

Human rights and the Baha'i community in Egypt

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The Baha'i community is a religious minority found especially in Egypt, Jordan and Iran. The Baha'i community of Egypt¹ is one of the most active in the Middle East, with its associations and institutions widespread inside and outside the country.

Freedom of religion is one of the oldest and most essential of all human rights. This freedom is bound up with a number of other human rights, such as freedom of expression, opinion, and sometimes with the freedom of association². In addition violations of freedom of religion often involve violations of other human rights.

The protection of minorities' rights and religious freedom is included in the principal international human rights instruments (declarations, covenants and treaties); this protection is also ensured by domestic law and by the constitutions of almost all the world's countries.

In this article, we will examine the situation of the Baha'i minority in Egypt; this subject has gained the attention of the international community in recent years. In this context, the first part will consider the principal international and national instruments which protect religious freedom and minorities' rights and which constitute obligations for the Egyptian government. In the second part we will analyse the violations of those instruments as far as the Egyptian Baha'i community is concerned.

¹ It is difficult in determining the numbers of this community in Egypt, due to the lack of official documents. But there is estimated to be a population of five thousand.

² The interpretation of religious freedom is a very controversial area of human rights; no clear definition has yet been reached.

Chapter I.
**International and national protection
of religious freedom and minorities' rights**

A- International protection: Egypt has ratified most of the international instruments which ensure the freedom of religion and minorities' rights as ICESCR, ICCPR, CERD, CEDAW, CAT, CRC and CMW. In addition Egypt has accepted the Convention on the Rights of the Child. In virtue of these instruments we can find two categories of protection which guarantee (a) religious freedom (b) minorities' rights:

a- Protection of religious freedom: the freedom of religion is ensured in international instruments; whereas article 18 of the International Covenant on Civil and Political Rights states that: *"Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. No one shall be subject to coercion which would impair his freedom to have or adopt a religion or belief of his choice."*

Not only does this instrument protect freedom of religion, but we also find this protection in other international instruments, such as the International Convention on the Elimination of Racial Discrimination (article 5,d,vii) or well as the Convention on the Rights of the Child (article 14).

The right to assembly and association is one of the rights which relate to the freedom of religion; this right is also protected in virtue of Article 21 and Article 22/1 of the International Covenant on Civil and Political Rights, as well as article 5,d,ix of the International Convention on the Elimination of Racial Discrimination. Another right related to religious freedom is the right to non-discrimination; this right also protected by a number of international instruments, such as Article 26 of the International Covenant on Civil and Political Rights.

b- Protection of minorities' rights: in addition to the protection of the freedom of religion, the international instruments above-mentioned ensure the protection of minorities' rights.

The International Covenant on Civil and Political Rights declares in article 27 that: *"In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language."*

Another protection of minorities' rights in international instruments is to be found in article 30 of the Convention on the Rights of the Child. In this context, we can also mention the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted in December 1992 by the General Assembly of the United Nations. This declaration reaffirms the importance of the protection of minorities' rights and invites all governments to cooperate.

B- National protection: The government of Egypt proclaims its willingness to engage in a human rights dialogue with the West and to safeguard the rights of freedom of religion and religious minorities within the country's constitution.

In addition to the international instruments above-named, the Egyptian constitution guarantees freedom of religion and equality to all citizens: whereas article 8 provides that "*The State shall guarantee equality of opportunity to all citizens*", and article 46 provides that "*The State shall guarantee the freedom of belief and the freedom of practice of religious rites.*"

Although that Egyptian constitution does not mention the word "minority" expressly, but in its articles we find numerous dispositions which protect the rights of minorities, like article 40, which provides that "*citizens are equal before the law. They have equal public rights and duties without discrimination between them due to race, ethnic origin, language, religion or creed.*"

Chapter II.

Egyptian obligations with regard to the Baha'i community

The international human rights instruments and domestic law as mentioned above make clear that minorities' rights and freedom of religion are an essential human right and are protected at the international and national levels. As we saw in the first chapter, the Egyptian government has engaged, in virtue of international and national instruments, to guarantee the rights of minorities and the freedom of religions. Against this background, we will examine in this chapter the situation of the Baha'i community in Egypt; we will also look at the reality of Baha'i life as a minority group to see if their rights are respected or not.

A- The Baha'i community is a disadvantaged minority: There is a list of violations inflicted against the Baha'i community in Egypt because of their religious beliefs. The problem stems from the refusal of the Egyptian government to recognise the Baha'i religion³. The civil registration department stopped issuing identity cards to Baha'is in 1980; in consequence Egyptian Baha'is were deprived of access to most rights of citizenship, including education, financial services, and even medical care. Nor can a member of the faith open a bank account, receive a salary or pension, enter into a contract or obtain birth or death certificates.

The fact is that the Baha'i community, because of their religion, has been denied the civil and political rights enjoyed by all other Egyptians. This constitutes a violation of the principle of non-discrimination that is protected by article 26 of the International Covenant on Civil and Political Rights. It is in the light of such breaches that the US Department of State Country Report on Human Rights indicated that aspects of the law and many traditional practices discriminate against religious minorities in Egypt⁴.

Although Egypt has ratified international instruments that protect children's rights, we find rights violations in contradiction of these, such as that as a member of the Baha'i community cannot register one's children at school or university⁵.

The denial of citizenship rights is in contradiction not only with international instruments, but also with the Egyptian constitution, which protects these rights as we saw in the first chapter (article 40 and 46)⁶.

Although the right to change one's religion is recognized within the framework of internationally established standards in the field of human rights, the Egyptian

³ In 1960, the organised Baha'i community in Egypt was proscribed by President Nasser. In this respect, the Baha'i faith is prohibited under Law 263 of 1960, which bans Baha'i institutions and activities, and a presidential decree of 1961, which stripped Baha'is of legal recognition.

⁴ The US Department of State Country Report on Human Rights Practices stated that "The government placed restrictions on the exercise of these rights", and that aspects of the law and tradition discriminated against religious minorities, including Christians and particularly Baha'i.

⁵ An example is the case of a twin brother and sister who have been denied birth certificates, necessary for inscription in school, because their parents refuse to falsely identify them as Muslims.

⁶ See page n° 2.

authorities do not recognise this right and the Egyptian police have harassed those who have converted from Islam⁷.

Members of the Baha'i faith also face persecution from the Egyptian authorities when they attempt to participate in religious meetings; this constitutes a violation of Article 21 and Article 22/1 of the International Covenant on Civil and Political Rights⁸.

B- The contradiction between the decision of the Egyptian Higher Administrative Court and human rights: In May 2006, the Egyptian government asked the Supreme Administrative Court to judge in the case of the Baha'i community; the Court issuing its final ruling on 16 December 2006.

The Court stated that all Egyptian constitutions have guaranteed the freedom of belief and the freedom of religious rites, as they constitute fundamental principles of all civilized countries. Every human being has the right to believe in the religion or belief that satisfies his conscience and pleases his soul. No authority has power over what he believes deep in his soul and conscience.

At the same time, in contradiction of the last paragraph, the Court held that the Baha'i belief — as unanimously concluded by the Muslim imams as well as the rulings of the Supreme Constitutional Court and the Supreme Administrative Court — is not among the recognized religions, and that in consequence whoever follows it from among the Muslims is considered an apostate. It follows that a person belonging to the Baha'i community shall not be given a passport or an identity card⁹.

This ruling was unreasonable and in contradiction with the principles of freedom of religion, non-discrimination, and equality between Egyptian citizens that should have been protected in virtue of the Egyptian constitution and the other human rights instruments. In this context the Committee on Human Rights notes that the Supreme Constitutional Court defines racial discrimination in terms very close to the definition given by the Convention.

The result has been that most members of the Baha'i community live without any official documents, because they have refused to be registered under any religion other than their own¹⁰.

⁷ The conversion of non-Muslims to Islam is accepted; conversion of Muslims to other religions is prohibited in Egypt. This is in contradiction with the principles of equity and non-discrimination.

⁸ See page n°2.

⁹ Baha'i has the choice either to renounce their religion or not to obtain a passport or identity card.

¹⁰ They are asked to choose between the three recognized religions in Egypt: Islam, Christianity and Judaism, but they have held tenaciously to their Baha'i faith.

Conclusion

Members of the Baha'i community are facing difficulties because of government policies towards religions other than the three official ones: Islam, Christianity and Judaism. Individuals who do not belong to one of the official religions cannot represent themselves correctly on their national identity cards, and the lack of valid identity documents presents difficulties in their day-to-day life.

Indeed, the problem is that the Egyptian government, like most Arab countries, does not separate the Islamic religion from politics; on the contrary, religion continues to be an essential factor in the political and legislative system¹¹. Even if succeeding constitutions have provided for freedom of religion, Islam has always had a favoured position, and the Muslim majority population enjoys privileges from which members of other religious groups are excluded.

The influence of Islamic religious institutions on the Egyptian government's decision is clear; indeed, this government tries to cooperate with and satisfy the religious institutions in order to maintain its regime. Many violations of minority groups' rights have resulted from this policy.

To conclude, the Egyptian authorities do not respect their obligations under international and national law; nor are the principles of equality, non-discrimination and religious liberty applied in Egypt.

¹¹ Article 2 of the Egyptian constitution provides that "Islam is the religion of the state [...]". This has often affected the status of other religious groups in the country.