

Middle East

JOHANNA PINK

When on 10 May 1925, the appellate *shari'a* court of Biba annulled the marriages of three Upper Egyptian Baha'is to their Muslim wives, declaring that the Baha'i faith was not part of Islam and therefore Muslims embracing it were to be considered apostates, this verdict was, paradoxically, hailed by the international Baha'i community as 'the first Charter of the emancipation of the Cause of Baha'u'llah from the fetters of Islamic orthodoxy'.<sup>1</sup> The National Spiritual Assembly (NSA) of the Baha'is of Egypt and the Sudan, one of the first NSAs to be founded worldwide, felt inspired by the verdict that finally made the Egyptian public aware of the existence of an active Baha'i community in their country. It was clear to everyone now that the Baha'i faith could no longer be regarded as an Islamic reform movement, as had been the case before World War I, when Abd'ul'baha's visits to Alexandria had caused a first wave of interest in the new religion.

The Baha'i community of Egypt began to flourish in the 1920s. Their publishing house, Matba'at as-Sa'ada, distributed Baha'i religious writings throughout the Arab world. In the 1930s, Egyptian Baha'is presented their faith in various independent liberal secular newspapers and managed to have their NSA registered at the mixed court<sup>2</sup> of Cairo, though their attempts to obtain any form of official recognition by national political or juridical institutions were in vain. In 1939, two Baha'i cemeteries were opened in Cairo and Ismailiyya. In the 1940s, the NSA inaugurated their own building, financed by donations, in Abbassiyya, a quarter of Cairo. More and more new members joined the faith, sometimes after having gotten hold of one of the Baha'i publications which were disseminated in great numbers through bookshops and libraries, sometimes after having read about the new religion in the liberal press, sometimes after having attended a public lecture on the faith. The converts came from all the major religions present in Egypt. Their educational background was generally rather elevated, many of them being academics. All these developments made Shoghi Effendi, great-grandson of Baha'u'llah, express, in 1944, his firm belief that 'the establishment of [...] [the Baha'i] faith on a basis of absolute equality with its sister religions' in Egypt was only a question of time.<sup>3</sup> Between the 1950s and the present day, however, Shoghi Effendi's optimistic forecast has not been fulfilled.

#### Arrestation for vice and debauchery

In January 2001, Egyptian newspapers reported the arrest of 16 Baha'is from the area of Suhag in Upper Egypt. The accused had allegedly indulged in promiscuous sexual activities, which were, the press claimed, in accordance with Baha'i religious rites. Caricatures depicted the Baha'is as obsessed with women and sexuality. In June 2001, eight of the accused were still in prison without having been officially charged. The accusations do not seem to have been lifted since then.

The high expectations the Egyptian Baha'is had held for the future of their faith in their home country have indeed been crushed. After years of failed attempts to achieve legal recognition, they had initiated, in the late 1940s and early 1950s, several lawsuits through which they hoped to reach, at least partially, their goal. Their main concern was the validity of Baha'i marriages. The problem was twofold: not only were marriage contracts that followed Baha'i personal status law not accepted by the Egyptian state, but Baha'is with a Muslim background also ran the risk of having their

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marriages annulled on grounds of apostasy. In 1952, the State Council, the highest administrative court, issued a judgment against a Baha'i government employee whose employer had refused to pay him the marriage and family allowances to which he was entitled. The court held that the plaintiff was an apostate and that therefore his marriage was null and void. It considered the question of freedom of belief, which was guaranteed in the Egyptian Constitution, but came to the conclusion that the legislator had not meant the principle of freedom of belief to protect apostates or members of any faith other than the revealed religions accepted by Islam. The court furthermore declared the supremacy of the *shari'a* over secular laws.

Things definitely took a turn for the worse for the Egyptian Baha'is shortly afterwards. The first reason for this was the foundation of the state of Israel in 1947 and the fact that the international centre of the Baha'i community was situated in Haifa. From the beginning of the 1950s onward, accusations were raised by journalists as well as Muslim theologians that the Baha'i faith was in reality not a religion, but a disguised instrument of Zionism in order to corrupt and weaken the Arab and Muslim world by perverting God's revelation and by promoting pacifism and internationalism. This conspiracy theory spread rapidly and by the 1960s reached general acceptance in Egyptian public opinion, with extremely few exceptions.

#### Nasserism

The second reason for the increasingly problematic situation of the Baha'i community in Egypt was Nasser's repressive policy in the religious sector. His aim in dealing with religious communities of all kinds was to either submit them to government control or eliminate them. The second option was usually chosen for groups that were suspected of having ties to Israel; not only the Baha'is, but also Jehovah's Witnesses suffered from this. In 1960, a presidential decree (Law No. 263/1960) was issued by which the Baha'i centres were dissolved and their properties – including their building in Abbassiyya and a valuable piece of land in Maadi, south of Cairo – were confiscated. The law also made any attempt to continue the Baha'i centres' activities liable to punishment.

In several cases, Egyptian Baha'is were charged with violating this law. In 1972, the Baha'i community of the delta city of Tanta was at the centre of the attacks. This case gained a certain amount of publicity. The judgment, however, was delayed, one of the reasons lying in the fact that a number of Baha'is had shortly before turned to the newly founded Supreme Court, contesting the constitutionality of Law No. 263/1960, which was the basis of the charges against the Baha'is of Tanta. The court decided to postpone its verdict until the Supreme Court had issued its judgment. Interestingly, all the defendants who publicly declared to be Muslims or renounced the Baha'i faith were immediately released, which shows that the charges were not really based on

any concrete action that violated the law in question, but rather on the defendants' adherence to the Baha'i faith. In the case of Tanta, many of the accused finally chose to profess Islam; most of them still being pupils or students, they feared that repeated postponements of the final verdict would make them miss important exams.

The Supreme Court passed its decision in 1975. It declared Law No. 263/1960 constitutional. The court held that the law in question did not trespass on the right of freedom of belief as it did not prevent anyone from being a Baha'i, i.e. internally believing in the principles of the Baha'i faith. As for the right to confess and practise one's religion, the court maintained that the legislator had granted this right only to the three revealed religions recognized by Islam. The court also declared that Law No. 263/1960 was not a case of religious discrimination, as the state was only obliged to treat equally those citizens having a comparable status, e.g. Christians should be treated equal to other Christians, etc. This is an extremely restrictive interpretation of the Constitution which basically strips the relevant articles of any meaning.

#### Increasing publicity

The Supreme Court's verdict opened the way for more arrests. The next one followed in 1985. About 50 Baha'is were arrested and charged with violating Law No. 263/1960. The case received extreme amounts of publicity, virtually every Egyptian newspaper and magazine covering the topic, often several times as the proceedings continued. The only voice that spoke in favour of the Baha'is was that of Mustafa Amin, eminent writer and journalist, who reminded the readers of his daily column in *Al-Akhbar* that freedom of religion was a basic human right. Most of the press chose to ignore this comment. However, newspapers with an Islamist tendency, like *An-Nur* or *Ash-Sha'b*, violently attacked Amin for his opinion.

The defendants were released on bail shortly after their arrest. In 1987, a court of first instance sentenced each of them, with the exception of two who had chosen to renounce their faith, to a three-year prison term, which was the highest possible sentence. As the judgment contained blatant legal errors, the most prominent one being the fact that the court had made no effort to prove the individual guilt of the accused, the ruling was, without much public attention, reversed by the appellate court in 1988.

After that, the Egyptian Baha'is tried to remain as inconspicuous as possible. As their faith dictates them to follow the laws of the land, they have always accepted the ban on their organization; the charges raised against them could never prove any activities exceeding occasional private meetings. Still, as mentioned above, last year the Baha'is of Suhag were arrested. The accusations in this case do not seem to be based on Law No. 263/1960, but on Art. 98 of the penal code which rather vaguely bans 'the distribution or support of extremist ideas with the intention of invoking strife,

deriding or mocking one of the revealed religions [...] or harming national unity or social peace'. Art. 98 allows prison sentences of up to five years, which exceeds the limits set by Law No. 263/1960.

Since Farag Fuda was shot in 1992, nobody in Egypt – including the local human rights organizations – has taken to publicly defending the Egyptian Baha'is' right to freely practise their religion. With Law No. 263/1960 still in force, added to a penal code allowing arbitrary arrests of persons adhering to a heterodox faith, it is not likely that the Egyptian Baha'is will, in the coming years, experience a change for the better.

#### Notes

1. Shoghi Effendi, *God Passes By* (Wilmette: Baha'i Publishing Trust, [1944] 1970), 366.
2. The mixed courts had been founded in order to handle cases which concerned two or more states; the staff was international.
3. Shoghi Effendi ([1944] 1970), 367.

Johanna Pink is a researcher in Islamic studies. She recently finished her Ph.D. thesis on new religious communities in Egypt at the University of Bonn, Germany.  
E-mail: mail@johanna-pink.de