achieve faster monitoring in the future, the center will need to harmonize all the efforts of the concerned authorities together.

The registration of archaeological land in Egypt

Even archaeological land in Egypt is sometimes subject to violations by citizens. Some pieces of land contain archaeological artifacts that are discovered but are not protected enough by the competent authorities. Other pieces of land contain artifacts that are not yet fully discovered because of the lack of scientific research.

42 Abdul Qader, Mahmud, 2009, Al-Bashayer on line newspaper, The CPSLU classifies the desert land outside the borders, www.elbashayeronline.com/index.php?page=viewn&nid=32930 (Accessed June 07, 2009)

43 Fouad Ahmad, 2006, Al-Ahram, Settling the violations on the State Properties.
<http://www.ahram.org.eg/Archive/2006/6/11/INVE3.HTM>

Law no. 117, 1983,⁴⁴ issued for antiquities protection, stipulates in article no. 3 that any archaeological land is owned by the state. Article no. 7 of the same law criminalizes the dealing of artifacts and gives a time limit of a year to deliver the artifacts found to the state. Furthermore, article 15 does not allow for individuals or bodies to own an archaeological site, land or building by Wad al-Yad. The law gives the state the right to expropriate the land due to its archaeological importance and to seize the land temporarily until the end of the expropriation. In article 20, it is stipulated that no licenses can be issued to build on archaeological land or to establish buildings, cemeteries, canals, paved roads or agriculture on the land without an authorization from the Supreme Council of Antiquities or those bodies under its supervision. This is also applied on the adjacent land to the archaeological site outside the mentioned site for a distance of three kilometers of a non inhabited area or the distance determined by the SCA to protect the monument.

Nevertheless, archaeological sites, land and buildings should be taken into consideration in case of any change in the borders of cities, neighborhoods or villages, as it is not allowed to apply any urban extension without a written approval from the SCA to implement any change. It is permitted to build on the land, adjacent to an archaeological site, inside an inhabited area, after receiving an approval from the SCA. Thus, the license ensures the safety of the monuments and the presence of an archaeological periphery for it.

Concerning the registration of archaeological land, the SCA only has the right to classify monuments as mobile or stable, and to register them. This classification is distributed by the SCA in different competent local units as well as the General Authority for Urban Planning in order to consider it during the public urbanization. The SCA is responsible for the protection of the monuments, the museums, the artifact stocks, the sites and the archaeological and historical sites. It shall provide police officers or guards to ensure this protection. Concerning the excavations, they are only allowed to be performed under the supervision of the SCA or the delegated body on behalf of it through a license. Finally, the law stipulates the punishment of anyone who smuggles monuments, to a labor penalty and a fine of between 5,000 LE and 50,000 LE.⁴⁵

How do the authorities enforce violations of archaeological land in Egypt?

Although, many different laws have been issued to protect antiquities in Egypt, the most recent one of which was issued in 1983 (mentioned above), Egyptian antiquities are still subject to theft, violations and carelessness. Dr. Ahmad Wahdan, a researcher at the National Center for Social and Criminal Research published a study about the theft and smuggling of artifacts into Egypt. In his

44 El-Aref, Nevine, 2005, Al-Ahram Weekly, New law on the way, <http://weekly.ahram.org.eg/2005/766/he1.htm> (Accessed June 8, 2009).

45 The law of antiquities protection, 1983, article 117.

study, he clarified that the law was not a deterrent to stop stealing. Furthermore, some of the articles of the law are not suitable to the concept of antiquities protection, such as article 8 which permits the acquisition of artifacts on the condition that they are not disposed of. In addition, article 6, states that all antiquities are considered public wealth, except antiquities classified as Waqf (endowment). Therefore, this article could be misinterpreted as antiquities, under the control of the Ministry of Religious Endowments, are considered private ownership.

Egyptian monuments face many risks such as pollution and underground water destroying buried monuments. The theft of artifacts has increased dramatically because of the development of technology to smuggle artifacts across borders and also because of the corruption of official employees, responsible for the protection of antiquities, who have been involved in stealing. The number of cases related to artifacts between 1993 and 2002 was estimated at 13588 cases of theft on archaeological sites. The number of cases in 2002 was 1546. Smuggled items are today discovered through cooperation with foreign countries to protect cultural possessions, mentioned in the international agreements of human heritage protection. The smuggling of antiquities is considered an organized crime across borders as it involves Egyptians and foreigners. To ensure more protection, the state also classifies and registers the monuments and establishes modern stocks to protect them and ensure the presence of protection of the archaeological museums. Yet, there is also a need to amend the law in order to avoid the above mentioned misinterpretation of ownership and to guarantee more protection for the monuments in Egypt, which represent a third of the world's monuments.⁴⁶

Laws and law enforcement relating to land ownership in Egypt

There is insufficient law enforcement in Egypt. The Egyptian authorities have for decades, even, going back to the Ottoman Empire, tried to implement legal land registration without much success. Most of the conflicts and the violations over land are due to the lack of implementation and monitoring of laws. As mentioned, although the state has criminalized Wad al-Yad in most places in Egypt, the practice continues and even increased after implementation of Law no. 134, 2006, which prohibited any further acquisition of land through Wad al-Yad after August 2006. The continuing increase of the practice was partly due to people trying to gain as much land as possible before the activation of the law.

Law no. 143, 1981 was clear about considering Wad al-Yad a crime in large parts of Egypt. However, so far the state has not intervened to stop the violators. Furthermore, the state has not protected official landowners, as an individual can buy land legally and be forced to pay a

46 Salah Al-Dine, Mona, 2004, Al-Sharq Al-Awsat, A study reveals the reasons behind artefacts smuggling in Egypt, www.aawsat.com/details.asp?section=20&article=238832&issueno=9328 (Accessed June 07, 2009)

second time because of tribes who claim land ownership through Wad al-Yad.⁴⁷

The state is trying to be vigilant and there are efforts, such as the establishment of the CPSLU which has been tasked with trying to: stop violations, deal with the overwhelming use of customs and traditions and harmonize actions between the different authorities. These efforts, so far, have proven to be insufficient at putting an end to local traditional practices and defending citizens' rights. The state's reduction of registration fees has not encouraged people to register their land. The law gives the right to holders of °Urfī contracts to have legal possession of their land, although not through full ownership. As long as °Urfī contracts are partly legal, there is little chance that people will start to register their land.

Concerning archaeological sites, as mentioned, there is a lot to be done in order to avoid theft and the smuggling of artifacts in Egypt. The law clearly stipulates that archaeological land and artifacts are owned by the state, but still people claim land of archaeological importance and smuggle items across the border for financial gain. This is not only a violation of the law but also a loss of valuable insight into the ancient past of Egypt.

Through this review of land ownership, law enforcement and protection of archaeological land in Egypt the question that will be asked in the following chapter is whether or not the authorities follow their own initiatives and laws when they are dealing with direct conflicts over land and the theft of historical artifacts?

To find out whether this is the case or not, we are going to look at the conflict around the area of the monastery of Abū Fānā. Since there has also been reported stealing of artifacts around the monastery of Abū Fānā, we will discuss this part of the legislation as part of the conflict as well.

47 Mahrus, Marianne Nabil, Arab-West Report, 2009, Week 22, Art. 3, Land registration problems in Egypt, http://arabwestreport.info/AWR/article_details.php?article_id=22758&ayear=2009&aweek=&article_title=&article

The case of Abū Fānā Monastery in the context of land disputes in Egypt

In order to try and understand the phenomenon of land conflicts in Egypt we are going to use the example of the land disputes around the monastery of Abū Fānā. Through looking at the reasons behind this conflict we hope to understand why it erupted and how other conflicts like this one can be prevented in the future. Thus we are going to take a look at the historical background of the conflict and the development of the dispute from a conflict over land into one that had a sectarian aspect as well. Furthermore, we will examine the efforts that have been made to reach a reconciliation agreement in the area of the Abū Fānā Monastery and see how ownership laws in Egypt fit in this case. Finally we will look at why it was not possible to settle the conflict at court through the use of applied laws.

The church's interest in the monastery of Abū Fānā

It is important to clarify why the monastery is so valuable for the church. In a case like this the monastery does not just constitute a place for around 16 monks to pray and live. For the church in a governorate, like that in Minia, a monastery is a source of income. If you ask the monks in the monastery they will say that the monastery is important because it is located in an old monastery and church where in 1992 the remains of Saint Abū Fānā were found. This is of course important, but there are other factors that must be considered important in the case of this monastery as well:

Fund-raising

The monastery of Abū Fānā belongs to the Coptic Orthodox diocese of Mallawi and is important for the bishopric because it helps to obtain funds from abroad. If a bishop can present foreign Coptic

groups with a project for which he needs support it is far easier to get the support than if he just asks for general financial support.

Pilgrimage

The location of the monastery next to an old Christian church, monastery and graveyard and close to where the remains of Saint Abū Fānā were found has been an important factor in making Abū Fānā a local pilgrimage location. Pilgrims are also a source of income.

Retreat

Many monasteries in Egypt function as retreats for Christians who want to get out of the city and enjoy the quiet that surrounds a monastery. The monastery also receives support from these people. This group is a mixture of people and pilgrims who want to relax and who stay at the monastery for several days. Some give donations when they leave.

Farming

Many monasteries in Egypt have become rich through farming. When such a monastery belongs to a bishopric that monastery could well become a major source of income for a bishopric. The income from farming in the monastery of Abū Fānā will still be small because the monastery was only re-established ten years ago and developing desert land is costly. But the monastery of Abū Fānā certainly has the potential to become a major source of income for the diocese of Mallawi. This means that the size of a monastery is not without importance. The process of developing desert land takes time. The diocese of Mallawi therefore is involved in fundraising to cover the large expenses of developing the land but in 10-20 years the monastery could become fully self-supporting and even produce income for the bishopric through the sales of their crops because the monks are not allowed to own anything.

Problems concerning church building in Egypt

To better understand the bishopric of Mallawi's decision to proceed with the establishment of the monastery at Abū Fānā before getting an official permit we have to explain the problems concerning church building in Egypt.

In order to do so we will make use of a report written by Christian Fastenrath and Corin Kazanjian about church building in Egypt. In their report they explain church building in Egypt and the problems concerning the issue. First of all, they explain that church building involves a number of bureaucratic measures which need to be followed. These bureaucratic measures take time.

Appliance to build a church does not ensure that you will get a permit to do so. The application to build a church needs documents proving official ownership. As explained in the previous chapter applying for official ownership of a piece of land is a process which takes between 6-14 years in general. Only after receiving official ownership is it then possible to apply for building a church. It must be said that the procedure, concerning land, for building a mosque officially is the same. Thus the land on which a mosque is built must not be subject to conflicts or be illegally owned. On this point it seems that the conditions are the same for both building churches and mosques.

There is a big difference though in concern of social connections. The Copts are a minority in Egypt. This means, among other things, that the Copts have very limited political influence. For example there are only three Copts in the Egyptian parliament today out of a total number of 454 seats.⁴⁸ and there are only a small amount of Christians working for the local authorities. Christian Fastenrath and Corin Kazanjian mention in their research the importance of relationships in the local community in order to get permits to build churches or mosques. In general the Copts have limited connections to local political representatives in the districts of Egypt, which have a significant influence over the time it takes to get a permit or if a permit to build is granted at all.⁴⁹ It is thus not surprising that the bishopric of Mallawi chose to start building the monastery before getting a permit to do so. First of all because it takes a long time to get official landownership in Egypt and secondly because it is much easier for a bishopric to get a permit for a church or monastery if they have already created facts on the ground by building and cultivating the land. It is much harder for the authorities to prohibit the building of a church or a monastery if the buildings are already there. Some examples show that sometimes the church has made use of the media by claiming the presence of sectarian elements in cases where the local authorities have tried to remove illegal buildings which in the end then even prevented the demolition and secured a legal permit for the establishment of the building. The bishopric of Mallawi is, no doubt, aware of this. Thus creating facts on ground is often an important measure for bishoprics in Egypt to try to make sure they get a permit and to speed up the process of getting such a permit.

It must also be mentioned that this is not a phenomenon that only affects the church in Egypt. A lot of mosques and houses are build without permits as well and there is therefore nothing unusual in the church or bishoprics in the country making use of the same tactic, but it does explain why the monastery of Abū Fānā was established with the ownership of °Urfī contracts and not official landownership and building permits.

48 °Ādil, Shaymā', *Arab-West Report*, 2009, week 20, art, 44, Statistics: 27 Copts in the parliament in 1942, no Copts in the parliament in 1957 and three in 2005, http://arabwestreport.info/AWR/article_details.php?article_id=22704&ayear=2009&aweek=&article_title=&article_t_date=&article_p_date=&article_p_week=&t=f&char= (Accessed June 21, 2009).

49 Fastenrath, Christian and Kazanjian, Corin, *Arab-West Report*, 2008, AWR papers, Important factors for church building in Egypt, http://arabwestreport.info/AWRpapers-fulltext.php?report_id=4 (Accessed June 21, 2009).

Historical and geographical background

The monastery of Abū Fānā is located about 300 km south of Cairo. It is part of the governorate of Minia. The neighboring villages are Qasr Hur, Beni Khaled and Arab Hur,⁵⁰ about two km away, and al-Ashmunayn a town to the north – west of the monastery.⁵¹

To understand the historical background of the conflict we have to go back to Saint Abū Fānā, also called Apa Bane. He was an Egyptian Christian hermit who was born in Memphis around the year 354 AD, and died near the monastery in approximately 395 AD. The monastery of Abū Fānā is named after him.⁵²

The Coptic Orthodox Church's renewed interest was due to the excavations in the area, led by the Austrian archaeologist Helmut Buschhausen.⁵³ The recent history and reason for the tensions today, are outlined below.

1987 – The archaeological area, of the forthcoming excavations, was marked.

1987 – 1993 – The excavations begun. An international team, representing seven European academic institutions, excavated the remains of the historical monastery of Abū Fānā. The excavations were led by Prof. Dr. Helmut Buschhausen and financed by the Fonds zur Förderung der Wissenschaftlichen Forschung and Bundesministerium für Wissenschaft und Forschung in Österreich, which is located in Austria. Through funding it was possible to restore the large monastic church near the monastery of Abū Fānā.

1992 – Remains of Saint Abū Fānā were found. Abū Fānā is the first authentic identified saint in Egypt whose remains have been found. This is of great importance to the Coptic Orthodox Church in Egypt.

1993 – Restoration of the Coptic Orthodox Church at Abū Fānā stopped because of terrorist activities in and around the town of Mallawi, which is near to the monastery. Furthermore, the church was set on fire. During these years, it was impossible for foreigners to visit the area near

50 Sharqawi, Raed. Human Rights Activist and investigator.

51 Hulsman, Cornelis, Arab West Report, 2008, week 16, art. 9, Background on the Monastery of Abū Fānā, http://www.arabwestreport.info/AWR/article_details.php?article_id=19670&ayear=2008&aweek=16&article_title=&article_t_date=&article_p_date=&article_p_week=&t=f&char=0 (accessed May 4, 2009).

52 Hulsman, Cornelis, Arab West Report, 2008, week 16, art. 10, Saint Abū Fānā, http://www.arabwestreport.info/awr/article_details.php?article_id=19671&ayear=2008&aweek=16&article_title=Saint%20Abu%20Fanah&article_t_date=30-07-2008&article_p_date=2008-04-14&article_p_week=2008-04-20&t=f&char= (accessed May 4, 2009).

53 Hulsman, Cornelis, Arab-West Report, 2008, week 16, art. 9, Background on the Monastery of Abū Fānā, http://www.arabwestreport.info/awr/article_details.php?article_id=19670&ayear=2008&aweek=16&article_title=Background%20on%20the%20Monastery%20of%20Abu%20Fanah&article_t_date=30-07-

Mallawi, and the excavations stopped.⁵⁴

1997 – Attack on tourists in Luxor which led to 58 people being killed.⁵⁵ Security clamped down on military extremism. The region became safe from attacks on tourists and there has been no attack since 1997.⁵⁶

1999– five monks came to the monastery, and settled near the ruins of the old monastery, establishing new buildings for themselves.

2000 – The Supreme Council of Antiquities (SCA) decided to declare an area of one km by two km as the archaeological periphery of the monastery.⁵⁷ The Supreme Council of Antiquities suspected that this land contained historical remains of the ancient monastery. After the Sepreme Council of Antiquities' decision to establish the archaeological periphery, the monks started to build new buildings, new cells, a new entrance, a reception and a large cathedral, just outside the boundaries of the archaeological periphery.

2003 – 12 additional monks came to the monastery. Since the new buildings were established there have repeatedly been conflicts over land with neighbors of the monastery. The Egyptian authorities made a new examination of the archaeological land, and concluded that the land contains many valuable artifacts. Ihab Ramzi, one of the lawyers representing the monks and the bishop, claims that Bedouins started attacking the monastery after these new archaeological examinations took place in the area in 2003. The local newspaper of Minia governorate published that there were still artifacts in the area of the monastery. Furthermore, several cases of theft of archaeological artifacts were reported.⁵⁸

[2008&article_p_date=2008-04-14&article_p_week=2008-04-20&t=s](#) (accessed May 20, 2009).

54 Hulsman, Cornelis, Arab-West Report, 2008, week 37, art. 2, Chronology in restoring the historical church of Abū Fānā,

http://www.arabwestreport.info/awr/article_details.php?article_id=19921&ayear=2008&aweek=&article_title=Chronology%20in%20restoring%20the%20historical%20church%20of%20Abu%20Fana&article_t_date=September%2010,%202008&article_p_date=2008-09-08&article_p_week=2008-09-14&t=f&char= (accessed May 4, 2009).

55 Halawi, Jailan, 1999, Al-Ahram Weekly, Bin Laden behind Luxor massacre?,

<http://weekly.ahram.org.eg/1999/430/eg21.htm> (accessed May 4, 2009).

56 Reuters Limited, 2009, Chronology of attacks on tourist targets in Egypt: A detailed history from 1992 to the present., <http://www.usdivetravel.com/T-EgyptTerrorism.html> (accessed May 4, 2009).

57 Hulsman, Cornelis, Arab-West Report, 2008, week 16, art. 9, Background on the monastery of Abū Fānā,

www.arabwestreport.info/awr/article_details.php?article_id=19670&ayear=2008&aweek=16&article_title=Background%20on%20the%20Monastery%20of%20Abu%20Fanah&article_t_date=30-07-2008&article_p_date=2008-04-14&article_p_week=2008-04-20&t=f&char= (accessed May 4, 2009).

58 Ihab Ramzi

2004–2008 – Nine conflicts between monks and Bedouins were recorded.⁵⁹ Accusations of different kinds were made by both Christian monks and Muslim Bedouins taking part in the conflict (a more detailed list of accusations will follow later in this chapter).

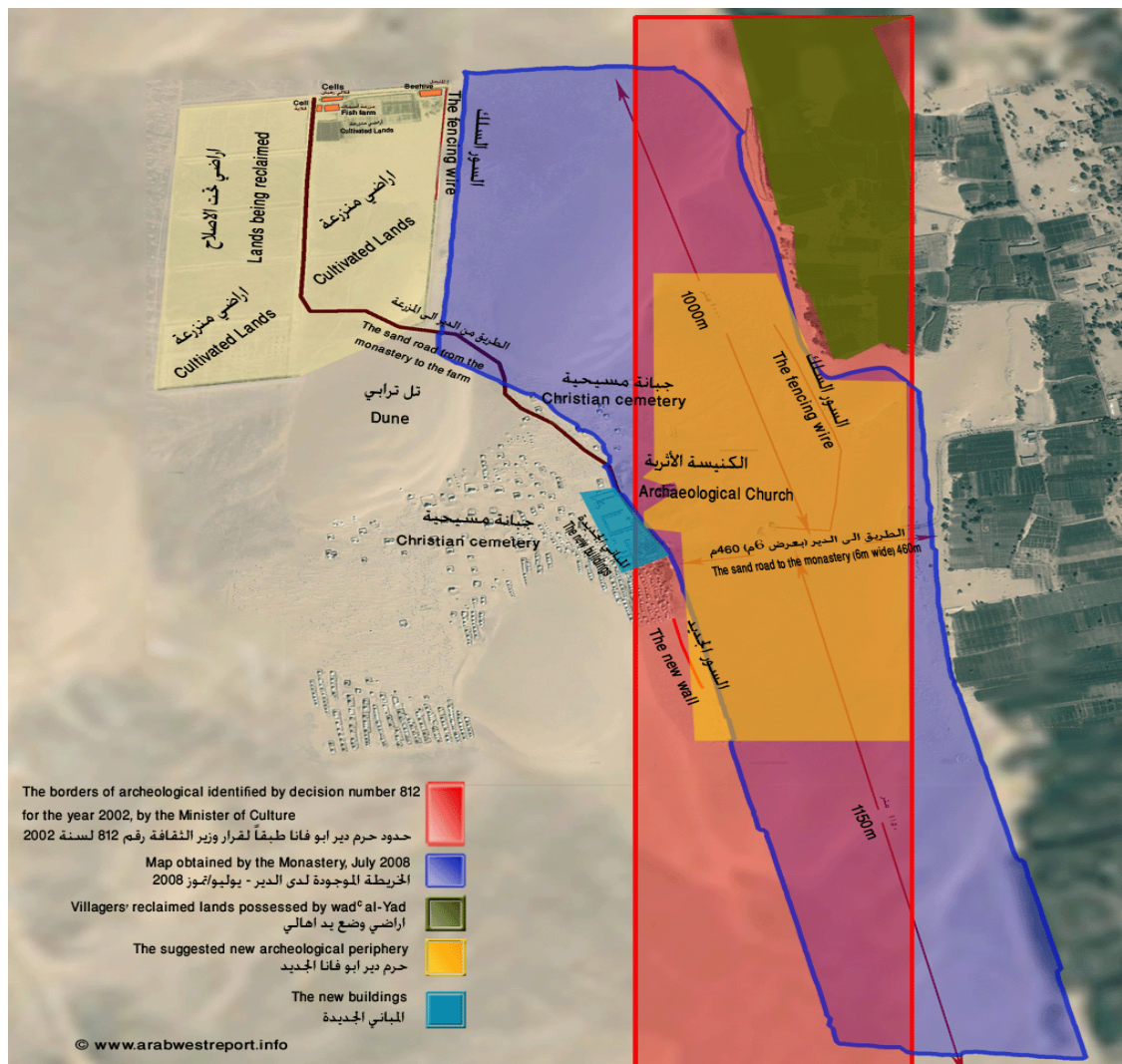
2008 – On May 31, 2008 the conflicts culminated in an attack on the periphery of the new monastery where new prayer cells were located. According to the Bedouins the attack took place because the monks built a wall on a piece of land that the Bedouins consider theirs. Local monks say approximately 60-70 Arabs (Bedouins) took part in the attack. One Bedouin was killed, and seven monks were wounded; four during the attack, and three due to torture after they were abducted. 13 Muslim Bedouins and two Christians were arrested, in connection with the attack on the monastery, and brought before the prosecutor-general.⁶⁰ The total cost of the damages from the attack was estimated by the monks to be around one million Egyptian pounds.⁶¹

Overview of Abū Fānā in 2008

The map on the following page is one that Arab-West Report has made through information from the governorate of Minia, and monks at the monastery of Abū Fānā. It shows the area of disputed land. The original archaeological church of Abū Fānā is located close to the center of the map. The red area shows the original archaeological periphery. The blue area shows the monastery's land. The yellow area indicates the new archaeological periphery from 2008, the light blue shows the buildings of the new monastery, while the green area shows new settlements, that the Bedouins have established.

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- 59 Hulsman, Cornelis, Arab-West Report, 2008, week 15, art. 3, Governor Ahmed Dia el-Din speaks out about the tensions around the Monastery of Abū Fānā,
http://www.arabwestreport.info/google/article_details.php?article_id=19464&ayear=2008&aweek=15&article_title=Governor%20Ahmed%20Dia%20el-Din%20speaks%20out%20about%20the%20tensions%20around%20the%20Monastery%20of%20Ab%3%83%86%92%83%86%E2%80%99%C3%83%C2%A2%C3%A2%E2%80%9A%C2%AC%C3%82%C2%A6%C3%83%C6%92%C3%A2%E2%82%AC%C5%A1%C3%83%E2%80%9A%C3%82%C2%AB%20F%C3%83%C6%92%C3%86%E2%80%99%C3%83%C2%A2%C3%A2%E2%80%9A%C2%AC%C3%85%C2%BE%C3%83%C6%92%C3%A2%E2%82%AC%C5%A1%C3%83%E2%80%9A%C3%82%C2%81n%C3%83%C6%92%C3%86%E2%80%99%C3%83%C2%A2%C3%A2%E2%80%9A%C2%AC%C3%85%C2%BE%C3%83%C6%92%C3%A2%E2%82%AC%C5%A1%C3%83%E2%80%9A%C3%82%C2%81&article_t_date=08-07-2008&article_p_date=2008-04-07&article_p_week=2008-04-07&t=f&char=1 (accessed May 21, 2009)
- 60 Hulsman, Cornelis, Arab-West Report, 2008, week 16, art. 8, Egyptian villagers resist monastery's growth. Muslims, Christians clash over desert, faith, and politics in Upper Egypt,
http://www.arabwestreport.info/awr/article_details.php?article_id=19669&ayear=2008&aweek=16&article_title=Egyptian%20villagers%20resist%20monastery%E2%80%99s%20growth.%20Muslims,%20Christians%20clash%20over%20desert.%20faith,%20and%20politics%20in%20Upper%20Egypt&article_t_date=23-07-2008&article_p_date=2008-04-14&article_p_week=2008-04-20&t=f&char=
- 61 Saqqa, Katia, Arab-West Report, 2008, week 24, art. 4, Attacks against the Coptic Orthodox Monastery of Abū Fānā, covering the period June 9 – June 16,
[http://www.arabwestreport.info/google/article_details.php?article_id=20419&aweek=24&ayear=2008&t=s&char=1&article_title=Attacks%20against%20the%20Coptic%20Orthodox%20Monastery%20of%20Ab%C5%AB%20F%C4%81n%C4%81%20\[2\]&article_t_date=June%202014-20&article_p_date=2008-06-09&article_p_week=2008-06-09](http://www.arabwestreport.info/google/article_details.php?article_id=20419&aweek=24&ayear=2008&t=s&char=1&article_title=Attacks%20against%20the%20Coptic%20Orthodox%20Monastery%20of%20Ab%C5%AB%20F%C4%81n%C4%81%20[2]&article_t_date=June%202014-20&article_p_date=2008-06-09&article_p_week=2008-06-09), (Accessed June 15, 2009).

Because of the conflict the archaeological periphery has been made smaller than to begin with. This is due to the dispute and due to both monks and Bedouins crossing the original archaeological periphery.⁶² The fact that both groups have been trespassing the legal boundaries of the archaeological periphery has led to monks claiming that the Bedouins started attacking the monastery because of the valuable artifacts that are said to be located on the monastery's land. Furthermore it has led to monks claiming that the authorities are being biased and judging in favor of the Bedouins because they have not done enough to protect the artifacts and the land within the archaeological periphery. However, the monks have also been trespassing on the archaeological periphery. These accusations, besides the conflict over land, have shown that both groups involved in the conflict have doubts about the way the authorities have dealt with the protection of the archaeological artifacts in the area.



The disputed land of Abū Fānā, 2008. Map made by AWR based on information

62 Graversen, Maria & Maḥrūs, Marianne Nabīl, Arab-West Report, 2009, week 21, art.4, An interview with MP^c Alā' Hassānayn on September 9 about Abū Fānā, http://arabwestreport.info/AWR/article_details.php?article_id=22708&aweek=21&ayear=2009&t=s&char=0 (Accessed June 9, 2009).

provided by the Governor of Minia and monks at the monastery of Abū Fānā August 2008.

Actors involved in the conflict

In the case of Abū Fānā we are dealing with a conflict between two main groups; Christian monks and Muslim Bedouins. Furthermore there are specific individuals involved in the conflict. Both with regard to the people actively involved in the conflict, and with regard to negotiators trying to settle the conflict. In this part, we will give an overview of both the groups and individuals involved.

The groups involved

As mentioned above this conflict stems from tensions between Christian monks and Muslim Bedouins. Both groups claim to have the right to the disputed land. This is though not the same, as this conflict being sectarian. At the very least this implies that the conflict is not just sectarian, as we will make clear in the following section dealing with the legal aspect of the conflict.

The monks at Abū Fānā have been living in the area for about 10 years. They came because of the increase in the Copts' interest in the monastery of Abū Fānā. In those 10 years they have built a new monastery close to the archaeological periphery of the historic monastery, new monks have arrived and they have started to expand the area of the monastery. The monks though, claim that the land which they have expanded into was uncultivated land that was bought through 'Urft contracts, following the customs of cultivating in concern of ownership.

The Bedouins have been living in the area for a long time. They consider themselves the owners of the land. They feel threatened by the monastery's expansion. Because of the population growth in Egypt more and more people move to the desert, which has awakened the Bedouins concern about areas of land around Abū Fānā Monastery that will be accessible in the future.

Concerning the actors of the conflict, a third level actor can be included as well in our analysis. This phenomenon of third level actors, is a relatively new phenomenon, best described by Rogers Brubaker⁶³ (professor of sociology, University of California). He uses the word "homeland-actors" to describe third level actors. The phenomenon has only come into being recently because it often requires the use of globalization tools such as satellite TV, telephone and internet.

In this case we find other Copts in Egypt and Christians in other Christian countries being third level actors. They are third level actors because they were not directly involved in the conflict to begin with but became involved when they found a common interest with one of the parties in the conflict. Their common interests in this case were the protection of the monks and buildings that are important to the Copts and securing the rights and future of the Copts in Egypt. The

63 University of California, <http://www.sscnet.ucla.edu/soc/faculty/brubaker/> (Accessed June 2, 2009).

phenomenon is sometimes used nowadays by minorities who feel themselves unable to defend their interests in the countries where they live just by themselves (in this regard it is important to look at the use of media as well. The media today represents the most effective way of activating third level actors. We will focus on that perspective later in this report). By using such a tactic the minority concerned can put pressure on the other group involved in a conflict, but also on the authorities and even governments. There are some dangers in using tactics like this one though. Minorities risk becoming isolated and mistrusted in the community because the majority may feel that the minority concerned does not trust the local community to solve tensions and conflicts. In this case it could lead to Copts in Egyptian society becoming more isolated and a growing mistrust between the religious groups in Egypt.

This dimension is important if you look at the future possibilities for peace in an area like Abū Fānā. Reconciliation is to be solved locally, and if one part refuses local negotiation and depends on help from outside the community, or country even, peace will be hard to establish. This is not the same as saying that the monks at Abū Fānā do not feel it necessary to get help from outside their community or that it is wrong to use this tactic but these kind of relations should not replace local dialogue.

The government and local police could be considered a third level actor as well in the sense that Copts have accused the state and police of being biased and making decisions in favor of the Muslims. Such an accusation is hard to prove but if this feeling is present among Copts then the lack of trust in the society in which they live is real and needs to be dealt with as well.

Individuals involved

Many people have been involved in the conflict. There are many speculations about the different events and the information at hand, especially concerning the incident on ⁶⁴ May 31, 2008. Here we give an overview of the people involved in the conflict in one way or another:

Haj ʿAbd al-Qādir ʿAbd al-Rahīm: Muslim. He has a lot of influence in the area and has many people working for him as he is said to own a lot of land. He was accused by the monks of taking part in the attack on May 31, 2008. The monks claim that he was one of the people firing shots during the attack on the monastery. Some monks have stated that he was there during the attack, while the Muslims deny that. As well as his involvement in a previous attack that took place in 2006

64 Maḥrūs, Marianne Nabīl, Arab-West Report, 2009, week 21, art. 5, The Abū Fānā story: interview with Father Cyril, http://arabwestreport.info/AWR/article_details.php?article_id=22709&aweek=21&ayear=2009&t=s&char=0 (Accessed June 9, 2009).

he is also accused by the church of being an antiquities dealer.⁶⁵ According to ^cAlā' Hassānayn he lives quite far away from the monastery and already owns a great deal of land and therefore would have no interest in owing a piece of land in the Abū Fānā area.⁶⁶ A Christian villager named Masud ^cAbd al-Malek Abshkarun even testified that Haj ^cAbd al-Qādir was at his own property at the time of the attack.⁶⁷ This further led to accusations from the monks and their lawyers that if he does not have any interests in the Abū Fānā land then he must have attacked the monks because they are Christians.⁶⁸

Samir Abu Luli: Muslim. Accused, by the monks, of initiating the attack on the monastery on May 31, 2008. The monks claim that he took part in the attack on the monastery as well.⁶⁹ ^cAlā' Hassānayn, claims that he was not involved in the attack but was there to protect the monks from the Bedouins.⁷⁰

Abd allah: The son of Samir Luli. Muslim. Ihab Ramzī, a lawyer who was representing the monks, claims that he is the one responsible for the death of Khalīl Ibrāhīm. He also added that he has Samir Luli's testimony on tape. According to him, Samir Luli's son killed Khalīl Ibrāhīm, because he was mentally disabled, and thus a bad example for Muslims.⁷¹

Khalīl Muhammad Ibrāhīm Abu Qureen: The Muslim who was shot dead on May 31, 2008. Whether he was killed by a Muslim or Christian is still subject to debate. Ihab Ramzī claims that Khalīl was mentally disabled and was killed by Abd allah, because he was an embarrassment to

65 Maḥrūs, Marianne Nabīl, Arab-West Report, 2009, week 21, art. 7, The Abū Fānā story: a meeting in the house of ^cAbd al-Qādir ^cAbd al-Rahīm, http://arabwestreport.info/AWR/article_details.php?article_id=22711&aweek=21&ayear=2009&t=s&char=0 (Accessed June 9, 2009).

66 Maḥrūs, Marianne Nabīl, Arab-West Report, 2009, week 21, art. 5, The Abū Fānā story: interview with Father Cyril, http://arabwestreport.info/AWR/article_details.php?article_id=22709&aweek=21&ayear=2009&t=s&char=0 (Accessed June 9, 2009).

67 Maḥrūs, Marianne Nabīl, Arab-West Report, 2009, week 21, art. 7, The Abū Fānā story: a meeting in the house of ^cAbd al-Qādir ^cAbd al-Rahīm, http://arabwestreport.info/AWR/article_details.php?article_id=22711&aweek=21&ayear=2009&t=s&char=0 (Accessed June 9, 2009). It is according to lawyer Wael Hassan often not difficult for rich people to buy the testimonies of poorer Egyptians and it is therefore not impossible but also not certain that this Christian was bought by ^cAbd al-Qādir ^cAbd al-Rahīm for making this claim.

68 Ihab Ramzi

69 Ihab Ramzi

70 Maḥrūs, Marianne Nabīl, Arab-West Report, 2009, week 21, art. 7, The Abū Fānā story: a meeting in the house of ^cAbd al-Qādir ^cAbd al-Rahīm, http://arabwestreport.info/AWR/article_details.php?article_id=22711&aweek=21&ayear=2009&t=s&char=0 (Accessed June 9, 2009).

71 Ihab Ramzi

other Muslims. Lawyer Wael Hassan and CIDT director Cornelis Hulsman find that a very poor and unlikely argument because no evidence was found for his supposed mental disability. He was married with a child. Mentally disabled people may be neglected but they are not killed in Egypt. This claim has, according to Alla Hassanein, further angered the Arabs.⁷²

Ahmed Dīya al-Dīn: Muslim. Police general. Governor of Minia. He attempted to solve the conflict.

Jamāl Messaied and Majdī Ruslan: Lawyers representing the Arabs.

Father Cyril Ava Fini: Monk from Abū Fānā Monastery. Says he witnessed the attack on the monastery. Unofficial spokesman of the monks at the monastery after Father Mina.

Rifat Fawzī: Christian. One of the contractors who was charged with the murder of Khalīl Muhammad Ibrāhīm Abu Qureen on May 31, 2008. The police arrested Rifat Fawzī because of the claims made by the Muslim driver of the tractor, which was rented by the monks at the monastery, that he witnessed him, accompanied by his brother, killing the Muslim villager Khalīl Muhammad Ibrāhīm Abu Qureen. The two Christians are still in custody.

The forensic medical report, of the Muslim who was killed clarifies, according to lawyer Ihab Ramzī, that there was no bullet found in the body although the Arabs claim that the bullet came from Fawzī's gun. Ihab Ramzī claims that no blood was found where the Muslims claim that Khalīl Muhammad Ibrāhīm Abu Qureen was shot, so according to him, there seems to be no forensic evidence that Fawzī shot Khalīl Ibrāhīm.⁷³ Alā' Hassānayn mentioned that authorities are holding him in prison to put pressure on the Christians to accept the conventional reconciliation.

Ibrahim Fawzī: Christian. Brother of Rifat. The other contractor working at the monastery, he has also been charged with the murder of Khalīl Ibrāhīm. There is a Muslim villager who saw him at the time and place where Khalīl was killed and he has claimed that he was involved in his murder. The monks though say that he, just like Rifat Fawzī, is being held in custody to put pressure on the negotiations and that he was not at the monastery on the day of the attack.

72 Saqqa, Katia, Arab-West Report, 2009, week 24, art. 4, Attacks against the Coptic Orthodox Monastery of Abū Fānā, covering the period June 9 – June 16 [2], [http://www.arabwestreport.info/google/article_details.php?article_id=20419&ayear=2008&aweek=24&article_title=Attacks%20against%20the%20Coptic%20Orthodox%20Monastery%20of%20Ab%C3%85%C2%AB%20F%C3%84%C2%81n%C3%84%C2%81%20\[2\]&article_t_date=June%2014-20&article_p_date=2008-06-09&article_p_week=2008-06-09&t=f&char=1](http://www.arabwestreport.info/google/article_details.php?article_id=20419&ayear=2008&aweek=24&article_title=Attacks%20against%20the%20Coptic%20Orthodox%20Monastery%20of%20Ab%C3%85%C2%AB%20F%C3%84%C2%81n%C3%84%C2%81%20[2]&article_t_date=June%2014-20&article_p_date=2008-06-09&article_p_week=2008-06-09&t=f&char=1) (Accessed June 15, 2009).

73 Interview with Ihab Ramzi

Ibrāhīm Tiqī Riad: Christian/Muslim. Brother of Father Mina. The monks and Father Mina claim that he was kidnapped during the attack on the monastery, and that he has not yet been found.⁷⁴

^c
Alā' Hassānayn stated that he converted to Islam ten years ago, and that he lives in Alexandria today.⁷⁵ He presented a photo of him to Drs. Cornelis Hulsman in an outfit that appears to be Muslim and further suggested that we could go and interview him.

Father Zakaria: The priest of the church in Qasr Hur, one of the villages close to the monastery of Abū Fānā. Before the last incident Samir Abu Luli went to see Father Zakaria because he knows and trusts him to talk to him about the problems concerning the land issues at Abū Fānā. Father Zakaria thus became involved in the conflict as a sort of negotiator.

Bishop Aghabius: Bishop of Deir Mawas. Acted as negotiator for the monks at Abū Fānā, though not official.

Ramy Rafiq, Zakari Kamal Mikha'il and Ihab Ramzi: Christians. Lawyers who have represented the monastery.

Īd Labīb: Christian businessman from Deir Abu Hinnis. Acting as negotiator.⁷⁶

^c
Alā' Hassānayn: Member of Parliament, Member of Customary Conciliation Commission, vice-president of the religious affairs committee in the Egyptian Parliament. Official negotiator in charge of the reconciliation process.

Other persons involved

74 Hulsman, Cornelis, Arab-West Report, 2008, week 16, art. 5, Monks of the Monastery of Abū Fānā talking about the attack on May 31,
http://www.arabwestreport.info/awr/article_details.php?article_id=19666&ayear=2008&aweek=&article_title=Monks%20of%20the%20Monastery%20of%20Abu%20Fana%20talking%20about%20the%20attack%20on%20May%20031&article_t_date=28-07-2008&article_p_date=2008-04-14&article_p_week=2008-04-20&t=f&char= (Accessed June 3, 2009).

75 Graversen, Maria & Mahrūs, Marianne Nabīl, Arab-West Report, 2009, week 21, art. 4, An interview with MP ^c Alā' Hassānayn on September 9 about Abū Fānā,
http://arabwestreport.info/AWR/article_details.php?article_id=22708&aweek=21&ayear=2009&t=s&char=0 (Accessed June 9, 2009).

76 Hulsman, Cornelis, Arab-West Report, 2008, week 17, art. 1, Editorial,
http://www.arabwestreport.info/awr/article_details.php?article_id=19774&ayear=2008&aweek=17&article_title=Editorial&article_t_date=25-08-2008&article_p_date=2008-04-21&article_p_week=2008-04-27&t=f&char= (Accessed May 27, 2009).

Two Muslim Bedouins: are being held in custody. We do not know the names of those two people.

Three Christian monks: Three monks were kidnapped during the attack on the monastery. They were tortured and, according to their testimony, the Bedouins attempted to make them spit on the Cross and the Bible⁷⁷ and make them say the Shahādah. The Bedouins reject the claims that they forced them to do this,⁷⁸ and since there has been no trial in court, this aspect of the conflict, among others, remains unclear.

Reactions following the May 31, 2008 attack on the monastery

Since the attack on Abū Fānā Monastery, the government tried to solve the problems in the area. Put in charge of the negotiations, by both president Mubārak and Pope Shenouda,⁷⁹ was ^cAlā' Hassānayn, a member of parliament representing the neighboring electoral district of Dayr al-Mawas. The goal of the committee he headed was to settle the dispute over land and the criminal aspects without taking the case to the official courts. Accordingly the land conflict has been solved and a reconciliation contract, concerning the land issue, was signed on August 27, 2008.⁸⁰ The contract legalized 552 feddans for the monastery and separated the land of the monastery from the villagers and gave the monastery authorization to build a fence of 1.5 kms all around the monastery to prevent any further attacks. The agreement included a penalty clause estimated at 2 million LE that should be paid in case of violation of the terms and the conditions of the contract.⁸¹ We were unfortunately not able to get a copy of the contract settling the land dispute. In spite of the settling of the land conflict, the repercussions of the attack are still lingering. A reconciliation celebration was held in Minia on September 9. However the bishopric refused to attend because two

77 Hulsman, Cornelis, Arab-West Report, 2008, week 16, art. 13, The New York Times critiques Egypt's security officials for downplaying sectarian tensions in Egypt, http://www.arabwestreport.info/awr/article_details.php?article_id=19674&ayear=2008&aweek=&article_title=The%20New%20York%20Times%20critiques%20Egypt%C3%A2%E2%82%AC%E2%84%A2s%20security%20officials%20for%20downplaying%20sectarian%20tensions%20in%20Egypt&article_t_date=02-08-2008&article_p_date=2008-04-14&article_p_week=2008-04-20&t=f&char= (Accessed May 27, 2009).

78 Barnamig Al-Haqiqa, 2008, http://www.copts.com/arabic/index.php?option=com_content&task=view&id=2726&Itemid=1 (Accessed June 15, 2009).

79 Graversen, Maria & Maḥrūs, Marianne Nabīl, Arab-West Report, 2009, week 21, art. 4, An interview with MP ^cAlā' Hassānayn on September 9 about Abū Fānā, http://arabwestreport.info/AWR/article_details.php?article_id=22708&aweek=21&ayear=2009&t=s&char=0 (Accessed June 9, 2009).

80 Chetty, Janina, 2009, Arab-West Report, Coptic activist and media reporting in the aftermath of the Abū Fānā Monastery attack August 2008 – January 2009, http://www.arabwestreport.info/AWRpapers-fulltext.php?report_id=13 (accessed May 4, 2009).

81 Graversen, Maria & Maḥrūs, Marianne Nabīl, Arab-West Report, 2009, week 21, art. 4, An interview with MP ^cAlā' Hassānayn on September 9 about Abū Fānā, http://arabwestreport.info/AWR/article_details.php?article_id=22708&aweek=21&ayear=2009&t=s&char=0 (Accessed June 9, 2009).

contractors, Rifat and Ibrāhīm Fawzī, are still being held by the police.

On September 21 a six article reconciliation contract was agreed upon by; the negotiators, Bishop Aghabuis, the villagers involved in the attack and ^cAlā' Hassānayn, but it was never signed by the parties involved because the contract demanded that the monks pay five million Egyptian pounds in blood money for the Bedouin who was killed, a clause which they refused to agree to. Monks are not allowed to carry weapons in Egypt.⁸² For the monks to pay the blood money it would be tantamount to admitting that they shot Khalīl Ibrāhīm and they deny the exchange of gun shots with the Arabs.⁸³ Further, the contract demanded that the monks take back their testimonies concerning the attack, which they would not do. The two Christian brothers were to be released from prison as part of the deal.⁸⁴ None of the monks have been suspected of having fired the deadly shot (this point has been subject to various discussions. Muslims say the two imprisoned Christian contractors, Rifat Fawzy and Ibrāhīm Fawzī, fired the deadly shot.⁸⁵, while Ihab Ramzi a lawyer representing the monks, claims that it was the son of Samir Luli, ^cAbd Allāh, who fired the deadly shot. He also claims to have a tape recording with the confessions of Samir Luli committing the attack and further confessing that his son shot the Bedouin. Ihab Ramzī also added that Khalīl Ibrāhīm was not killed at the monastery, since the police investigations showed that there was no blood where the Bedouins say he was killed). In addition to the Bedouins claiming blood money for the killed man, Ihab Ramzī raised the question of the Bedouins paying compensation for the abducted monks, their hospital treatment and the damages done to the monastery.⁸⁶

On October 6, ^cAlā' Hassānayn told the newspaper *al-Misrī al-Yawm* that he would withdraw from the negotiations. However Zakary Kamāl, one of the lawyers representing the monks, said that negotiations were ongoing with directions from Pope Shenouda.

On November 28, Zakary Kamāl denied that there were any negotiations between the monks and the Bedouins.

82 Chetty, Janina, Arab-West Report, 2009, week 2, art. 2, Accusations that Christian clergymen use weapons, http://www.arabwestreport.info/awr/article_details.php?article_id=21808&ayear=2009&aweek=2&article_title=Accusations%20that%20Christian%20clergymen%20use%20weapons&article_t_date=10-02-2009&article_p_date=2009-01-08&article_p_week=2009-01-14&t=s (accessed May 4, 2009).

83 Saqqa, Katia, Arab-West Report, 2008, week 23, art. 2, Attacks against the Coptic Orthodox Monastery of Abū Fānā [1], [http://www.arabwestreport.info/google/article_details.php?article_id=20295&ayear=2008&aweek=23&article_title=Attacks%20against%20the%20Coptic%20Orthodox%20Monastery%20of%20Ab%20C3%85%20AB%20F%20C3%84%20C2%81n%20C3%84%20C2%81%20\[1\]&article_t_date=02-06-2008&article_p_date=2008-06-02&article_p_week=2008-06-02&t=f&char=1](http://www.arabwestreport.info/google/article_details.php?article_id=20295&ayear=2008&aweek=23&article_title=Attacks%20against%20the%20Coptic%20Orthodox%20Monastery%20of%20Ab%20C3%85%20AB%20F%20C3%84%20C2%81n%20C3%84%20C2%81%20[1]&article_t_date=02-06-2008&article_p_date=2008-06-02&article_p_week=2008-06-02&t=f&char=1) (accessed June 15, 2009).

84 One news now, 2008, Two Copts wrongly detained, tortured in Egypt, <http://www.onenewsnow.com/Persecution/Default.aspx?id=338030> (accessed May 4, 2009).

85 Nāfi^c, Sa^cīd, Kamāl, Theresa, Arab-West Report, 2008, week 38, art. 3, Abū Fānā reconciliation contract re-shaped, http://www.arabwestreport.info/awr/article_details.php?article_id=20129&ayear=2008&aweek=38&article_title=Abu%20Fana%20reconciliation%20contract%20re-shaped&article_t_date=15-09-2008&article_p_date=2008-09-15&article_p_week=2008-09-21&t=f&char= (accessed May 4, 2009).

86 Ihab Ramzi

On December 28, news reports stated that the two Christian contractors and the two Muslim Bedouins were still in prison. There was still no sign of a settlement.

January 30 - 31, Bishop Aghabius and ^cAlā' Hassānayn stated that four people were still in custody in order to put pressure on both groups to reach an agreement. According to the Emergency Law in Egypt,⁸⁷ the four suspects can be detained without being sentenced. The law gives the security forces the right to detain suspects, in order to calm public opinion. No new information about the four detained people has been released since and the legal aspect of the conflict remains unsettled.⁸⁸

According to the monks, who were abducted, the Muslim Arabs tried to force them to convert to Islam, by trying to make them declare the Shahādah.⁸⁹ (The shahādah is the first pillar of Islam. It is a declaration of the Muslim creed). This claim, among others, has given the conflict a sectarian dimension. The monks believe that the conflict is sectarian, while the Muslim Bedouins still claim that the conflict only concerns the land.

Following the attack on the monastery several hundred Christians demonstrated in front of the archbishopric in the city of Mallawi.⁹⁰ Christians demonstrating in Egypt is a new phenomenon.⁹¹ This aspect gives the question of groups involved in the conflict another dimension (this will be explained in more detail later in the report). Pictures and articles of demonstrating Christians were seen all over Egypt, thus fuelling the perception of this being a sectarian conflict. There were recorded incidents of fires in some of the monks' prayer cells, in connection with the attack on May 31, 2008, which are located apart from the monastery. The monks accuse the Bedouins of setting the fires while some Bedouins claim that the monks set the fires themselves. Monks say that the motive for the Bedouins to set the fires would be to hurt the monks during the

87 Mustafa, Tamir, 2008, Human Rights Tribune, The last extension of emergency law in Egypt?, <http://www.humanrights-geneva.info/The-Last-Extension-of-Emergency.3241> (Accessed May 25, 2009).

88 Chetty, Janina, Arab-West Report, 2009, week 2, art. 2, Accusations that Christian clergymen use weapons, http://www.arabwestreport.info/awr/article_details.php?article_id=21808&ayear=2009&aweek=2&article_title=Accusations%20that%20Christian%20clergymen%20use%20weapons&article_t_date=10-02-2009&article_p_date=2009-01-08&article_p_week=2009-01-14&t=s (accessed May 4, 2009).

89 Hulsman, Cornelis, Arab-West Report, 2008, week 16, art. 13, The New York Times critiques Egypt's security officials for downplaying sectarian tensions in Egypt, http://www.arabwestreport.info/awr/article_details.php?article_id=19674&ayear=2008&aweek=16&article_title=The%20New%20York%20Times%20critiques%20Egypt%E2%80%99s%20security%20officials%20for%20downplaying%20sectarian%20tensions%20in%20Egypt&article_t_date=02-08-2008&article_p_date=2008-04-14&article_p_week=2008-04-20&t=f&char= (accessed May 4, 2009)

90 Saqqa, Katia, Arab-West Report, 2008, week 23, art. 2, Attacks against the Coptic Orthodox Monastery of Abū Fānā [1], [http://www.arabwestreport.info/google/article_details.php?article_id=20295&ayear=2008&aweek=23&article_title=Attacks%20against%20the%20Coptic%20Orthodox%20Monastery%20of%20Ab%C3%85%C2%AB%20F%C3%84%C2%81n%C3%84%C2%81%20\[1\]&article_t_date=02-06-2008&article_p_date=2008-06-02&article_p_week=2008-06-02&t=f&char=1](http://www.arabwestreport.info/google/article_details.php?article_id=20295&ayear=2008&aweek=23&article_title=Attacks%20against%20the%20Coptic%20Orthodox%20Monastery%20of%20Ab%C3%85%C2%AB%20F%C3%84%C2%81n%C3%84%C2%81%20[1]&article_t_date=02-06-2008&article_p_date=2008-06-02&article_p_week=2008-06-02&t=f&char=1) (accessed June 15, 2009).

91 Hulsman, Cornelis, Arab-West Report, 2008, week 16, art. 9, Background on the Monastery of Abū Fānāh, http://www.arabwestreport.info/awr/article_details.php?article_id=19670&ayear=2008&aweek=16&article_title=Background%20on%20the%20Monastery%20of%20Abu%20Fanah&article_t_date=30-07-2008&article_p_date=2008-04-14&article_p_week=2008-04-20&t=f&char= (accessed May 6, 2009).

conflict, while Bedouins say that the motive for the monks setting the fires without causing major damage to the cells would be to garner support from Christian Copts in Egypt, and to gain sympathy from other Christian communities in countries with a Christian majority. There have been cases of conflict between Muslims and Christians prior to the Abū Fānā conflict, which resulted in Christian communities (primarily Coptic communities) in foreign countries giving financial support to the Copts in Egypt to support them.⁹²

The reconciliation of the incidents of Abū Fānā has only succeeded in dealing with the land dimension of the conflict and has not tackled the crimes that happened as a result of the conflict over land. This is very problematic because it does not settle the legal aspect concerning damages done to buildings or humans.

The legal aspect

As mentioned above the legal aspect concerning the crimes committed is still unresolved. The conflict over land has been settled through a conventional committee and not through the court. In this section we will take a look at the problems in the case of Abū Fānā, concerning land ownership and the legal terms as explained in the previous chapter. Furthermore we will take a look at how the authorities have dealt with the conflict.

Accusations between groups

There have been several accusations between the Christian monks and the Muslim Bedouins. Here we provide an overview of most of the accusations the two groups have aimed at each other:

The Bedouins' accusations toward the monks:

- Some of the Bedouins accuse the monks of stealing land that for generations has belonged to the Bedouins. The Bedouin ownership of the land was not through documents but through customs.⁹³
- They accuse the monks of threatening them, by filming them and saying they will send the films to international agencies, so that they will come and help them.⁹⁴

92 Hulsman, Cornelis, Arab-West Report, 2008, week 16, art. 8, Egyptian villagers resist monastery's growth. Muslims, Christians clash over desert, faith, and politics in Upper Egypt, http://www.arabwestreport.info/awr/article_details.php?article_id=19669&ayear=2008&aweek=16&article_title=Egyptian%20villagers%20resist%20monastery%E2%80%99s%20growth.%20Muslims,%20Christians%20clash%20over%20desert.%20faith.%20and%20politics%20in%20Upper%20Egypt&article_t_date=23-07-2008&article_p_date=2008-04-14&article_p_week=2008-04-20&t=f&char= (accessed May 6, 2009).

93 Barnamig Al-Haqiqa, 2008, http://www.copts.com/arabic/index.php?option=com_content&task=view&id=2726&Itemid=1 (Accessed June 15, 2009).

94 Barnamig Al-Haqiqa, 2008, http://www.copts.com/arabic/index.php?option=com_content&task=view&id=2726&Itemid=1 (Accessed June 15,

- Some Bedouins accuse the monks of setting fire to the prayer cells themselves, to gain sympathy from outside actors.⁹⁵
- Some Bedouins accuse the monks of shooting a Bedouin during the attack on May 31, 2008. In that context the Bedouins have demanded blood money for the dead Muslim.⁹⁶
- The monks are accused by some Bedouins of building on archaeological land and of stealing monuments from the area.⁹⁷
- Some of the Bedouins accuse the monks of building an illegal wall around land that does not belong to the monastery.⁹⁸
- Some of the Bedouins accuse the monks of spreading untrue rumors, for example that Khalīl Muhammad Ibrāhīm Abu Qureen was mentally disabled, and that he was killed by a Muslim.⁹⁹
- Some of the Bedouins accuse the monks of lying about the abduction of Ibrāhīm Tiqi Riad.¹⁰⁰

The monks' accusations toward the Bedouins:

- Monks are accusing the Bedouins of being responsible for the attack on the monastery on May 31, 2008.¹⁰¹
- Some of the monks accuse a Muslim, Abd allah, the son of Samir Luli, of shooting Ibrāhīm Said, the Muslim who died during the attack on the monastery on May 31, 2008.¹⁰²

2009).

95 Barnamig Al-Haqiqa, 2008, http://www.copts.com/arabic/index.php?option=com_content&task=view&id=2726&Itemid=1 (Accessed June 15, 2009).

96 Ihab Ramzi

97 Maḥrūs, Marianne Nabīl, Arab-West Report, 2009, week 21, art. 7, The Abū Fānā story: a meeting in the house of ʿAbd al-Qādir ʿAbd al-Rahīm, http://arabwestreport.info/AWR/article_details.php?article_id=22711&aweek=21&ayear=2009&t=s&char=0 (Accessed June 9, 2009).

98 Barnamig Al-Haqiqa, 2008, http://www.copts.com/arabic/index.php?option=com_content&task=view&id=2726&Itemid=1 (Accessed June 15, 2009).

99 Maḥrūs, Marianne Nabīl, Arab-West Report, 2009, week 21, art. 7, The Abū Fānā story: a meeting in the house of ʿAbd al-Qādir ʿAbd al-Rahīm, http://arabwestreport.info/AWR/article_details.php?article_id=22711&aweek=21&ayear=2009&t=s&char=0 (Accessed June 9, 2009).

100 Barnamig Al-Haqiqa, 2008, http://www.copts.com/arabic/index.php?option=com_content&task=view&id=2726&Itemid=1 (Accessed June 15, 2009).

101 Hulsman, Cornelis, Arab-West Report, 2008, week 15, art. 4, Tensions around the monastery of Abū Fānā as viewed by one of the monks, http://www.arabwestreport.info/google/article_details.php?article_id=19465&ayear=2008&aweek=15&article_title=Tensions%20around%20the%20monastery%20of%20Ab%20C3%85%20AB%20F%20C3%84%20%81n%20C3%84%20%81%20as%20viewed%20by%20one%20of%20the%20monks&article_t_date=14-07-2008&article_p_date=2008-04-07&article_p_week=2008-04-07&t=f&char=1 (accessed May 27, 2009).

102 Maḥrūs, Marianne Nabīl, Arab-West Report, 2009, week 24, The Abū Fānā story: an interview with Ihab Ramzī (not yet published)

- Some monks claim that Bedouins have crossed the archaeological periphery and stolen historical artifacts.¹⁰³
- Some monks accuse the police of being biased, in favor of the Muslims.¹⁰⁴
- Some of the monks accuse the Bedouins of wounding monks during the attack on May 31, 2008.¹⁰⁵
- Some monks claim that Bedouins are fighting them because they are Christians and that the conflict is mainly a sectarian dispute.¹⁰⁶
- Some of the monks accuse the Bedouins of having kidnapped monks, who were tortured and shot in their hands and feet, and needed additional medical treatment. In that context the monks have demanded financial compensation.¹⁰⁷
- Some monks accuse the Bedouins of having burned some of their prayer cells and demolishing other cells.¹⁰⁸
- Ihab Ramzi, the monks' lawyer accused °Abd al-Qādir °Abd al-Rahim of being an antiquities dealer and says that he has been imprisoned for one year because of being involved in the case of Tāriq al-Sweisy, a famous case of antiquities smuggling in 2003 known as “the great antiquities case.”
- Some monks accuse °Abd al-Qādir °Abd al-Rahim of attacking the monastery for sectarian reasons.

103 Maḥrūs, Marianne Nabīl, Arab-West Report, 2009, week 21, art. 7, The Abū Fānā story: a meeting in the house of °Abd al-Qādir °Abd al-Rahīm, http://arabwestreport.info/AWR/article_details.php?article_id=22711&aweek=21&ayear=2009&t=s&char=0 (Accessed June 9, 2009).

104 Hulsman, Cornelis, Arab-West Report, 2008, week 15, art. 4, Tensions around the monastery of Abū Fānā as viewed by one of the monks, http://www.arabwestreport.info/google/article_details.php?article_id=19465&ayear=2008&aweek=15&article_title=Tensions%20around%20the%20monastery%20of%20Ab%20C3%85%20AB%20F%20C3%84%2081n%20C3%84%2081%20as%20viewed%20by%20one%20of%20the%20monks&article_t_date=14-07-2008&article_p_date=2008-04-07&article_p_week=2008-04-07&t=f&char=1 (accessed May 27, 2009).

105 Maḥrūs, Marianne Nabīl, Arab-West Report, 2009, week 24, The Abū Fānā story: an interview with Ihab Ramzī (not yet published)

106 Hulsman, Cornelis, Arab-West Report, 2008, week 15, art. 4, Tensions around the monastery of Abū Fānā as viewed by one of the monks, http://www.arabwestreport.info/google/article_details.php?article_id=19465&ayear=2008&aweek=15&article_title=Tensions%20around%20the%20monastery%20of%20Ab%20C3%85%20AB%20F%20C3%84%2081n%20C3%84%2081%20as%20viewed%20by%20one%20of%20the%20monks&article_t_date=14-07-2008&article_p_date=2008-04-07&article_p_week=2008-04-07&t=f&char=1 (accessed May 27, 2009).

107 Maḥrūs, Marianne Nabīl, Arab-West Report, 2009, week 24, The Abū Fānā story: an interview with Ihab Ramzī (not yet published)

108 Hulsman, Cornelis, Arab-West Report, 2008, week 15, art. 4, Tensions around the monastery of Abū Fānā as viewed by one of the monks, http://www.arabwestreport.info/google/article_details.php?article_id=19465&ayear=2008&aweek=15&article_title=Tensions%20around%20the%20monastery%20of%20Ab%20C3%85%20AB%20F%20C3%84%2081n%20C3%84%2081%20as%20viewed%20by%20one%20of%20the%20monks&article_t_date=14-07-2008&article_p_date=2008-04-07&article_p_week=2008-04-07&t=f&char=1 (accessed May 21, 2009).

- Some of the monks accuse Samir Luli of initiating the attack May 31, 2008.¹⁰⁹
- Father Mina accuses the Bedouins of kidnapping his brother Ibrāhīm Tiqī Riad, claiming that he was kidnapped during the attack and was forced to convert to Islam.
- Some monks claim that some of the Bedouins involved in the attack on May 31, 2008 signed a reconciliation contract on April 14, 2006. The monks thus claim that the Bedouins violated the reconciliation contract, following earlier conflicts, though the contracts demanded the Bedouins stop the attacks.¹¹⁰

Problems concerning the accusations and the way they have been dealt with

With regards to the different accusations made by the two groups involved in the conflict the way they have been dealt with has created some problems concerning laws in Egypt. This is mainly because laws have not been enforced. The legal issues have thus been dealt with through the use of traditional customs rather than existing laws. The legal aspects, of the different accusations, are thereby missing, because they have not been settled at court. This has given space for rumors to spread both between the groups and in the press and thus most of the accusations claimed by the involved groups remain unsettled.

Since the attack on May 31, 2008 the authorities have shown no signs of willingness to prosecute the people responsible for the attack on the monastery, the killing of Khalīl Muhammad Ibrāhīm Abu Qureen or the settlement of the other legal aspects. This could be an effect of the lack of clear laws on the matter of land ownership in Egypt. It might also be due to the authorities' lack of resolve to effectuate the existing laws concerning issues such as land ownership, abduction, torture, trespassing, securing archaeological artifacts and even murder.

Land ownership laws in Egypt relevant to the case of Abū Fānā

One of the main reasons behind the escalation of the Abū Fānā conflict has been the fact that both parties claim their right to use the land, thus leading to disputes. In this part of the report we will look at the reasons behind both groups' claims. In this regard we need first to take a look at the legislation, explained in the previous chapter, of land ownership in Egypt.

As clarified in the first chapter, the laws concerning land ownership in Egypt have been changed and reformed many times. Since 1981 the use of Wad al-Yad with regards to land ownership has been illegal. This however has not meant that the use of customs has ended. In many

109 Maḥrūs, Marianne Nabīl, Arab-West Report, 2009, week 24, The Abū Fānā story: an interview with Ihab Ramzī (not yet published)

110 Maḥrūs, Marianne Nabīl, Arab-West Report, 2009, week 21, art. 3, A meeting held in the governorate of Minia after the Abū Fānā attacks, http://arabwestreport.info/AWR/article_details.php?article_id=22707&aweek=21&ayear=2009&t=s&char=0 (accessed June 9, 2009).

parts of Egypt, and especially in the desert areas, customs are still being used and still influence the practices of the people living in these areas.

In 2006 the government introduced a new law which stated that all land ownership through Wad al-Yad after August 2006 is illegal. To implement the law, the authorities use satellite photos of the land that is being reclaimed officially or through use of [°]Urfi contracts, to see if the land really was cultivated before 2006.

Since the monastery was built before 2006, the new law introduced in 2006 does not prohibit the continuing cultivation of the land, though it does not prove the rightful ownership either. The 2006 law legalizes land cultivated before August 2006 only. To legalize the monastery's land the approval of the General Authority for Land Reclamation Projects is needed. Since the first cultivation of the land of the monastery took place around the year 2000, the new law does not make the monks' cultivation of the land illegal.

It is important therefore to determine whether the monastery's land was claimed to be owned through the use of [°]Urfi contracts or official registered contracts and to determine what this means for the legal aspect of this case. Further, the legal aspect of the expansion of the land of the monastery since the establishment is important in this case.

Due to the disputes around the land of Abū Fānā a meeting, to clarify the situation concerning the land around the monastery, was held. It took place on June 18, 2008. The meeting included representatives from many authorities such as the Ministry of Interior, the NDP, the local authorities, the Land Reclamation Projects Authority, the Coptic and Islamic antiquities sector in Cairo, the Real Estate Publicity Department and the State Property Department in the governorate of Minia.

In this meeting several statements were made:

- The president of the General Authority for Land Reclamation Projects said that the monastery did not present any request to the authority concerning the mentioned land. However, Law no. 148 of 2006 stipulates that this authority is responsible for giving authorizations for reclaiming the land outside the borders of villages or cities up to a distance of two kilometers.
- The president of the General General Authority for Land Reclamation Projects explained that the monastery should not build on more than 2 percent of the reclaimed land, therefore the new buildings and the cells on this land are unauthorized. It is also necessary to obtain the approval of four authorities to start any agricultural activity on the land (the Supreme Council of Antiquities, the quarries, the military and the Ministry of Irrigation and Water

Resources).¹¹¹

- The president's assistant of the Real Estate Publicity Department said that the documents proving the ownership of the land are not registered and therefore not recognized as official contracts. Furthermore, they are issued in the name of Bishop Demetrius and not in the name of the monastery.¹¹²

After the meeting the following decisions were taken:

- To build a stone wall around the archaeological periphery of Abū Fānā according to decision number 812 of the SCA.
- To stop building new cells outside the agreed upon boundaries of the monastery's land.
- To stop any new agricultural development before the approval of the General Authority of Reclamation Projects to legalize the status of the land.
- To stop any extensions in the area before getting the necessary approvals from the General Authority of Agricultural Development authority.
- To temporarily allow the use of the road inside the archaeological periphery and to put two gates on both sides of the fence around the archaeological periphery unless new artifacts are discovered in the adjacent area.
- To revise the church's contracts to prove that the taxes that have been paid are connected to the monastery's land according to the ʿUrfī contracts provided by the monks and not other land. Taxes should not be paid for land outside the borders of cities and villages.
- To refuse the building of the fence around the archaeological monastery, the church and the farm, because the provided license allows the building of a fence only around the archaeological monastery. However, the building of this fence around the required area will be reconsidered after the legalization of the cultivated land.
- To establish a police station in the area to ensure the protection of the residents.

The meeting stipulated that the monastery's ʿUrfī contracts were not officially recognized, in the sense that they were not officially registered. Furthermore the ʿUrfī contracts were signed in the name of individuals and not in the name of the monastery. The outcome of the meeting was that the

111 Ebeid, Dr. Amin Makram: The restriction of building on more than 2% of ones owned land applies only to agricultural land. So if the monks had not registered the land with the above mentioned authorities then the limit to build on more than 2% does not exist. On the other hand the monks would not have been allowed to involve themselves in agriculture, which they did, without the permission of the same authorities. So if the monastery, as explained in the conclusions of the meeting, had not registered the land as agricultural land it is unclear how the outcome of the meeting was to illegalise the buildings and not the land which had been cultivated.

112 Bishop Demetrius is the head of the Coptic Orthodox Bishopric of Mallawi that includes the Monastery of Abū Fānā. For the church he represents the diocese and monastery. That this was not explicitly mentioned in the documents is for the church not relevant since no bishop is allowed to have personal possessions.

contracts needed to be checked by all the concerned authorities to see if they were legal and to see if the land claimed by the monastery was the same as the land bought through the °Urfī contracts.

The meeting further stipulated that the monks had built some of the buildings illegally, because they had built on more than 2 percent of the land, which is illegal when it comes to agricultural land. Thus the representatives at the meeting decided to stop all new buildings and cultivation on the land until the approval of the Authority for Land Reclamation concerned with the land of the monastery was given.

We have found no evidence of a meeting between the authorities and Bedouins talking about the situation of the Bedouins in the area and their land or talking about the attack on the monastery and the trespassing of the archaeological periphery. It is unclear why it is important that the monastery should have legal contracts, when it seems of little importance whether the Bedouins have legal contracts or not. Again no one is officially accused of violating any law.

Wad al-Yad and °Urfī contracts in the case of Abū Fānā

In the case of Abū Fānā the phenomenon of °Urfī and Wad al-Yad are important in order to describe the problems at hand concerning the land that the two groups are fighting for, and important to understand the eruption of the conflict to begin with. In addition to local traditions we will explain the use of °Urfī contracts and Wad al-Yad and compare them and the problems they lead to with the official laws on the subject of land ownership in Egypt.

Wad al-Yad in the case of Abū Fānā

In the case of Abū Fānā, Wad al-Yad has played an important role in the conflict between the Arabs and the monks. The Arabs were living on the border of the desert for a long time, and they believe that their presence there means that they own the land. Building on their beliefs, any land that does not belong to anyone can be owned by acquisition especially given the fact that the desert has not held great importance for people. However, because of overpopulation and the extension of the borders of the villages the price of the land adjacent to the village has dramatically increased,¹¹³ but the Arabs still feel that they control the desert. They are of the opinion that the monks have violated their land, especially when they started to cultivate it, as cultivation is a reason for ownership and gives people the right to use the land and pay rent to the state. As a result, the Bedouins, according to the monks, attacked the monastery on May 31, 2008 and kidnapped three monks while they were on the farm that the monks are currently cultivating.¹¹⁴ The practice of the custom of Wad al-Yad means that many people in Egypt get into disputes over land that legally belongs to the government.

113 SP-Techs, http://www.sptechs.com/news/article_451.html.

114 Fahim Darwish, Muhammad, 2007, Al-Ahram, Protecting the State from Wadel Yad.

But because the government has not given this land great importance and because people are not well informed about this subject many believe that this land can be owned by anyone.

°Urfi contracts in the case of Abū Fānā

As previously explained the use of Wad al-Yad is still very common in Egypt. The practice of the phenomenon, to claim land unofficially, is given a further perspective when these unofficially owned plots of land are sold because this leads to the use of °Urfi contracts. The problem is that the contracts are not really valid if conflicts over ownership occur, as explained in the previous chapter. Most desert land in Egypt today is owned through °Urfi contracts.¹¹⁵ This has made it hard for the authorities to ban all contracts bought through this custom since many people would have no official registered contract over their land. This is also the reason why the authorities introduced Law no. 134, 2006, to phase out the use of these contracts over time. The use of °Urfi contracts has led to many disputes over land in Egypt, because they are not registered.

In the Abū Fānā Monastery conflict the lawyers representing the monks provided several °Urfi contracts of land ownership of the land they built on and cultivated.

The monastery's °Urfi contracts:

<i>Year</i>	<i>price (LE)</i>	<i>No. of feddans</i>	<i>buyer</i>	<i>seller</i>
1999	30.000	168	Bishop Demetrius	Georges Boutros
2002	28.000	50	Bishop Demetrius	Nazim Munir Nazim, Milad Atteya Ryad
2003	25.000	28	Bishop Demetrius	Georgius Fawzi Ragheb
2004	18.000	50	Bishop Demetrius	Radi Salama Hanna, Imad Eid Habib, Ihab kamal Senara
2005	18.000	25	Bishop Demetrius	Father Mitias Kamal
2008	60.000	80	Bishop Demetrius	Karas Mahrus, Amin Kamal

115 Mahrus, Marianne Nabil, Arab-West Report, 2009, Week 22, Art. 3, Land registration problems in Egypt, http://arabwestreport.info/AWR/article_details.php?article_id=22758&ayear=2009&aweek=&article_title=&article_t_date=&article_p_date=&article_p_week=&t=f&char= (Accessed June 17, 2009).

				Girgis
Total	179.000	401		

Table displaying the °Urfī contracts for the land of Abū Fānā monastery. All the names of the sellers are Christian names. The contracts are bought through secular names and are not in the name of the monastery or through the use of the monks' monastic names.

Furthermore, the monastery presented a document with the total amount of land they have paid fees for until 2007 in return for using it. It is not clear in the document which authority is collecting the fees. The representatives of the General Authority for Land Reclamation Projects, that should be responsible for this land, clarified that no one on behalf of the monastery has presented any demands for using the land. It is possible that the monastery is paying these fees to a different authority, or to an official employee that earns money from this setup. It is not clear in this case what the procedures, that the monks have followed to gain legal status for the land, are.

The monastery also provided us with some contracts, including a reconciliation contract that was concluded on April 14, 2006.¹¹⁶ It was signed in the house of the mayor of Qasr Hur in the presence of official representatives including the magistrate of the Mallawi department. In the contract Bishop Demetrius and his lawyer Fayiz Jindī, are the first party, and °Abd al-Hadi Moftah °Abd al-Qādir (the person accused of launching the most recent attacks on the monastery), Hamdi Muslim Farag and Gomaa Abul Eid Moghib are the second party. This was concluded after an armed attack by the villagers on the monastery in 2006. The mentioned villagers are also involved in the attack that took place in 2008, according to Ihab Ramzī's claims.¹¹⁷ In the contract, these villagers agreed that the disputed area belongs to the monastery of Abū Fānā and that they would not claim ownership of this land because it is owned by the monastery through Wad al-Yad. They also agreed not to attack the land again. Furthermore, the contract stipulated a penalty of 500.000 LE for those not respecting the provisions of the contract. During our interview with Member of Parliament °Alā' Hassānayn, he mentioned that a new reconciliation contract has been concluded between the monastery and the Arabs to delineate the land belonging to the monastery. This agreement stipulated a penalty of 2 million LE in case the terms of the contract were violated. (We were unable to get a copy of this contract and we did not manage to obtain documents proving the Arabs' ownership)

It seems in this case, that the laws and customs are unclear and intersecting, as the °Urfī contracts and ownership through Wad al-Yad are still under debate. The land in Abū Fānā is classified as land under the control of the General Authority for Land Reclamation Projects. The authorization for agriculture to start is only taken through this authority. Furthermore, there is a

¹¹⁶ Barnamig Al-Haqiqa, 2008,

www.copts.com/arabic/index.php?option=com_content&task=view&id=2726&Itemid=1 (Accessed June 15, 2009).

need to obtain the permission of four main authorities: the SCA, the quarries, the military and the Ministry of Irrigation and Water Resources. It may be complicated for citizens to understand what is legal and what is not, and what the difference between the ownership of a land and the system of renting the land is, in case of serious agriculture taking place on the land.

The archaeological land

As mentioned above, both groups involved in the dispute have trespassed onto the archaeological periphery. The lack of government support concerning the protection of the archaeological land has thus been an important factor in this conflict as well. This issue concerns both the escalation of the conflict and the lack of legal implementation to protect valuable artifacts in Egypt. Trespassing led to an escalation of the conflict because it gave rise to further accusations between the groups, concerning the main origin of the dispute, that being the land. For villagers, the artifacts are like gold, as Samir Luli clarified.¹¹⁸ The origin of the disputes may not only be related to interests in land ownership but also interests in the artifacts, some of which are very valuable.

The trespassing of the archaeological periphery has most likely meant the loss of artifacts related to the historical period around the area of Abū Fānā. It is extremely difficult to prove if and how many artifacts have been smuggled out of the area. Although Law no. 117 of 1983 for the protection of monuments was passed the theft of artifacts is still going on. The law also stipulates that the SCA shall ensure the protection of archaeological sites by providing enough guards and police officers. have been unable to access information about how many guards the SCA provided but anyhow the number seems not to be sufficient. In Abū Fānā both parties are exchanging accusations of artifacts being stolen. Some of the monks accuse the Bedouins of attacking the monastery and taking an interest in the land after excavations were performed by the SCA about the possibility of valuable artifacts being buried in the area in 2003-2004.

The complexity of laws and traditions in the case of Abū Fānā

The situation that occurred in Abū Fānā is more complicated than it first appears. The dilemma between laws and customary traditions is not an easy one.

The Bedouins have been living in the area for a long time and have never had a reason to use measures other than Wad al-Yad when claiming land. Thus when the monks arrived they viewed them as intruders.

117 Ihab Ramzi

118 Maḥrūs, Marianne Nabīl, Arab-West Report, 2009, week 21, art. 7, The Abū Fānā story: a meeting in the house of ^cAbd al-Qādir ^cAbd al-Rahīm, http://arabwestreport.info/AWR/article_details.php?article_id=22711&aweek=21&ayear=2009&t=s&char=0 (Accessed June 9, 2009).

The monks have bought the land through 'Urḫi contracts. They are not officially legal but, as explained above, they are not illegal either. This shows the difficulties of land ownership in Egypt. Most people are not informed about the laws of land ownership and consider themselves the rightful owners of land that does not belong to them. The presence of local customs in Egypt cannot be overestimated. This means that the authorities must make sure that official laws are effectuated. Settling a conflict over land through local customs only reinforces the idea that following local customs is the right thing to do.

Conflict over land or sectarian violence?

One of the other major issues that has become important when talking about this conflict is whether this conflict is a dispute over land, between monks and the Bedouins or a sectarian conflict between Muslims and Christians. To understand this we need to take a look at how the conflict erupted to begin with, and understand what is at stake for the groups involved.

Before the monks came to the area, the Bedouins lived there. They are mainly farmers and survive by cultivating the land.

After the archaeological excavation began and evidence of there being an old monastery was found the Coptic Orthodox Church had a renewed interest in the area. This interest increased after 1992 when the remains of Saint Abū Fānā were discovered. In 1999 they sent five monks to the area. In 2000 they built the new monastery. The number of monks increased in 2003, when 12 additional monks arrived, and settled at the monastery. They were assisted by several contractors, and they started to expand the monastery's land. The Bedouins noticed the monastery expanding and started expanding themselves. The foundation of the conflict was thereby established. Furthermore, the monks built cells outside the monastery land. The Bedouin villagers felt threatened when the monks' extension of the monastery continued. The building of cells was considered a way of extending the land. Bishop Aghabius, since September 2008 the spokesman on behalf of the monks of Abū Fānā in the negotiations, clarified that the monks do not own anything, therefore in all monasteries cells can be build in the desert or the mountains to give monks the chance to pray in an isolated area. He also mentioned the example of Pope Shenouda's cell in the Syriac monastery that is now part of an airport. He said that these cells are supposed to be places of worship but that does not mean ownership of the land.¹¹⁹ Such misunderstandings have played an important role in escalating the conflict as well.

To find out whether the conflict is sectarian or not, we will take a look at how the two

119 Maḥrūs, Marianne Nabīl, Arab-West Report, 2009, week 21, art. 6, The Abū Fānā story: an interview with Bishop Aghabius, http://arabwestreport.info/AWR/article_details.php?article_id=22710&aweek=21&ayear=2009&t=s&char=0 (Accessed June 9, 2009).

groups involved see the situation and the conflict. In this regard it is important to ask the question: What is at stake for the two groups?

The Bedouins' point of view:

The Bedouins have been living in the area for centuries. As described above they have no legal contracts which prove they are landowners. The situation has been made more complicated because of the use of local traditions, since they put aside laws. For the Bedouins land is important to be able to continue their livelihoods. Furthermore they have begun to see the monks as intruders and feel threatened as their number grow and the area of the new monastery increases. Additionally, the Muslim villagers, after the establishment of the new monastery buildings, may have been worried about the changes in the image and the place of Islam in the village, by the addition of obvious Christian symbols. Religious symbols play an important role in people's lives in Egypt. Take for example the case of Beni Wellems village, where the church was burned in 2002 because it had been renovated.¹²⁰ The Muslims attacked the church during its inauguration. It might have been that they felt threatened by the Christian symbols that they worried could take prominence over Muslim ones.¹²¹

The monks' point of view:

The monks moved to the area because of the newly discovered monastery of Abū Fānā. The Coptic Orthodox Church considered it important to protect the land of Abū Fānā, and sent five monks there. This meant that the monks were there because of the land around Abū Fānā. As the new monastery was built, they needed land to cultivate food to enable them to stay there permanently. They thus increased the area of the monastery. Furthermore the monks built prayer cells that needed to be located apart from the monastery.

Looking at the needs of both parties of the conflict it must, to begin with, be considered a conflict over land. Both groups are fighting to collect the area of land they consider necessary. The difference between the groups is that the Bedouins are fighting for land that could in later years become a source of income, while the monks are fighting for land around an old monastery. This does not make the conflict sectarian but it does show a difference in interests. The important question to raise is would there have been a conflict if the monks had not tried to gather land around

120 Hulsman, Cornelis, Arab-West Report, 2002, week 6, art. 9, Background to the riots in front of the church in Beni Walmis,
http://arabwestreport.info/awr/article_details.php?article_id=8880&ayear=2002&aweek=6&article_title=Background%20to%20the%20riots%20in%20front%20of%20the%20church%20in%20Beni%20Walmis%20&article_t_date=February%202014,%202002&article_p_date=2002-02-07&article_p_week=2002-02-13&t=s (Accessed June 8, 2009).

121 AWR visit to Beni Wellems 2009. Not online yet.

the monastery, or if both parties of the conflict had been Muslims or Christians?

Considering that the Bedouins see themselves as defending their land, it does not really matter if the other party is Christian or Muslim, or something else. If Muslims had come to the area, and had started making claims to land that the Bedouins living in the area considered their own, there would have been a conflict. The same rationale applies if there had been Christians living there before the monks moved to the area. They would respect the monastery and the monks, but they would still protest if their opportunities to obtain new land had been reduced. Thus, first and foremost the conflict should be considered a conflict over land.

The original nature of the conflict of Abū Fānā being a dispute over land does not mean that the conflict did not possess the sparks to turn into a sectarian conflict. Religion is of great importance for people in Egypt.¹²² All conflicts between different groups of religion and faiths may be turned into a sectarian conflict, as a tool to put pressure on the other part. So, if the conflict of Abū Fānā was not a sectarian conflict to begin with, then what enabled it to take on a sectarian aspect as well?

In every conflict the parties involved sometimes try to win sympathy from people who are not involved directly in the conflict if the groups involved are not able to find a solution themselves. Every group has allies that they will try to activate to help their cause if one or more of the conflicting parties feels stuck in a situation which, they consider, cannot be solved without outside involvement. Each group will argue for their own cause if they consider it an advantage to do so. The problem is that statements coming from an actor in a conflict, always focus on their own cause and not on the broader picture of the reasons behind the conflict.

In the case of Abū Fānā the group most interested in outside involvement would be the Coptic monks at the monastery. Many Copts mistrust the police and authorities and accuse them of taking the Muslims' side in cases of conflict, because these institutions are mainly dominated by Muslims. The advantage for the Copts in adding a sectarian dimension is to involve other Copts in Egyptian society, that have no direct connection to Abū Fānā except from being Christian, in the conflict. If they can garner support for their cause from other Copts in Egypt they might be able to put more pressure on the Egyptian authorities. At an even larger scale, Copts have been benefiting from this kind of support from actors outside Egypt through gaining support from people in various Christian countries. By going through our sources, it becomes clear that only the monks and the Christian villagers near Abū Fānā and in the diocese of Mallawī, are arguing that this conflict is sectarian while the Muslims say it is about the land. Following these local claims many Christians

122 ^c al- Awaḍī, Nirmīn, 2009, Arab-West Report, Religiosity in Egypt, http://www.arabwestreport.info/awr/article_details.php?article_id=22200&ayear=2009&aweek=&article_title=Religiosity%20in%20Egypt&article_t_date=21-02-2008&article_p_date=2009-02-19&article_p_week=2009-02-25&t=f&char= (Accessed May 27, 2009).

outside the diocese also started to use these arguments. Many Copts believe they are persecuted but it also helps to create sympathy and obtain support. This does not mean that there are no sectarian elements to the conflict, but it equally does not mean that the dispute is only sectarian.

The development of the conflict at the Abū Fānā Monastery being about land and including sectarian elements as well, derives mostly from statements from the kidnapped monks, that they had to spit on the Cross and Bible and say the Shahādah. On the other hand, the Bedouins say that this is not true and since none of them have been prosecuted at court the claims remain speculative. The fact that none of the attackers have been prosecuted or convicted may have strengthened the Copts' feelings of the authorities being biased and they may have felt forced to play the card of this being a sectarian conflict. The Bedouins were said to have destroyed Christian symbols. They certainly would not have done so with Islamic symbols. The question is, whether this has been done intentionally to insult the Christians or whether it was done in the heat of the moment during the conflict over land? It is unquestionable that Christians in Egypt face difficulties but to say that the reasons behind the conflict at Abū Fānā were mainly sectarian would be presenting only half of the truth.

Officials downplaying the sectarian elements in the conflict with statements are problematic. This has made the Copts feel that the authorities do not take the violations against them seriously and so feel it necessary to involve other Christians in Egypt and abroad. The fact that nobody has officially been charged for the attack on the monastery further adds to the feeling of mistrust that Copts have toward the authorities. In the case of conflict it is natural for warring parties to destroy what is most precious to the group they are fighting. In this conflict the Muslims destroying Christian religious symbols was equal to them destroying what was most precious to the monks. If the opposing group had been someone other than monks, the Bedouins probably would have attacked the things most precious to that particular group. Many conflicts that take on a religious aspect in Egypt can often be explained by the importance of religion in society in general.

Misinformation as a reason for the escalations in the Abū Fānā conflict

To find out how and why the dispute evolved in the way it did, it is important to look at the way the press covered the incident of May 31, 2008. The press coverage had an impact on Muslim–Christian relations in Egypt and abroad as well, and so added to the sectarian dimension of the conflict.

In the case of Abū Fānā most media outlets focused only on a certain part of the conflict. Statements often contradicted each other. That gave rise to rumors that drove Christians and Muslims apart. The many different rumors that spread can be clearly seen when one looks at the different articles that have been written concerning the Abū Fānā conflict and the many different

ways in which the media describes the incident of May 31, 2008. Both sides of the conflict claim that many of the articles published contain the journalists' own assumptions. Susanne Huber describes this idea in her report on the media coverage of the incidents at Abū Fānā, during the period of May 31 - August 15 2008, and the role the media has had with regard to providing information to the broader community, national and international.¹²³ Janina Chetty does likewise with the media coverage from August 2008 – January 2009.¹²⁴ We will here go through some of their conclusions:

In connection to the attack on May 31, 2008 articles from different media have been published. The reporting has been mainly done by secular media, Coptic activists and Egyptian media. Furthermore videos have been put on You Tube. Those videos have for the most part been made by Coptic activists. One film made by Arab-West Report was uploaded as well. The main goal of the Copts' videos was to present the Copts as victims who are suffering from difficulties in Egypt. They only focus on the attack on the monastery on May 31, 2008, and do not focus on the issues concerning the land at all. It becomes clear that the main goal of most of the Coptic news reporting is seeking to stimulate sympathy for the monks and their own cause.

An internet survey showed the many misunderstandings between Muslims and Christians and called for a “new religious discourse in Egypt”. This shows that many sectarian tensions might be caused by a lack of understanding between the religious groups involved.¹²⁵

There has been little focus on the causes of the attack on Abū Fānā on May 31, 2008 in the media. Most of the articles available focus on the attack itself and say nothing about the background to the conflict and do not put it into context. Reporting is mostly one-sided, and does not inform the readers about the different aspects of the dispute. News reported from either side of the conflicting parties tends to be biased and narrow. Reporting like this is more likely to fuel tensions instead of solving them. The media's manipulating role in conflicts like this one can be held responsible for some of the sectarian escalations. The media should reconsider its way of reporting. In cases like this, it is important that the media researches the causes and background of the dispute, and not only

123 Huber, Susanne, Arab-West Report, 2008, week 40, art. 2, Coptic activist and media reporting about the tensions related to the Monastery of Abū Fanā, http://arabwestreport.info/awr/article_details.php?article_id=20423&ayear=2008&aweek=&article_title=Coptic%20activist%20and%20media%20reporting%20about%20the%20tensions%20related%20to%20the%20Monastery%20of%20Ab%20C3%85%20AB%20Fan%20C3%84%20C2%81&article_t_date=13-10-2008&article_p_date=2008-09-29&article_p_week=2008-10-05&t=f&char= (Accessed June 8, 2009).

124 Chetty, Janina, 2009, Arab-West Report, AWR papers, Coptic activist and media reporting in the aftermath of the Abū Fānā Monastery attack, http://arabwestreport.info/AWRpapers-fulltext.php?report_id=13 (Accessed June 8, 2009).

125 Huber, Susanne, Arab-West Report, 2008, week 40, art. 2, Coptic activist and media reporting about the tensions related to the Monastery of Abū Fanā, http://arabwestreport.info/awr/article_details.php?article_id=20423&ayear=2008&aweek=&article_title=Coptic%20activist%20and%20media%20reporting%20about%20the%20tensions%20related%20to%20the%20Monastery%20of%20Ab%20C3%85%20AB%20Fan%20C3%84%20C2%81&article_t_date=13-10-2008&article_p_date=2008-09-29&article_p_week=2008-10-05&t=f&char= (Accessed June 8, 2009).

recent events. In addition they should make sure they get as many sides of the story as possible.

In Janina Chetty's report Dr. Amin Makram Ebeid made some comments on her conclusions. He stresses the necessity of the authorities being objective in cases of conflict. This, he mentions, is a key-point in preventing activist media reporting in the future and securing equal legal rights for all citizens in Egypt no matter what religion. This means using laws and not customary traditions in cases of conflict. He stresses that, in his opinion, the following steps are necessary to prevent future sectarian tensions and biased media reporting in Egypt:

1. Recognizing that there are problems concerning sectarianism in Egypt.
2. Finding out what the problems are.
3. Starting to work on improving the situation between the religious groups.

Other factors contributing to the conflict

There are other factors that lead to the eruption of conflicts in Egypt such as social issues. Many Egyptians today are facing high inflation and rising unemployment.¹²⁶ Furthermore, many recorded conflicts show that conflicts occur over everyday matters.¹²⁷ Egypt is the size of England, France and Germany together, but the area that can be used for cultivation and settlement is only the size of Belgium.¹²⁸ This means people are moving away from areas that are already registered to unregistered areas. In time this might lead to more conflicts over resources. This stresses the importance of the authorities taking the issue seriously. This means implementing clear laws concerning the issue and the enforcement of these laws. Problems concerning water shortage in Egypt might also become subject to conflicts over land in the future.¹²⁹

Preventing the attack of May 31, 2008 and looking forward

Even though the settlement of an agreement in the case of Abū Fānā is difficult because of the complex situation of customs and laws in Egypt, the authorities should exert the greatest effort possible to protect existing Egyptian civil laws and civil society and make sure that people who violate laws are prosecuted. The use of customary traditions in reconciliation, and settling of other conflicts like Abū Fānā, is extremely problematic because it puts aside existing laws concerning legal issues such as land ownership and prosecutions in cases of violence. If the authorities had tried harder to settle the disagreement between the different groups and protect the archaeological land in

126 Ibrahim, Fouad N. & Ibrahim, Barbara, 2003, Egypt An Economic Geography (p. 99), I.B. Tauris, New York.

127 Mahrus, Marianne Nabil, Arab-West Report, 2009, Week 22, Art. 3, Land registration problems in Egypt, http://arabwestreport.info/AWR/article_details.php?article_id=22758&ayear=2009&aweek=&article_title=&article_t_date=&article_p_date=&article_p_week=&t=f&char= (Accessed June 17, 2009).

128 Ibrahim, Fouad N. & Ibrahim, Barbara, 2003, Egypt An Economic Geography (cover), I.B. Tauris, New York.

the area, the attack on the new Abū Fānā Monastery on May 31, 2008 might have been prevented. Even though conflicts over land seem to be hard to settle, the authorities should be able to do more in dealing with such conflicts

It is important to make sure that the authorities do not judge in favor of any religious group. This means equal rights for all citizens no matter what their religion. There is no direct proof of the authorities being biased in this case but if the Copts feel that this is the case the authorities should clarify their procedures concerning the dispute, thus removing any doubt and mistrust that Copts might have. The fact that the conflict was settled through customs and not through the law creates further questions about the authorities' willingness to be a good arbiter in such cases. In addition, the reconciliation between the monks and Bedouins will continue until there is no doubt or unclear issues between the groups concerning the land and legal aspects in the case of Abū Fānā. This is akin to what we saw with the reconciliation agreement of April 14, 2006, that was violated. It is important to make it clear that both groups involved will abide by the agreement made and make sure that people or groups violating it will be prosecuted at court. This is necessary for the future peace of the area. If not all issues are settled and made clear another conflict is more likely to occur in the future. Concerns over future water shortage in areas like Abū Fānā have also been mentioned as a possible cause of future conflicts over land. Whether this aspect will be relevant in conflicts in the future is yet to be seen but it is important to consider this factor along with other social changes as one aspect of land conflicts in Egypt, and thus make sure that laws concerning the issue are ready to deal with these future problems.

Additionally, there is a need to give civil society more opportunities to improve relations between Muslims and Christians, especially in rural areas, for example in the way that it did in the village of Bani Ghani in Minia, where the inauguration of a mosque and a church was celebrated on the same day.¹³⁰ Civil society actors were the main actors in this initiative. The mosque even delayed its celebration when the church postponed the inauguration after a terrible accident that occurred to a group of evangelical youth and resulted in the death of many of them. The mosque wanted to share the grief of the church and waited until both could celebrate the inauguration together. This example shows that peace building is possible and that civil society actors are able to gather Muslims and Christians in the same activities in order to prevent any feelings of hatred and promote peace between both. The state should give civil society actors a larger role to play instead

129 Ibrahim, Fouad N. & Ibrahim, Barbara, 2003, *Egypt An Economic Geography* (p. 67), I.B. Tauris, New York.

130 Shukrī, Nādir, Arab-West Report, 2009, Week 8, article 21, The governor of Minia inaugurates a church and a mosque at the same time, http://www.arabwestreport.info/AWR/article_details.php?article_id=22205&ayear=2009&aweek=08&article_title=The%20governor%20of%20Minia%20inaugurates%20a%20church%20and%20a%20mosque%20at%20the%20same%20time&article_t_date=22-02-2009&article_p_date=2009-02-19&article_p_week=2009-02-25&t=f&char=0 (Accessed June 15, 2009).

of putting obstacles in their way.

Conclusion – the aspects of land conflict in Egypt

Conflict over land is a major problem in Egypt. Population growth is high and the fight for natural resources such as land and water will increase in the future. Land ownership laws in Egypt are confusing and not clear for people when it comes to the question of laws and customs, as we have seen in the case of the conflict at the monastery of Abū Fānā. Combined with the many bureaucratic procedures that a person has to go through in order to register land, the lack of employees, resources and monitoring available makes land registration more theoretical than practical. These factors, combined with the cost of registering land has made many people inclined to keep their ownership through Wad al-Yad and ʿUrfī contracts rather than officially registering their land and as long as these practices are not officially illegal these customs will prevail. The fear of facing gangs forcing people to pay twice for their officially bought land does not encourage people to use official registration procedures. Instead people generally prefer to pay the gangs and thus own the land through ʿUrfī contracts and prove the ownership on the ground by building and cultivating the land. This is the case in Abū Fānā as well, where both groups claimed to own the land. The Bedouins through Wad al-Yad and the monks through ʿUrfī contracts. For both groups, it became a race to grab land which developed into a conflict that inflamed underlying sectarian elements as well. These are elements that should not be thrown aside lightly. It is important, in order to prevent further sectarian clashes in Egypt, that recognition of the presence of sectarian conflicts takes place, so that problems can be defined and solutions suggested.

In a conflict like the one analyzed in this report, it is of huge importance that the laws concerning land ownership are followed, illegal customs abandoned and people who have violated the law are prosecuted. In the case of Abū Fānā the authorities' hesitation in exercising their own laws may mean that in the future they are regarded with mistrust and doubt. In Abū Fānā the difficulties concerning the customs are that Wad al-Yad is illegal and ʿUrfī contracts are invalid in case of conflict. This means that both parties involved in the conflict were claiming land illegally. This kind of situation might be prevented in the future if ʿUrfī contracts were made illegal without exception, registration procedures made far more easy, registration fees abandoned and the authorities more protective toward officially registered landowners.

As described in the report, another important aspect of the escalation of the conflict is the aspect of time. The conflict around Abū Fānā can be traced back to 2003 at least. The fact that the authorities were not able to settle a conflict like this one from the first flickers of dispute raises the question of whether they will be able to do so in the future in other similar conflicts.

As analyzed in the case of Abū Fānā, disputes over land can easily develop into conflicts

enhancing religious sectarian aspects as well. In this case the change in the nature of the conflict can be traced through time as well. From being a conflict over land the conflict developed into a sectarian dispute. This happened mainly through rumors, unproven statements and personal feelings. The rumors were mainly created through media reporting. Moreover, the reporting was often one-sided or biased. This is a perspective that must be taken seriously in the future as well. Actors involved in conflicts need to be aware of how they use the media. Biased media reporting can be just as harmful for any ongoing conflict or reconciliation progress as an armed attack.

Considering the development of the conflict, the aspect of law enforcement is of crucial importance for the future prevention of conflicts over land. If future conflicts are to be prevented, the authorities must act faster through the use of implemented laws on the issue. They must settle the legal part and prosecute people violating the law. If the conflict had been settled faster, the conflict would most probably not have turned into a sectarian conflict and the attack on May 31, 2008 might not have taken place. The media would not have the same opportunity to spread rumors. The authorities thus carry much of the responsibility for the conflict turning out the way it did. In the future, it is therefore necessary that the authorities become more active in solving conflicts.

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