

A Cold Winter in North Africa: The Case of the Bahá'ís in Egypt

By *Naseem Kourosh*

For Egypt's tiny Bahá'í community, the coming winter may be an especially cold one. The Bahá'í Faith is an independent religion with an estimated 500 to 2,000 followers in Egypt, many of whom have faced significant discrimination in recent years. In early 2011, many expected that the Arab Spring, blooming most visibly in Egypt, would usher in a new era in the region. However, more than a year on, amidst fears that Spring in the Middle East may be turning frosty, the status of Egypt's Bahá'í community provides an important if unflattering metric of the progress of Egyptian society towards freedom, democracy, and human rights.

The History of Egypt's Bahá'í Community

The Bahá'í community in Egypt was established in the mid-1800s and, with a few notable exceptions, developed largely undisturbed for nearly a century. However, in 1960, the government issued Presidential Decree 263, which dissolved all Bahá'í institutions, seized all Bahá'í properties, and made engaging in public Bahá'í activities a criminal act punishable by imprisonment. In subsequent years, several dozen Bahá'ís were arrested and detained on the basis of the law, though none were ever found guilty.

While Article 40 of the 1971 Egyptian Constitution protects equal rights and prohibits religious discrimination, and Article 46 guarantees freedom of belief and freedom to practice religious rites, the legal status of Bahá'ís in Egypt has never been deemed equal to that of Muslims, not only because of the 1960 Presidential Decree, but also because of two important structural issues.

First, in the Egyptian legal system, matters of personal status are governed not by civil law, but by religious law—specifically the family law systems of the only three state-recognized religions: Christianity, Judaism, and Islam. Because Bahá'í law is not recognized and Islam is the official state religion, personal status for Bahá'ís has often been

determined according to shari'a (Islamic family law), which does not recognize Bahá'í family relationships, or fatwas (Islamic judicial rulings), many of which are hostile to the Bahá'í Faith. Indeed, at least 15 fatwas have declared the Bahá'í Faith to be heresy and blasphemy. In 2003, the Islamic Research Center of Al-Azhar University—one of the oldest and most respected centers of Islamic learning in the world—issued a fatwa stating that Bahá'ís are apostates and that the Bahá'í Faith is a “lethal spiritual epidemic” that the state must “annihilate.”

As a result of the nonrecognition of Bahá'í family law and the influence of anti-Bahá'í fatwas, Bahá'ís are not accorded equal treatment under the law: Bahá'í marriages are not recognized, Bahá'í children are regarded as illegitimate, and Bahá'ís have no means of controlling matters such as family allowances, pensions, inheritance, divorce, alimony, and custody of children.

Second, the free exercise of religion has traditionally been permitted only insofar as it has not been deemed to disturb public order and good morals—both of which have historically been defined according to Muslim clerics who believe that the Bahá'í Faith inherently violates public order and good morals because it is heresy or apostasy against Islam. Thus, a 1975 decision of the Supreme Constitutional Court held that the constitutional freedom of belief guaranteed by the constitution protected only the Bahá'ís' right to inwardly believe in their religion, and not their right to practice it.

The ID Card Controversy

The Egyptian government requires all citizens to possess standardized government ID cards, which are necessary for obtaining basic services. These ID cards, like other official documents, require the individual to list his or religious affiliation. Bahá'ís do not, as a matter of principle, misrepresent their religion. Thus, although the government only recognizes three “heavenly” religions—Judaism, Christianity, and Islam—Bahá'ís will generally not misidentify themselves as a member of one of these religions. Historically, this was not problematic, as Bahá'ís were permitted to write “Bahá'í” or insert a dash in the religion field of official

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documents. However, following the issuance of the 1960 Presidential Decree, many government officials refused to register Bahá'ís as such, and ID card registration for each Bahá'í became dependent on the actions of the particular clerk in a given government office. This led to serious inconsistencies, with Bahá'ís being variously identified as Christian, Muslim, Bahá'í, or no religion at all—or being denied ID cards altogether. In 1983, an administrative court affirmed that Bahá'ís should be allowed to list “Bahá'í” or “other” on their ID cards, but it held that a Bahá'í student who had been expelled from university for not possessing a valid ID card could still be rightfully expelled, even after receiving a valid ID card, as he was an apostate, and apostates should not be allowed to pursue education.

Bahá'í children were denied birth certificates and were unable to attend public school or receive immunizations.

In 2004, the Ministry of the Interior issued Circular 49/2004, a directive that instructed government officials not to issue a new ID card or any other new government document to any individual unless she or he identified as a member of one of the three recognized state religions. Bahá'ís were explicitly denied the right to write in “other,” insert a dash, or leave the religion field blank. Bahá'ís were therefore forced to either falsely identify their religion or go without documents. Because they would not willingly misrepresent their religious identity, many Bahá'ís were unable to obtain ID cards and other official documents, which resulted in a denial of access to many essential government services. Bahá'í children were denied birth certificates and were therefore unable to attend public school or receive immunizations; Bahá'í youth and adults were denied national ID cards and were thus unable to obtain employment, attend university, obtain medical treatment at public hospitals, acquire driver's licenses, or engage in financial transactions such as opening a bank account or acquiring title to property. Bahá'ís were also unable to obtain death certificates for deceased family members,

leaving their heirs unable to legally acquire inheritance.

Soon after the policy was implemented, a Bahá'í couple, unable to obtain ID cards or register their daughters for school, challenged the 2004 policy. Represented by the Egyptian Initiative for Personal Rights (“EIPR”), an independent Cairo-based NGO, the couple obtained a favorable ruling in the Court of Administrative Justice. The court's April 2006 ruling held that Bahá'ís must be allowed to identify their religion properly on government forms and that the government cannot deny them official documents if they do so. The Ministry of the Interior appealed the ruling, which was publicly decried by Al-Azhar and the Muslim Brotherhood, a conservative political movement. In December 2006, the Supreme Administrative Court overturned the lower court's decision and upheld the 2004 policy, holding that only individuals identifying themselves with Islam, Christianity, or Judaism were eligible to receive government documents.

These decisions received intense media coverage in Egypt and also garnered international attention. The U.S. State Department and the U.S. Commission on International Religious Freedom noted the December ruling with concern. In a 2007 report, Human Rights Watch and EIPR documented in detail the genesis and implementation of the new government policy; the Egyptian government's violation of its own constitution and international human rights norms, including several rights enshrined in the International Covenant on Civil and Political Rights, to which Egypt has been a state party since 1982; and the personal stories of Bahá'ís, Copts (Egyptian Orthodox Christians), converts from Islam, and others whose lives have been negatively impacted by the policy.

In 2007, a second Bahá'í couple, who were unable to obtain birth certificates for their twin daughters, challenged the policy. Once again represented by EIPR, the couple obtained another favorable ruling in the Court of Administrative Justice. The lower court's January 2008 ruling stated that, while Bahá'ís could not list “Bahá'í” as their religion on government documents, they must be permitted to insert a dash in the religion field. In March 2009, the Supreme Administrative Court dismissed an appeal, allowing the lower court's ruling to stand. The following month, the Ministry of the Interior implemented a new policy consistent with the court's ruling: government officials must place a dash (–) in the religion field of official documents of citizens who show they are followers of a religion other than the three recognized by the state. In August 2009, five years after the problematic new policy was introduced, the

government issued the first new ID cards to Bahá'ís with a dash in the religion field.

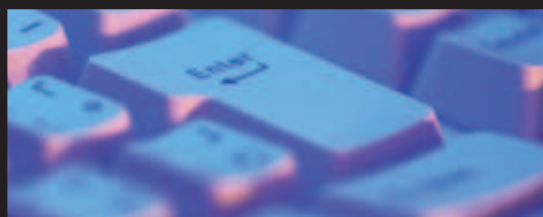
Bahá'ís in Post-Mubarak Egypt

Much has happened since 2009. On January 25, 2011, motivated by Tunisia's success in ousting President Zine El Abidine Ben Ali, millions of Egyptians took to the streets, participating in an 18-day popular uprising that ultimately led to the ouster of President Hosni Mubarak. The wave of uprisings that swept the Middle East beginning with Tunisia in late 2010 and continuing through Egypt and several other Arab countries throughout 2011 was initially dubbed the Arab Spring, in reference to an anticipated renewal of freedom, democracy, and human rights throughout the Arab world as a result of the revolutions. In the last several months, however, some commentators have rejected this label, quipping that the movement may be more aptly referred to as the Arab Winter. There has been violent, bloody, and brutal repression of uprisings in countries such as Libya, Bahrain, and Syria. And even in Egypt, where the revolution was relatively brief, largely nonviolent, and initially deemed quite successful, the year after the revolution has raised serious doubts about the democratic future of Egypt.

In this context, the future of Egypt's Bahá'í community remains particularly uncertain. First, the 1960 Presidential Decree, which criminalizes many aspects of the practice of the Bahá'í faith, remains in effect. Second, while the 2009 accommodation with respect to ID cards was a positive development, delays and complications have arisen in the implementation of the new policy. Ultimately, Bahá'ís are still denied the right to do what members of the three state-recognized religions are able to do: truthfully list their religion on government documents. Third, Bahá'ís have been

the target of recent social hostilities, including a 2009 incident that remains uninvestigated in which several Bahá'í homes in a village were vandalized and a February 2011 incident in which several Bahá'í homes in the same village were torched. Finally, and perhaps of greatest concern, there are indications that Bahá'ís may be excluded from, and perhaps even specifically targeted by, the new political order. Leaders of the Muslim Brotherhood, which won the highest number of seats in the recent parliamentary elections, have stated that they have no plans to amend Article 2 of Egypt's current constitution when they draft its new one. Leaders of the Salafi movement, a fundamentalist group that won the second highest number of seats in the parliamentary elections, have made similar statements. Article 2 currently provides that Islam is the state religion and principles of Islamic law are the chief sources of legislation. Apparently, it will be incorporated into the new constitution. In addition, in February, Abdel Moneim al-Shahat, a spokesperson for the Salafi movement, publicly stated that Bahá'ís are not entitled to rights under Islam and are a threat to national security. Citing the 2003 Al-Azhar fatwa, al-Shahat asserted that Bahá'ís "do not exist" by virtue of their faith and should be prosecuted for treason. Thus, at present, the legal status of Egyptian Bahá'ís does not seem likely to improve, and may in fact worsen. If there is to be a winter in Egypt, it may be a long and cold one for the Bahá'ís.

A society's treatment of its minorities is often a barometer of its general level of freedom and equality, and its persecution of its religious minorities frequently foreshadows wider repression. Thus, those concerned about the democratic future of Egypt would do well to keep a close eye on the situation of religious minorities such as the Bahá'ís under the new régime. ♦



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