

Baha'i: An Illegal Identity by Amanda Craig

On December 16 the Supreme Administrative Court overturned a lower court's verdict in favor of an Egyptian Baha'i couple, ruling that the government may not recognize the Baha'i faith in official identification documents. The decision upholds current government policy, which requires that the Baha'is falsely identify with one of the three state-recognized religions— Islam, Christianity and Judaism— or be denied identification documents.

Without these documents, such as birth and death certificates, passports and national identification cards, Baha'is do not have access to basic citizenship rights, including employment, education, medical and financial services, freedom of movement and security of property.

Husam Izzat Musa and Ranya Enayat Rushdy, both Egyptian citizens and members of the Baha'i community, filed their case in 2004, after their national ID cards were withheld and the birth certificates of their children were confiscated.

Musa's and Rushdy's national ID cards were withheld while they were attempting to add their three daughters' names to their passports, said Hossam Baghat, director of the Egyptian Initiative for Personal Rights (EIPR), which represented the Baha'i couple in this case. Soon after Musa's and Rushdy's visit to the Department of Passports and Immigration, the birth certificates of their three daughters were pulled out of the girls' school files by government officials who left a note to their father asking him to "issue new birth certificates recognizing [the daughters'] religion as Muslim."

Since 2004, without the ability to acquire new identification documents, the couple's three daughters, now six-, eight- and twelve-year-olds, have been unable to attend school. Musa and Rushdy have been denied freedom of movement and other basic rights.

Baghat said that many members of the Baha'i community have been marginalized in the past two years as a result of being denied proper identification documents.

"Children without birth certificates can't go to school or get immunizations. Students without national ID cards can't go to university. University students can't graduate because they can't obtain military service papers without an ID card," Baghat said. "And many can't get death certificates issued, meaning they can't legally acquire their own inheritance."

EIPR currently has three other cases besides that of the Baha'i couple in the lower courts, all addressing grievances related to acquiring both birth and death certificates. Baghat said that the ruling of the Baha'i couple's case would "set the tone" for upcoming cases.

After the lower Administrative Justice Court ruled in favor of the Baha'i couple on April 4 of this year, Baghat and individuals from other human rights organizations in Egypt

were encouraged. “This ruling is a true victory for freedom of religion and belief,” Baghat said in April. “The Court sent a strong message that it is the right of every Egyptian to adopt the religion of their choice, not the religion imposed on them arbitrarily by Interior Ministry officials.”

The Court ruled that, in accordance with Shari’a law and its provisions, the government may not refrain from issuing identity cards or birth certificates to the followers of Baha’ism .

In a summary translation of the judgment rendered, the Court said that the state must issue the Baha’i family national ID cards and birth certificates that correctly profess their Baha’i religion; even if the government does not recognize the Baha’i faith, adherents should still have their religious status properly stated on official documents. The court ruling further explicates that “It is not inconsistent with Islamic tenets to mention religion on this [national identity] card even though it may be a religion whose rites are not recognized for open practice, such as Baha’ism and the like. On the contrary, these [religions] must be indicated so that the status of its bearer is known and thus he does not enjoy a legal status to which his belief does not entitle him in a Muslim society.”

Though human rights groups both in Egypt and abroad supported the decision, it caused an outcry among conservative elements of Egyptian society, particularly in Al Azhar University and among members of the Muslim Brotherhood.

“People on both sides of the case are mobilized,” Baghat said. “There are people who are in support of the Baha’is, and people who see this as a threat to society or Islam .”

The Baha’i community in Egypt has been the subject of at least 15 *fatwas*, or legal pronouncements issued by an Islamic scholar, that deride their faith as a heresy and accuse its followers of apostasy. Most recently, on December 15, 2003, Al Azhar University issued a *fatwa* that described the Baha’i faith as “a lethal spiritual epidemic in the fight against which the state must mobilize all its contingencies to annihilate it.. those [Baha’is] who have committed criminal acts against Islam and our country must disappear from life and not be allowed to announce their derivation from Islam .”

Members of the Muslim Brotherhood also say that the Baha’i community should not be afforded religious rights. In a speech given at the American University in Cairo this November, Deputy Supreme Guide of the Muslim Brothers, Dr. Mohamed Habeeb, said, “We don’t consider this [Baha’ism] a religion so why should we give freedom to its ritual?...We call upon those who don’t have religion to respect the religion of the majority, and they should not work against it, against the society.”

Members of both Al Azhar University and the Muslim Brotherhood urged the Egyptian government to file an appeal of the lower court’s ruling, which it did in early May. On May 15, the Supreme Administrative Court upheld the government’s motion to temporarily suspend the lower court’s order— again suspending the rights of Baha’is to

acquire official identification documents– and set June 19 as the date for a substantive hearing on the lower court’s judgment.

On June 19 and again on September 16, the Supreme Administrative Court postponed its hearing on the government appeal of the lower court’s ruling in order to await the completion of the State Commissioner’s advisory report on the case. In the meantime, the Baha’is in Egypt continued waiting in limbo, unable to obtain identification cards, birth certificates or death certificates that would accurately identify their religion.

At a procedural hearing on November 20, Egypt’s Supreme Administrative Court continued the case until December 2, when the first and only hearing was held on the case.

“The hearing was very quick; it only lasted 45 minutes,” Baghat said in the week preceding the December 16 ruling. “The quick deliberations are not encouraging; it appears that the courts have already made up their minds. We’re confident that the law is on our side, but unfortunately, in some cases, law doesn’t really matter as much.”

EIPR submitted a brief on December 2 on behalf of the Baha’i family that outlines the legal obligations of the Egyptian government under the Constitution– according to Article Two, Shari’a should only be the basis of legislature, not of the executive or judiciary– and under international human rights law, notably the International Covenant on Civil and Political Rights, which protects the freedom of belief, non-discrimination, privacy and personal freedom.

The brief also addressed the government’s claim that recognizing the Baha’i faith in official documents contravened Islamic Shari’a because, according to the government, Shari’a permits coexistence only among Muslims, Christians and Jews– and Baha’is should be treated as apostates.

“The issue of Shari’a shouldn’t be raised at all because of Article Two, and if it is, they’re doing it in an inaccurate way,” Baghat said. “Muhammad recognized all non-Muslims– Christians, Jews and all others– as the same.”

The brief lastly challenged the government’s claim that listing the Baha’i faith in official documents would violate public order.

“The Baha’i community in Egypt, estimated somewhere between 500 and 2,000 individuals, has been recognized since 1955 and has had no impact on public order. Additionally, the burden of proof is on the government– and public order should not be interpreted in a way that invalidates international human rights law,” Baghat said.

Marginalization began to confront and constrict Egypt’s Baha’i community, which has existed for more than a century, in 1960, when a sweeping Presidential Decree dismantled all of their religious institutions, banned Baha’i activities and enjoined the confiscation of all Baha’i properties. Since 1960, groups of Baha’is have been imprisoned

on charges related to the decree and solely because of their religious convictions at least seven times. Baha'i marriages are not legally recognized— affecting a whole range of issues including inheritance, divorce and the stigmatization of children— and numerous cases have been documented regarding discrimination in employment and education. Baha'i children, for instance, are not allowed to attend public school, whereas Christian children can.

Amidst these restrictions, however, the Baha'is have, until recently, been able to maintain the rights of citizenship associated with their ability to obtain official identification documents.

In 1983, the Supreme Administrative Court ruled that the Baha'is should not be forced to claim any other religious affiliation in order to obtain necessary official documents, such as birth certificates or national ID cards. According to this ruling, Baha'is were able to write “Baha'i” or “other” or leave the religion section blank on both applications for official documents and the documents themselves.

Yet that ruling has been, in effect, reversed by the government's recent transition to a computerized system for national ID cards. In the process, the government has eliminated the “Baha'i” or “other” option from the realm of religious identity; the computer software only has the option of entering one of the three state-recognized religions— Islam, Christianity and Judaism— and if the “religion” field is left blank, the computer refuses to issue the card. Unless members of the Baha'i community are willing to falsely identify their religion and thus act illegally and against their religion, they are unable to acquire the new identification cards.

“The computerized system was introduced in 2000, but it became official policy to restrict Baha'is in 2004,” Bagehat said. “EIPR has documented many cases since 2004 of individuals who have been restricted as they have been unable to obtain birth certificates, national ID cards and other documents recognizing their Baha'i faith or with no religious affiliation at all.”

All Egyptian citizens must carry national ID cards, which must be presented not only for any type of government service, such as medical care in a public hospital or processing for a property title or deed, but also to obtain employment, education, banking services and many other private transactions. National ID cards are also required to pass through police checkpoints, and individuals without such cards are accordingly deprived of freedom of movement.

This process, which essentially un-recognizes Baha'is as Egyptian citizens and forecloses their possibilities for agency, will soon affect the entire Baha'i community, not just those who for various reasons have needed to acquire updated official documents since 2004. The government has set a fast-approaching deadline by which all Egyptian citizens must have the new, computerized ID cards instead the older, paper ID cards. The government originally set January 2005 as the deadline, but it was extended to December 31, 2006.

“There is a conflicting deadline, and it may be delayed again, but it has been announced that the government will require computerized national IDs, so eventually, and more likely sooner than later, there will be no paper IDs,” B aghat said.

Thus Egypt’s Baha’i community is being confronted with the December 16 Supreme Administrative Court’s ruling, which forces the Baha’is to either lie about their religious beliefs or give up their state identification documents, at a particularly precarious time.

“It is important to note,” B aghat said regarding the December 16 case, “that the Baha’i aren’t fighting for the government to legally recognize the Baha’i community or the veracity of their faith. The question brought forth is whether or not Egyptian Baha’i citizens have the right to obtain official documents that list their religious affiliation, leave the “religion” line blank or insert the word “other” instead of one of the three officially recognized religions.”

The December 16 ruling, during which at least 100 people and many media representatives crowded into the courtroom, denied the Baha’i the right list their religious affiliation as anything but Islam, Christianity or Judaism. At the judges’ final statement, what B aghat called “government supporters” erupted in celebration, shouting “God is the Greatest” and “There is no God but God.”

Immediately following the ruling, B aghat said that “the legal reasons why we lost have not been made clear yet.”

“EIPR will wait for the written decision to be issued in the coming days before determining its new legal strategy in the fight for Baha’i Egyptians’ citizenship rights.”

In the meantime, he said, “today’s regrettable decision throws the ball in the government’s court. The government must find a solution now for the hundreds of citizens who used to be able to obtain official documents recognizing their faith for more than five decades until the government decided recently to change its policy and force them to choose between Islam and Christianity.”

This case has, since April, gained international attention— more than 400 articles, stories, commentaries and programs have appeared in the Egyptian and Arabic news media about the case or its fallout. Independent human rights organizations in Egypt and abroad have closely followed the issue, and it was recently addressed in the United States Commission on International Religious Freedom, which issued a press release on November 16 urging the Egyptian government to end its current policy on identification cards.

“Current Egyptian policy essentially turns Baha’is into non-citizens because without an identity card they cannot gain access to government services like education and employment, or engage in basic financial transactions, such as opening a bank account or obtaining a driver’s license,” Commission Chair Felice D. Gaer said. “It is even illegal to be in public without a card.”

“This policy is highly discriminatory and is incompatible with international standards. The current court case provides the Egyptian government with an opportunity to change its policy,” Gaer said.

While these statements seem to have had little bearing on the ruling, Baghat said that EIPR and other human rights organizations will continue to fight policies of discrimination. He is currently in the beginning stages of preparing another case to bring to court that would ultimately make religious affiliation on official documents optional, though he said that “a ruling against the Baha’is does not make [him] optimistic about such a case.”

Baghat said that a Coptic lawyer brought forward a case in the late 1990s that challenged the Interior Ministry’s policies regarding the inclusion of religion on official documents, but the case was later dismissed on procedural grounds. The lawyer argued that the inclusion of religion on official documents is discriminatory, but he could not prove his *locus standi*, or personal interest, in the case, as he was not personally discriminated against.

Baghat wants to approach the court with the same aim but a different perspective. He wants to argue that the inclusion of religion on official documents should be optional because of an individual’s right to privacy.

“Making religion optional would allow individuals to include it if they wanted,” Baghat said. “But rights of privacy would be upheld, and groups like the Baha’i would not feel incited to lie or be discriminated against.”